

## **Coordinated Land Use Plan Camden County, Missouri**

### **1.0 Authority for Action**

On the third day of November, 2011, the Camden County Commission passed a resolution invoking their right to coordination with state and federal agencies, departments, and commissions. The authority to do so is found in federal statutes and regulations relating to management, oversight, and planning of use of land and natural resources. These statutes include, but are not limited to, the National Environmental Policy Act, which requires federal agencies to coordinate plans, functions, programs, and resource actions with local government (42 U.S.C. Sections 4331(a) and 4332(2)); the Federal Land Policy and Management Act (43 U.S.C. Sections 1701 and 1712), which requires that the Secretary of the Interior coordinate with local government and seek consistency between federal plans and actions with regards to plans, policies, and actions established and taken by local government; the National Forest Management Act (16 U.S.C. Section 1604); the Endangered Species Act (16 U.S.C. Section 1533); the Intergovernmental Cooperation Act and Presidential Executive Order No. 12372, which require federal agencies to coordinate with local government so that local impacts from federal projects can be identified and mitigated; the Homeland Security Act which requires the Secretary to coordinate with local government; and various other statutes and regulations relating to clean water, clean air, wild and scenic rivers, conservation services, regulatory flexibility, and recreation opportunities which require coordination as to lessen adverse impact on local government, and quality of data utilized by the federal agencies and state agencies involved in federal projects.

The Code of Federal Regulations contains regulations issued by the Council on Environmental Quality, the Secretaries of Interior and Agriculture, and the Environmental Protection Agency, requiring coordination with local government as to economic and social impacts of federal plans and actions on local government and defining coordination in a manner which gives local government equal status with federal and state agencies and units of government. Further, the definition of coordination shall be the common and ordinarily accepted definition of "coordination" as provided in standard dictionaries. Common usage requires that Camden County, Missouri, and those units and agencies of federal and state government required by law to coordinate with the County be of equal status in the planning process and that plans proposed by such other units and agencies of federal and state government be consistent with those of the County.

The governing body of Camden County, Missouri, the Camden County Commission, actively engages in local planning regarding current and future land use, natural resource use, roads and highways, lakes and waterways, and all elements of local authority recognized by the State of Missouri and the 10<sup>th</sup> Amendment to the United States Constitution. These rights, as well as the individual rights and interests of private citizens are guaranteed and protected under the constitutions and laws of the United States and the State of Missouri, including but not limited to the United States Civil Rights Act which affords relief for denial of due process of law regarding land use actions, and are substantially affected by sound

land use planning. Proper planning and management of land and/or other natural resources is an ongoing, dynamic process requiring systematic and continual review and revision, in coordination with units and agencies of federal and state government, to best serve the interests and needs of the citizens of Camden County, Missouri, in relation to specific needs and circumstances as they may change from time to time, including, but not limited to comprehensive plans adopted by other units of federal and state government.

The Camden County Commission has the responsibility to protect the County's tax base, protect the public health and safety, and to take actions necessary to serve its citizens. This requires the county to plan for current and future land and resource uses and authorizes the County to exercise its powers related to the public health and safety which are customarily reserved to local government.

## 1.1 Background

Camden County is located in central Missouri and is the focal point of the recreation area known as the Lake of the Ozarks. Camden County has an area of 655.2 square miles, or 419,330 acres. The county was established on January 29<sup>th</sup>, 1841 by an Act of the Missouri Legislature, and was originally named "County of Kinderhook" after President Van Buren's residence. The Act was approved by Governor Thomas Reynolds. Later, on February 23<sup>rd</sup>, 1843, the General Assembly of the State of Missouri changed the name of the "County of Kinderhook" to the "County of Camden".

In 1912, Ralph W. Street of Kansas City first proposed damming the Osage River in Camden, Benton, Miller, and Morgan counties to generate electricity. In 1924, Street partnered with Walter Cravens, also of Kansas City, and arranged financing and formed the Missouri Hydro-Electric Power Company. The company began building roads, housing, an administration building, mess hall, and other facilities needed to support construction of a dam near the town of Bagnell. Unfortunately, financial difficulties brought the project to a halt in 1926. On July 27, 1929, Union Electric Company of St. Louis (now known as Ameren Missouri) purchased the facilities, and construction resumed on August 6. The New York Stock Exchange "crashed" two months later, bringing on the Great Depression, but work on the project continued. It became the only major construction project in the nation at the time, attracting thousands of workers from all over the country. Records show more than 20,000 people worked on the project at one time or another. Although there were some steam shovels and other powered equipment, most labor was done by hand.

The project was truly massive. Nearly 60,000 acres of land had to be acquired, and about 30,000 acres cleared of trees and brush. One million cubic yards of earth and rock had to be moved, and enough concrete was poured to build an 18 foot wide highway from St. Louis to Topeka, Kansas. The material used in the dam would have filled a freight train stretching from St. Louis to Tulsa, Oklahoma.

The construction was completed two years after work began, and commercial operation of the Osage Power Plant began October 16, 1931. Since then, millions of hours of recreation have been enjoyed at the Lake of the Ozarks, and it has become a haven for second home owners who have come to the lake to build residences at the water's edge.

Once a small rural area surrounding the Lake of the Ozarks, Camden County has experienced tremendous growth and development over the last 20 years and now boasts a population of more than 44,000 permanent residents and a thriving tourism industry. The popularity of the Lake of the Ozarks

region is accentuated by its central location in Missouri, and that it is equal distance from the state's largest population centers of St. Louis and Kansas City. Because of the unique ability to build at the water's edge and the availability of diverse activities, the Lake Area is projected to experience continued growth and development.

The Camden County community plans and expects to continue to gain permanent residents, while the Lake of the Ozarks is expected to continue to grow as a popular Midwest recreation and vacation destination. In an effort to meet the community's future needs, the Camden County Commission has coordinated the efforts of citizens, elected officials, professional leaders, property owners, and major employers to create a community vision for the future that will be guided by this Coordinated Land Use Plan (CLUP).

## 1.2 Purpose

The purpose of this CLUP is to establish the past precedent and future vision for land and resource use in Camden County, and more specifically for the Lake of the Ozarks. This document will guide growth and future development around the Lake and throughout Camden County. This coordinated plan will help guide public and private investments in a manner that improves the Lake Area while guaranteeing private property rights and preserving land values. The CLUP is created to ensure public investments in physical infrastructure, as well as private investments in the community, and improve the quality of life. By coordinating the investment of public funds in public infrastructure and services and managing growth and development, the coordinated plan helps guide responsible growth while preserving private property rights, the local tax base, and important natural and cultural resources.

## 1.3 Scope

This CLUP applies everywhere in Camden County with the intent of protecting its citizenry and economic engine from unnecessary and onerous federal and state regulation. The Plan is more specifically focused on the Lake of the Ozarks and the area surrounding the lake known as the Camden County Lake Area Planning and Zoning District, which is the heart and soul of the economy of Camden County. This Plan will coordinate physical development and regulation to meet current and future needs of the residents, preserving the land values of individual property owners and the tax base that provides the necessary services for the community.

## 1.4 Incentive

This CLUP is an important management tool for promoting a strong, healthy, community. A comprehensive plan provides a vision, clearly stated and shared by all, that describes the future of the community. It protects private property rights and also encourages and supports economic development. The Plan can be used to promote orderly and rational development so the Lake Area can remain physically attractive and economically viable while preserving important natural and historic

resources. The CLUP provides a tool for the community to achieve the development plan that it desires. It will accommodate economic growth while helping the Lake Area invest its money wisely in infrastructure such as roads, water and sewer, parks and green space, and other facilities to maintain and improve the quality of life for the residents of Camden County.

As is clearly stated in Ameren Missouri's Shoreline Management Plan, the purpose of the plan is to coordinate land-management activities along the project shoreline. There has been little collaboration in the past between the county and Ameren Missouri, which has resulted in instances where prohibited activities were performed because of a lack of coordination in enforcement efforts.

## Shoreline Management of Lake of the Ozarks

### 2.0 Introduction

The purpose of this plan is to coordinate land-management activities along the project shoreline of the Lake of the Ozarks in Camden County, Missouri. In the interest of clarity, the terms, "the project", "the project boundary", "The Lake of the Ozarks", and "FERC project number 459, the Osage Hydroelectric Project" shall be synonymous in this document. This document will discuss key issues associated with shoreline management of the project, including its purpose, goals, and objectives, and will also address how issues were addressed during the development of this plan. This plan will address, but is not limited to, the following concerns:

1. Land use around the Lake of the Ozarks has been well defined and documented both by Ameren Missouri and the Camden County Planning and Zoning Department as well as historical notorious usage. While Camden County is receptive to concerns regarding the need to protect sensitive habitats, historic properties, and aesthetic resources, we are also committed to insuring that unneeded or overregulation of the lake's shoreline does not occur under the guise of these protections.
2. Camden County recognizes the public's right to access the entire shoreline of the Lake of the Ozarks, but only recognizes that right to access the entire shoreline from the reservoir itself. Camden County does not, under any circumstances, recognize or condone shoreline access that would result in any kind of trespass on or across private property. Further, this in no way adversely affects responsible navigation of the reservoir, nor do permitted structures on the reservoir have a negative effect on boating safety when responsible boating practices are employed.
3. Camden County believes that because of the mechanisms that were employed for land acquisition for the original project boundary, and the way that development was allowed to occur up to the time that the FERC was formed, that any structure that existed on or above

an elevation of 660 UED prior to 2008 is a legal and permitted structure. After 2008, all new structures on the Lake of the Ozarks that were knowingly constructed in the project boundary whether in whole or in part required a permit from Ameren Missouri. These structures also required permitting from the Camden County Planning and Zoning Department and were subject to the regulations contained in the Camden County Unified Land Use Code. Further, it is the position of Camden County that uninhabitable structures that cantilever over a seawall less than 3 feet, have a minimum top elevation of 660 UED, and were constructed prior to 2008, are legal and permitted structures.

4. While restriction of development in critical or sensitive habitats may be necessary, regulation of development in the backs of coves and sensitive areas that are more restrictive than current Federal and State requirements or the Camden County Unified Land Use Code (See section 1203) will not be necessary, unless consistent evidence of wetland soils, vegetation, or wildlife usage of these areas is present and identified in Environmental Assessments. Wetlands at the Lake of the Ozarks have been generally identified and a map of these areas has been supplied to the FERC. Also, currently there are only two endangered species that have been identified at the Lake of the Ozarks, and amending the Project boundary will not significantly affect these sensitive resources. It should be further noted that the two endangered species that are present, bald eagles and the gray bat, receive appropriate protection under state and federal law.

## 2.1 Background on Shoreline Management

The existing Project boundary follows a combination of contour elevations (including the 662' contour) and metes and bounds property descriptions. The use of both contour and metes and bounds to define the Project boundary line primarily results from how property rights were obtained in the early 1930's. Property that was purchased in fee or by condemnation resulted in Project boundary areas with contour elevations, whereas property that Ameren Missouri only obtained flood easements on resulted in Project boundary areas that are defined by metes and bounds. Understanding the history of the land transactions that took place during this period helps to support the revised Project boundary proposed in this document. Two companies were involved in the acquisition and conveyance of properties for the development of the Project and its subsequent early operations (Union Electric Land and Development Company (UED), and Union Electric Light and Power (UELPP)). UED was the primary company responsible for securing the land rights necessary for the Project, while UELPP was ultimately the entity responsible for the operation of the Project under the Commission license. The land right acquisition activity can be separated into three categories: (1) fee acquisition; (2) condemnation; and (3) easement acquisition.

## 2.2 Fee Acquisition

UED purchased entire tracts of property, and then as the Dam was completed, UED conveyed, in fee, portions of the properties below various elevations to UELPP for the operations of the Project. In this

conveyance, UED also granted UELP flooding easement over the remainder of its retained property, and reserved an easement for UED and its successors and assigns to allow usage and construction within the UELP Property, or Project boundary. Under an order from the Securities & Exchange Commission, UED sold the remainder of the property to private owners (UED's successors in title) subject to the flooding easement granted to UELP and conveyed to those successors the rights retained to allow access and construction on the lands within the Project boundary; however, such uses are subordinate to Project purposes.

### 2.3 Condemnation Acquisition

UEL P acquired property by condemnation for the operations of the Project. Those properties are described by a metes and bounds description to various elevations depending on the location on the Project.

### 2.4 Flood Easement Acquisition

UEL P obtained flooding easements directly from private owners. In the majority of those cases, the flood easement was provided over the entire tract of land owned by the grantor even though typically only a small portion of the property would be impacted by the Osage Project. In most cases, the Project boundary followed the original tract owned by the grantor, even though not all of the land was needed for project purposes.

### 3.0 Lands Necessary for Project Operation and Maintenance

FERC regulations describe what lands should be included within the project boundary established for licensed hydroelectric projects. In general, the FERC requires that the project boundary include all project works and other features of the project described in Exhibit A of Ameren Missouri's license application, along with those additional lands necessary for operation and maintenance of the project. Specifically, 18 CFR Section 4.41(h)(2) states, in part:

The boundary must enclose only those lands necessary for operation and maintenance of the project and for other project purposes, such as recreation, shoreline control, or protection of environmental resources. Existing residential, commercial, or other structures may be included within the boundary only to the extent that underlying lands are needed for project purposes (e.g., for flowage, public recreation, shoreline control, or protection of environmental resources).

The FERC provides additional guidance on defining the boundary in relation to the reservoir in these regulations at 18 CFR Section 4.41(h)(2)(i)(a):

The boundary must be located no more than 200 feet (horizontal measurement) from the exterior margin of the reservoir, defined by the normal maximum surface elevation, except where deviations may be necessary in describing the boundary according to the above methods or where additional lands are necessary for project purposes, such as public recreation, shoreline control, or protection of environmental resources.

As has been previously discussed, the current Osage Project boundary contains lands far in excess of what is required by these regulations. Camden County is proposing to establish the Project boundary at elevation 660' lakewide with an increase in project boundary elevation to the 662' contour around areas of wetlands as previously identified by Ameren Missouri. This would remove excess lands that were acquired for the original construction of the Project and largely resets the boundary to encompass only those lands necessary for Project purposes. Camden County is proposing this lower boundary below elevation 662' to exclude any residential and commercial structures that are within the boundary and to provide a more uniform project boundary. Extension of the boundary inland from elevation 660' to encompass areas that are needed for Project purposes include:

- Project Recreation Sites

- Public Access Sites

- State Parks

- Wetlands

- Historic Properties

As currently authorized by the FERC, the Osage Project boundary is already defined as the 662' contour for 527 miles (43 percent of the existing Project boundary). Adjustment of these areas to the 660' contour would eliminate carve outs of any residential or commercial structures built below the 662' elevation.

Twenty eight percent of the existing Project boundary is defined by metes and bounds and includes the large blocks of land that in most cases are well beyond 200 feet from the normal maximum surface elevation of 660' at the Lake of the Ozarks. These metes and bounds tracts are areas where Ameren Missouri only has flood easement rights but they encompass far more land than is necessary for Project purposes due to the flood easements having been applied to entire properties. Further, these do not have fee ownership implications for Ameren Missouri. While flood easements may remain on the entire properties, the areas above the 660' contour do not serve Project purposes and should be removed from the Project boundary.

The remaining 29 percent of the existing Project boundary is contour-based at elevations above the proposed 660' elevation, ranging from 663' to 678'. Camden County is proposing to amend the remaining 29 percent of the current contour-based elevation to primarily follow the predominant contour elevation of 660'. This boundary proposal results in a total of 29,000 + acres of land not needed

for project purposes being removed from the project boundary, but regulated with current Flood Plain management, current building permit process, and FEMA oversight.

### 3.1 Justification for Proposed Project Boundary

Lake of the Ozarks is a unique body of water that provides a wide range of benefits to visitors and residents. The lands surrounding the lake are prized and highly valued for the lake access and quality of life they offer in this part of the country. The current balance between shoreline management, recreational access, environmental protection, power generation and other project purposes has developed over the past nine decades, a longstanding history that should be reflected in the implementation of the current shoreline management policies at the Project.

As evidenced by the multi-billion dollar tourism and recreation industry around the Lake of the Ozarks, the various State and local entities associated with economic development, recreation, and environmental protection have determined the proper balance between these project purposes for this reservoir. The Lake of the Ozarks has proven to be very successful in all aspects of project purposes with the current balance of resources and access that have been established. This lake supports a huge recreation industry and the shoreline development provides for a large part of the economic development in Central Missouri. At the same time, environmental protection is evidenced by the large fish population that the Lake supports. The Lake of the Ozarks is one of the premier fishing locations in mid-America, hosting over 400 fishing tournaments each year, which is evidence of the strong fish population that exists in our Lake. The Lake of the Ozarks is also one of the premier locations in mid-America for non-fishing recreation, which demonstrates the balance between the two purposes. Based on the development that has already occurred within the project boundary, the reduction in project boundary proposed by this application will have minimal if any impact on the successful balance of project purposes currently enjoyed at the Lake of the Ozarks.

Many of the encroachments on the current project boundary were the result of development which occurred prior to the FERC imposed requirement for shoreline management that began in the 1980's. As discussed in previous FERC orders on this subject, a considerable number of residences have been built on Ameren Missouri owned property within the project boundary, but have a written easement to do so. The identification of these encroachments in the last couple of years coupled with over-reaching FERC regulation has created legal encumbrances that currently prevent the timely sale and transfer of these residences. The proposed boundary amendment is a key component needed to remove these legal encumbrances and keep the FERC regulation authority below the 660' contour in areas where adjacent private land ownership exists.

An additional consideration is the difference between the high level of shoreline development found at the lower end of the lake as compared to lesser development at the upper end of the lake. Landowners around the upper end of the lake have anticipated eventually realizing the potential value of their property through development. Camden County is committed to providing a consistent elevation based Project boundary for property owners abutting the Project's shoreline and is proposing a revised Project

boundary that will provide an appropriate balance of the Project purposes at the Lake of the Ozarks. This balance of uses is evidenced by the zoning maps that are used to guide development and subsequent uses through the Camden County Planning and Zoning Department.

### 3.2 Land Rights Held by Ameren Missouri or by Others

As discussed above in Section 2.0, lands within the current and proposed boundaries fall into one of the following ownership classifications:

Lands owned in fee by Ameren Missouri that were obtained by acquisition;

Lands owned in fee by Ameren Missouri that were obtained through condemnation; and

Lands owned by others over which Ameren Missouri holds flooding easement rights only.

For the lands owned in fee by Ameren Missouri not obtained through condemnation, the previous owners of these parcels also hold written reserve easements granted by UED that allow them the use of the surface of the parcels of land sold to Ameren Missouri subject to conformance with Project purposes. These lands, whose use is granted by the original easement found in Book 63, Page 162 - 465, guaranteed access to, and use of, the project waters for any purpose whatsoever so long as it did not interfere with the operation of Bagnell Dam. 80+ years of operation, recreation, and development have shown that these activities are being responsibly managed by local entities. Reducing the amount of land within the current Project boundary to include just those lands needed for Project operation and maintenance, as discussed above in section 3.0, will address many of the outstanding complaints from property owners regarding regulatory concerns associated with the Project boundary.

It should be further noted that while the original 1932 written easement has been honored to date, Ameren Missouri has only paid Missouri state property tax to the variable water's edge, or 660' contour, since the original adjacent fee conveyances. Property taxes from the variable water's edge, or 660' contour, landward have been paid by the adjacent fee owners for many decades. This means that multiple decades of property taxes were paid by successor owners prior to the relatively recent 2007 modification of Missouri RSMo 516.090, and prior to the creation of the FERC in 1977 which marks the beginning point in time for the FERC authority and the current trend towards increased regulation. While Camden County recognizes that the FERC is a restructuring of the Federal Power Commission under the United State Department of Energy, it is the opinion of Camden County that unauthorized over-reaching regulation began at the inception of this reformation. It has been upheld whenever challenged that private property rights are a State's Rights issue. Under Missouri land law, the continual payment of property taxes on a parcel for 10 or more consecutive years causes the subject land to ripen to fee ownership for the payee by default without court action (this premise has been upheld, with respect to utilities, by case law in *The Empire District Electric Company vs. Gaar*). This is the case for all of the lands that have been identified by Camden County to have their lakeward property line adjusted to the 660' contour with the exception of the 662' contour boundary being employed in areas

containing wetlands that have been previously identified. Further, lease free access to the Lake of the Ozarks must be provided to all private landowners regardless of what the Project boundary definition is. This process is simplified by maintaining current flooding rights and adjusting the Project boundary to reflect the property tax boundary, which brings the Project into compliance with Missouri land rights and land law.

### 3.3 Impacts of Removal of Lands from Project Boundary

Camden County is proposing that lands located above the proposed 660' contour-based boundary elevation be excluded from the revised Project boundary. These lands have various amounts of development, are not integral to the Project itself, and will not affect the ability of Ameren Missouri to operate the Project. Nearly all of the lands proposed to be removed are separated spatially from the Project by a broad strip of commercial and residential development, or contain these types of development. For this reason and as described more fully below, these lands cannot practicably serve Project purposes.

In some cases, the parcels defined by metes and bounds are now owned by the State of Missouri and incorporated within the boundaries of the adjacent state parks (approximately 1,493 acres). These lands are protected from development by the state as part of the Missouri state park system and Camden County is not proposing to remove any of these state park lands from the Osage Project Boundary.

#### 3.3.1 Rare, Threatened, and Endangered Species

Amending the Project boundary as proposed will not significantly affect certain sensitive resources. With regard to bald eagles, no foraging habitat would be affected as prey resources and shoreline roost trees are located within the 25' lake side setback required by the Camden County Planning and Zoning Department, and would continue to be afforded the same protection that currently exists. The Missouri Department of Conservation's (MDC) Natural Features Inventory and Heritage Database identified 11 nests associates with the lake and the lower Osage River; four nests were located on the lake and seven were located downstream. Yet, only one potential eagle nest was observed during field studies conducted by Zambrana Engineering, Inc. (ZEI 2002). Bald eagle nests, individuals, and eggs are all protected under the federal Bald and Golden Eagle Protection Act. Additionally, Missouri state rule 2 CSR 10-4.111 extends special protection to the bald eagle as an endangered species. The lands being proposed for removal will continue to be protected under the federal Bald and Golden Eagle Protection Act as well as the Missouri state rule.

The U.S. Fish and Wildlife Service (USFWS) and MDC have confirmed the presence of a gray bat maternity colony in a cave that is within the Project boundary. The cave is located along a stretch of the shoreline that is not being proposed for removal; therefore, the proposed changes in the Project

boundary do not impact this cave. In addition, the cave opening is several feet above the full pool high-water mark and is not impacted by Project operations (ZEI 2002). Furthermore, the bat colony will continue to receive protection under Missouri state rule 3 CSR 10-4.111, which extends special protection to the gray bat as an endangered species; this includes protection of any bat maternity cave.

Future assessments seeking identification of new rare, threatened, or endangered species in the Lake of the Ozarks area are not necessary, as multiple comprehensive assessments have been completed and the suspect species identified. This will preclude groups or individuals from seeding rare, threatened, or endangered species into the area to intentionally stunt or eliminate development or further restrict land use. It is the policy of Camden County that only our currently documented indigenous species be monitored for healthy population levels.

### 3.3.2 Terrestrial Resources Protection Guidelines

Certain areas along the shoreline are worthy of an additional level of protection that is not afforded to all of the lands covered by the Lake of the Ozarks Permit Requirements. These areas are identified along undeveloped shoreline where wetlands or historic properties are located. These areas are of special concern to resource agencies and Camden County. Within these areas, an increased level of assessment, consultation and/or protection will be required as appropriate. Development may occur in these areas but the resources must be afforded protection. Within the individual areas, there may be certain aquatic or terrestrial resources or habitat characteristics that need special protection to avoid adverse impacts. Development within these areas will be carefully reviewed by Camden County and resource agencies, to ensure resource protection with the ultimate authority over the development activity falling to Camden County.

Any proposed disturbance in these areas must include a plan that contains measures to avoid, minimize, or mitigate impacts on important environmental features within the area. Approval of the proposed activities and the plan to avoid, minimize, or mitigate the impacts will be decided on a case-by-case basis with the ultimate authority resting with Camden County.

#### 3.3.2.1 Wetlands

Wetlands were once a significant component of Missouri's natural heritage, accounting for 11 percent of its surface area. Historical wetland losses in Missouri have been significant, approaching 90 percent. Federal and State agencies have been directed to implement a policy of "no net loss of wetlands" in permitting and certification work. Therefore, wetland impacts should be avoided or minimized if possible, or, if not, appropriate mitigation should occur. The USACE strictly controls wetlands in accordance with the rules and regulations established in Section 404(B) of the Clean Water Act (CWA) of 1977. In addition to other local, county, state and federal permit certifications, any development that impacts wetland areas is subject to the terms of the CWA and requires a 404 permit approved by the USACE and 401 water quality certification as approved by the MDNR.

Wetlands on removed lands would not be affected as a result of the proposed change in the Project boundary. It is important to note that the FERC has stated in the Project EA (FERC 2006) that revision of the Project boundary to the 662.0-foot contour would not have a significant effect on wetlands or wildlife. "The most significant lakeshore areas with respect to wetlands and wildlife habitat are primarily below the 662.0-foot contour" (FERC 2006, page 13). In preparing this proposed boundary amendment, Camden County recommends maintaining the 662' contour as the Project boundary in areas where wetlands have been identified. Further, Ameren Missouri is proposing "bump ups" inland of contour 662 to retain wetlands located on property that will remain in ownership by Ameren Missouri.

The following activities will not be permitted within a wetland area:

Dredging

Seawalls (located lakeward of 659.5 elevation), (boat) ramps, and similar improvements requiring excavation. Erosion must be evident to inspectors for favorable consideration of stabilization landward of 659.5 elevation.

Shoreline stabilization other than native plant species, riprap, or other habitat enhancing methods. Erosion must be evident to inspectors for favorable consideration of stabilization landward of 659.5 elevation

Removal of wetland vegetation and native trees exceeding 1.5 inches in diameter within Ameren Missouri owned land.

Facilities with toilets, showers, or any other type of device that could cause any wastewater to be discharged into the lake.

Boat fueling facilities.

The floating portions of boat docks are permitted within wetland areas provided that installation of the dock and access to the dock can be achieved without adversely impacting the wetland.

### 3.3.2.2 Wildlife Habitat

With regard to wildlife on removed lands, potential effects would primarily be minimal habitat loss and fragmentation as a result of continued development. However, much of the landscape surrounding the Project is already fragmented due to past development, and current habitat value for general wildlife species is marginal.

### 3.3.2.3 Historic Properties

Each application will be reviewed to determine if the proposed development is located within 300 feet of a historic property. Maps of documented historic properties will be prepared by Ameren Missouri and provided to Camden County and the appropriate resource agencies. If it is determined that the proposed development is located within 300 feet of a historic property, Ameren Missouri will notify the owner that the area has been designated as a historic property and that consultation and signoff from the SHPO will be required before a permit can be issued. Ameren Missouri will follow the documented recommendations from the SHPO with regard to the documented sites. Further, if historic property remains, i.e., artifacts or human remains are encountered during excavation or dredging, all construction must cease. The owner should contact Ameren Missouri and the Missouri SHPO and notify them of any unanticipated finds or new discoveries related to Historic Properties. Also, the owner should immediately contact the local law enforcement agency and the Missouri SHPO in accordance with RSMO-Section 194.400-410 Missouri Revised Statutes should human remains be encountered.

#### 3.3.2.4 Heads of Coves

The quality of the recreational fishery, one of many facets upon which the tourism industry is dependent, is directly dependent on the survival of small young fish. Shallow water habitat and food resources are crucial for spawning, feeding, and avoiding predation. Dredging eliminates shallow water habitat and extensive covering of this habitat type with structures can degrade it to levels which will negatively impact fisheries. Because of the importance of shallow water habitat to the recreational fisheries, added protection is required.

Shallow water habitats exist along much of the shoreline but are concentrated in the shallow end of the coves, referred to as the Head of Cove. The Head of Cove definition proposed by Ameren Missouri in the FERC application is not recognized by Camden County. The definition of the Head of Cove has been worded in such a way that the impacted areas identified by the proposed definition closely mirror the impacted areas from the 2006 Impact Minimization Zone (IMZ) discussion. Currently, these described areas make up a large portion of the undeveloped area around the lake, and restriction of their development capacity will have a major impact on the economic engine of Camden County while providing no real increase in small fish habitat. The shallow water habitat will still exist regardless of development, and degradation of small fish habitat will not be diminished so long as responsible development and permitting procedures are followed.

There may be instances where a cove is exceptionally shallow, resulting in a situation where an elevation-based determination of allowable activities might be too restrictive. In these instances, Camden County will support Ameren Missouri's review of permit requests on a case-by-case basis, with Camden County holding the authority for appeal review. Camden County will support certain uses within these coves provided no prohibited uses (listed here) are proposed that would adversely affect small fish habitat. It should also be noted that most of the areas meeting this criteria will fall into a wetland protection zone that has been previously identified. If an exemption is allowed, dredging will be limited to the footprint of the structure. Access dredging will be limited to a lateral from the

structure to the central channel of the cove. The following activities will not be permitted within sensitive small fish habitat areas:

Dredging, except at existing permitted structures where dredging may be permitted as allowed in the Dredging-Excavation/Fill Guidelines in Appendix ?? “Existing permitted structures” shall include any dock appropriately located and permitted prior to March 30, 2007.

Seawalls (located lakeward of 659.5 elevation, (boat) ramps, and similar improvements requiring excavation. Erosion must be evident to inspectors for favorable consideration of bank stabilization landward of 659.5 elevation.

Shoreline stabilization other than native plant species, riprap, or other habitat enhancing methods. Erosion must be evident to inspectors for favorable consideration of bank stabilization landward of the 659.5 elevation.

Removal of wetland vegetation and native trees exceeding 1.5 inches in diameter within Ameren Missouri owned land.

Facilities with toilets, showers, or any other type of device that could cause any wastewater to be discharged into the lake are prohibited.

Boat fueling facilities.

#### 3.3.2.5 Woody Debris

Currently, removal of existing submerged woody debris from the lake is prohibited unless such debris constitutes a navigational or public safety hazard. Ameren Missouri must approve removal of such woody debris from the lake. Woody debris that falls into the lake as a result of storms or natural occurrence should be left in place unless such debris constitutes a navigational or public safety hazard, or causes issues with dock placement, dock access, or aesthetics on lots where existing development is in place. Further, woody debris will not be a determining factor in restricting future development of privately held lands. Woody debris that has broken loose from submerged trunks and is floating in such a manner that constitutes a navigational or safety hazard may be removed from the lake. In the placement and construction of new docks, these facilities should be placed to minimize removal of woody debris. Property owners may be required by Ameren Missouri and/or resource agencies to mitigate at a 2:1 ratio for removal of woody debris from the lake in nearby areas, depending upon the type and age of submerged woody debris. This mitigation requirement will be subject to appeal review with Camden County. Such mitigation may include, but is not limited to, the design and construction of enhancement or mitigation measures for fish habitat.

#### 3.3.3 Cultural Resources

A sample lakeshore survey, sample riverbank survey, cultural resources overview, and selective historic architectural survey were performed in 2002 and 2003. Survey methodology was developed in consultation with the Missouri State Historic Planning Officer and members of the Cultural Resources Subcommittee. In general, opportunistic sample surveys of high-potential shoreline areas were selected as the most appropriate survey strategy. Much of the land around the lake was eliminated from the survey area of interest due to topography of the shoreline and the incidence of heavy development.

None of the historic properties identified in the relicensing surveys are located within the parcels proposed for removal from the Project boundary. As noted above, the upland parcels proposed for removal from the project boundary were all eliminated from the study scope developed in consultation during relicensing due to topography and the amount of existing development in these upland areas. If these private lands are to be further developed in the future, the land owner will be required to proceed in accordance with local and state regulations regarding cultural resource protection in effect at that time. Additionally, Ameren Missouri is implementing the Osage Historic Properties Management Plan that was approved by FERC on June 12, 2009 which provides a process for the identification, protection, and preservation of historic properties as the Project, and establishes a decision-making process with consultation procedures to consider potential Project effects on historic properties.

#### 3.3.4 Recreation

The proposed Project boundary will not affect recreational facilities associated with the Osage Project. Camden County is not proposing to remove any lands containing State Parks from the Project boundary and Ameren Missouri is proposing bump ups from the proposed Project boundary of elevation 660' to maintain existing Project related recreational facilities and public access points within the Project. Ameren Missouri is implementing the Osage Recreation Enhancement Plan (REP) that was approved by FERC on May 14, 2009 which identifies 23 existing recreation sites (including two State Parks) and four sites for potential future development for public recreation access and use at the Project. The REP includes a program to evaluate existing facilities at the Project, in consultation with appropriate agencies, to ensure that they meet existing and future public recreation needs. The REP may be modified to address any identified changes in recreation need. Therefore, public access to the reservoir will not be affected by the proposed boundary amendment. Further, it is the opinion of Camden County that sufficient public access points for recreation purposes are in place in an acceptable geographical configuration.

#### 3.3.5 Soils

Soils were identified in the FERC EA as a potentially sensitive resource on lands proposed for removal from the Project boundary. Highly erodible soils may become vulnerable if exposed as a result of development. However, lands proposed for removal are mostly privately owned, and much of these areas have already been developed in areas closest to the Project reservoir. In most cases, lands developed around the lake have included riprap or sea walls to protect against soil erosion. In addition, any ground disturbance of an acre or more requires a Missouri State Operating Permit that specifically

identifies the Project prior to the removal of any site vegetation or disturbance of the site (10 CSR 20-6.200(1)(B)). Projects of one acre or less are under the jurisdiction of the Camden County Planning and Zoning Department, and requirements have been put in place for erosion control during construction activities that include, but are not limited to silt fencing and settling basins. These erosion controls will provide adequate protection to erodible soils. This applies to all lands both inside and outside the Project.

### 3.3.6 Water Quality

Indirect effects on water quality due to erosion, non-point source pollution, and additional wastewater discharge due to new development activities will be minimal. The Lake of the Ozarks is the most tested body of water in the state of Missouri and possibly the Midwest region. Strict rules from the Missouri Department of Natural Resources and the Camden County Wastewater Department insure that degradation of the waters do not occur due to waste water discharges. The lands proposed for removal from the Project boundary are mostly privately owned and are already developed in most cases, and Ameren Missouri has no control over what happens on these privately owned lands. In these cases, the Camden County Wastewater Department provides die testing and other field monitoring operations to insure that onsite septic systems meet operational criteria and do not pollute or degrade the water at the Lake of the Ozarks. It should also be noted that a large number of municipal sewage lift stations are located below the 662' contour and would still be located in the Project boundary if the new Project boundary were above the 660' contour. This is another reason why establishing the new Project boundary at the 660' contour would be prudent. Any new development on removed lands must address local and state policies regarding erosion, sediment control, storm water, and wastewater management practices, thus addressing the potential impacts of any new development on the lands proposed for removal from the Project boundary.

### 3.3.7 Aquatic Resources

The FERC stated in its draft EA that Ameren Missouri's proposal to revise the Project boundary would have no significant impact on aquatic resource habitat (FERC 2006, page 96). Camden County agrees with this assessment. No spatial changes to aquatic habitats are being proposed, and the Project's resources will be retained within the amended Project boundary. In the EA, the FERC has suggested that aquatic resources may be affected indirectly by the amended boundary if wetlands or shoreline buffers are altered. "Indirect effects could include decreased ability to filter and moderate run-off or a localized decrease in macroinvertebrate production" (FERC 2006, page 96). Implementation of any new development on removed lands must address local and state policies concerning wetland protection, erosion, and sediment control, storm water management, and wastewater management practices. Further, Camden County is recommending that the Project boundary be set at the 662' contour in areas where wetlands have been identified.

### 3.3.8 Vegetative Cover Policy

Vegetation is important to the aesthetic qualities and environmental health of the Lake of the Ozarks. In addition to enhancing the natural beauty of the lake, terrestrial and aquatic vegetation helps prevent water pollution and provide habitat for birds, mammals, and fish. These policies are intended to provide property owners with the opportunity to use Ameren Missouri owned or controlled property appropriately, while protecting the environmental characteristics of the shoreline.

Although Ameren Missouri uses the Lake of the Ozarks for electric power generation, the lake is also heavily used as a national tourist and vacation home area. Decades of lakeside landscaping and heavy shoreline usage have largely removed the natural vegetation that can help to reduce sediment and nutrient run-off in the developed portions of the lake.

It is important to enhance the natural beauty, water quality protection, and habitats of the shoreline. Ameren Missouri believes it is in the best interest of both the long-term health of the lake's water quality and the value of adjacent property owned by its neighbors that an area of natural vegetation exists on its property adjacent to the shoreline. This "shoreline buffer zone" consists of trees, shrubs, and ground cover of native plants and understory. State and federal resource agencies support the buffer concept for the purpose of protecting the lake environment, water quality, and providing wildlife habitat. Camden County has addressed this issue by requiring a minimum lake setback of 25' from the 660' contour for lakefront construction. This requirement has been in place since 2004. This setback provides a buffer area for sediment collection and nutrient absorption into the ground, minimizing their intrusion into the reservoir. While the retention of existing native vegetation is preferred, sometimes this vegetation does not meet the private landowner's expectations and must be removed in lieu of other options. Currently, Camden County and other groups are advocating voluntary installation of rain gardens and other aesthetically pleasing water retention structures around the lake.

These policies encourage proper management of this vegetative buffer zone on Ameren Missouri owned and controlled land, which extends from the shoreline up to Ameren Missouri project boundary. Establishing the Project boundary at the 660' elevation in non-wetland areas eliminates the requirement for Ameren Missouri to monitor vegetation management on lakefront properties that do not adjoin wetlands. If the 660' boundary is adopted, a vegetation policy will be implemented into the Camden County Unified Land Use Code and will be overseen by the Camden County Planning and Zoning Department. If the Project boundary is established at the 662' contour, then appeals to Ameren Missouri's decisions on native vegetation will be heard and acted upon by Camden County.

Camden County will inform property owners of the water quality and aesthetic benefits of the vegetative buffer zone. The County will also provide guidance to Lake of the Ozarks property owners or property owner groups who seek assistance in developing vegetation management plans for existing or planned subdivisions that support maintenance or replacement of effective shoreline vegetative buffer zones in areas that do not contain lakefront property. Landward installation of these types of structures will help to decrease the amount of sediment and nutrients entering the Lake of the Ozarks.

Vegetation within the 25' buffer zone should be reasonably preserved, or replaced if disturbed. Vegetation should only be removed in line with policies that will be outlined in the Camden County Unified Land Use Code should the 660; contour boundary be adopted.

Camden County recognizes the ability of a private landowner to modify the existing vegetative cover subject to the policies below by removing vegetation to:

Provide for reasonable view of the water.

Construct access paths to the shoreline and/or dock.

Construct erosion control measures along the shoreline.

Perform general maintenance to the vegetated area.

These modifications to the existing vegetative buffer zone, located within the 25' required setback, must be approved by Camden County Planning and Zoning as part of the permitting process.

The following policies regarding vegetation modification and land disturbance apply to shoreline property within the 25' lakefront setback:

Camden County prohibits removing any tree larger than 4 inches in diameter unless it is threatening safety or property, or is located within 10 feet of a foundation wall. The removal of any dogwood, redbud, or serviceberry tree regardless of size is also prohibited without replacing each with a suitable native tree with a minimum diameter of 1.5 inches or larger. Replacement trees shall be planted within the 25' setback of the shoreline and within the disturbed area where possible. Location of replacement trees may be managed to provide appropriate view-scapes. Camden County encourages residents to use native grasses and perennial plants in their shoreline zone, or allow it to develop into natural forest for shoreline protection.

Camden County encourages the use of native species for all plantings within the 25' setback zone. Appropriate trees include dogwood, redbud, serviceberry, persimmon, mulberry, native Missouri oaks or hickories, sugar maple and green or white ash. Suitable native grasses and perennial plants include big and little bluestem, Indiangrass, switchgrass, fescue, and the full assortment of wildflowers, sedges, and ferns that are native to Missouri.

Unauthorized clearing of trees or vegetation or failure to restore trees and/or vegetation as outlined above may result in the immediate cancellation of the individual's permit(s), as well as possible legal action to require the revegetation of the affected area(s). Camden County reserves the right to suspend, revoke, and/or limit other requested facilities for developments that violate the provisions of this policy.

Nothing contained in this policy shall be construed to require the removal of any landscaping or other permitted improvements in existence when this plan is adopted.

#### 3.4 Identification of Lands Needed for Flowage at the Osage Project

Ameren Missouri will retain flood easements over all the privately held land located within the proposed Project boundary. On lands proposed for removal from the Project boundary, Ameren Missouri's flood easements will continue; but this will be outside the FERC's jurisdiction. Camden County is proposing to establish the contour-based boundary at elevation 660', which is the normal maximum full pool elevation. Further, the FERC has identified that the project boundary should not extend out from the variable water's edge, or in this case the 660' contour more than 200 feet. If the Project boundary is adjusted to the 662' contour instead of the 660' contour, the maximum distance (buffer zone) measured by a horizontal line from the 660' contour (exterior margin of the reservoir) to the landward Project boundary will be 20'. This will prevent gently sloping lots from losing any of their development capacity due to an elevation based Project boundary, will prevent property devaluation, and will still guarantee responsible development through the Camden County Planning and Zoning Department. This issue is also supported by the fact that in many cases, the original project boundary is unrecoverable, and truly accurate identification of ownership of lands is impossible. The only true benchmark that can be referenced to determine land ownership boundaries is the water's edge itself, so using it as the Project boundary is the only logical documentable resolution between private land ownership and Project boundary.

#### 3.5 Identification of the Total Cumulative Acreage Proposed for Removal

The revised Project boundary proposed in this amendment application removes over 29,000 acres from the Osage Project. These 29,000+ acres are not needed for project purposes. As requested by the FERC, Ameren Missouri should provide closed-polygon GIS shapefiles of the existing and proposed boundary in the final boundary amendment application to be filed with the FERC to allow the acreage proposed for removal to be confirmed.

#### 3.6 Non-Conforming Structures

A considerable number of structures have been located within the Project along the shoreline of the lake over the last 75 years, some prior to adoption of formal permitting procedures and policies, and some of which do not conform to current shoreline management standards as outlined by the FERC. These structures have been referred to as non-conforming structures. Examples of such non-conforming structures include, but are not limited to, floating habitable enclosures, dwellings partially or wholly within the project, decks extending more than 3 feet over seawalls, and floating commercial businesses. Given the shoreline management responsibilities mandated by the current license via the FERC, and the perceived incompatibility of these non-conforming structures with other permitted shoreline structures and uses, but considering also potential impacts of the strict application of the

current guidelines and license terms to the non-conforming structures, Ameren Missouri was forced by the FERC to adopt guidelines to appropriately manage these non-conforming structures. Structures constructed landward of the 660' contour, which have met the necessary permitting that was in place at the time of their construction require appropriate recognition. Camden County does not recognize these structures as having negative impacts on Project or its shoreline, nor does it consider these structures to be non-conforming or inappropriately placed. These structures are, worst case scenario, built in a deeded easement that allows them to be built where they are. Further, the private property owners have been paying the property taxes to the variable water's edge for decades, which under Missouri land law, affords them additional rights and privileges. It is the position of Camden County that the FERC has overstepped its regulatory authority over the Project with regards to the generation of power and has impeded the rights of individual private landowners. This is the foundation for the request that the Project boundary be adjusted to the 660' contour lakewide with adjustments to the 662' in areas where previously documented wetlands are present. While Camden County is in agreement with the current lease structure that is in place for oversized and commercial docks, it is the position of Camden County that the FERC does not have the jurisdiction or authority to grant the power of lease to Ameren Missouri for any other structure. Oversized commercial and residential docks that are currently required to pay a yearly fee take up a predefined inordinate amount of space on the surface of the water, and therefore the current fee schedules for these types of structures appears to be appropriate. Under no circumstances will Camden County condone or allow leases, or any type of fee, other than fees for construction permits, to be put in place for any other structure, including, but not limited to, homes (partially or wholly in the Project), boat docks, walkways, seawalls, dock pumps, decks, and gazebos. These structures will, however, be subject to the permitting requirements that were in place at the time of their construction, and if non-conformities exist with regards to those requirements, the remedies for improper performance will apply. Finally, Camden County will hold the final authority for the appeal process, should it be required and deemed plausible( on a case-by-case basis) by Camden County, over the permitting process.

#### 4.0 Shoreline Management Plan Enforcement

Under its FERC license, Ameren Missouri has the authority to permit and ensure compliance for limited development activities around the shoreline of the Osage Project within the FERC project boundary and to convey certain interests in project lands and waters. As part of Ameren Missouri's commitment under its FERC license, Ameren Missouri works with permittees and resource agencies to ensure that development activities comply with Ameren Missouri's permitting requirements as well as any additional state and federal requirements, all the while adhering to the rules and regulations lined out in the Camden County Unified Land Use Code and this document. Ameren Missouri should also ensure the protection of public recreation opportunities, aesthetic beauty, environmental features, and power production capability at the project. For those purposes Ameren Missouri has the continuing responsibility to supervise and control the permitted uses it grants permission for, and to monitor the use of, and ensure compliance with, any permits it has conveyed under its FERC license. All of these activities must be performed in coordination with Camden County, with Camden County holding the

right of appeal for the people requesting permits or who are involved in enforcement proceedings with Ameren Missouri.

In granting permits, Ameren Missouri balances the desires of the permit applicants with environmental values, public good, and other project purposes without being unnecessarily burdensome to growth and development. Each proposed activity will be evaluated according to Ameren Missouri's programs and policies. If a construction or activity permit is issued, all work must be done in compliance with the terms of the permit. The applicant is responsible for correcting or removing any unauthorized activity or structures. Changing conditions or other factors may lead Ameren Missouri to revoke an activity permit, but if this occurs, the appeal process with Camden County will apply, at the County's discretion. If a permitted use or occupancy violates any conditions of Ameren Missouri's FERC license or any other condition imposed by Ameren Missouri for the protection and enhancement of the Project's scenic, recreational, or other environmental values, or if the terms of the permit are violated, Ameren Missouri will be allowed to pursue actions to remedy the situation and correct the violation. Any corrective actions implemented by Ameren Missouri will be subject to appeal with Camden County, at the County's discretion.

Prior to any ground-disturbing activity or the installation or construction of any structure on or affecting project lands owned or controlled by Ameren Missouri, a permit must be issued by Ameren Missouri. Common shoreline activities are:

Construction – Construction or modification (reconstruction, replacement, repairs, additions, or expansion) of any structures (breakwaters, ramps, docks, boathouses), roads, or access pathways within the project boundary.

Shoreline Stabilization – Construction, installation, and modification of riprap, retaining walls, or other forms of shoreline stabilization measures including vegetation.

Shoreline Alteration (Dredging and Fill) – removal, addition, or alteration of any natural features of the Project and the shoreline within the Project boundary including sediment, soil, and rock.

Private Irrigation Systems – These structures will NOT require a permit.

Removal of floating debris and shoreline litter that poses an imminent threat to life or property, such as floating logs, paper, plastic, and other unnatural forms of trash or debris, does not require Ameren Missouri approval as long as the removal method complies with the other requirements of Ameren Missouri's policies, procedures, and requirements. Fish habitat enhancement, including submerged trees and crappie beds does not require an Ameren Missouri permit.

Once again, all aspects of permitting or enforcement, as well as any modification of the existing fee schedule for oversized and commercial docks will be subject to an appeals process with Camden County,

with Camden County having the final authority for decision. Appeals will be heard at the County's discretion.

#### 5.0 Shoreline Management Plan Review and Update Process

Based upon the evolution of the shoreline management program to date, Camden County recognizes that the management of the Lake of the Ozarks is dynamic and that changes to the Shoreline Management Plan and the Coordinated Land Use Plan will be necessary to address issues as they arise. Ameren Missouri will consult and coordinate with Camden County should modification of the SMP and Permit Requirements be required. Further, Ameren Missouri will consult with the resource agencies and other stakeholders as appropriate, who will also be required to consult and coordinate with Camden County. The FERC will be informed of significant modifications to these documents and will be provided documentation of the consultation and coordination between Ameren Missouri, Camden County, resource agencies, and other stakeholders.

A signature page will follow this page for FERC, Ameren Missouri, and the Camden County Commission to sign as acceptance of this document.