

Brookfield Smoky Mountain Hydropower LLC – FERC NO. 2169

SUBDIVISION ACCESS APPROVAL, MULTI-USE FACILITY PERMITTING, AND INDUSTRIAL APPROVAL PROCEDURES – BSMH PROJECT RESERVOIRS

1 OVERVIEW

As a Federal Energy Regulatory Commission (FERC) licensee, Brookfield Smoky Mountain Hydropower (BSMH or Brookfield) manages Santeetlah, Cheoah, Calderwood, and Chilhowee reservoirs in accordance with the terms of its license and applicable rules and regulations of FERC. This responsibility includes providing adequate public access and public recreation facilities, and protecting important environmental, cultural, and aesthetic resources at the Project. BSMH takes its responsibility very seriously and is committed to the protection and enhancement of these resources within the FERC-licensed Project Boundary (Project Boundary) and on BSMH-owned lands.

Generally, the Project Boundary at Santeetlah Reservoir follows the normal full-pool elevation of the reservoir. BSMH manages BSMH-owned lands in and outside of the Project Boundary. The Santeetlah Reservoir shoreline spans a total of 78.8 miles. Of the 78.8 miles of shoreline, approximately 60.7 miles is undeveloped forest (Nantahala National Forest). The remaining 18.1 miles of shoreline is privately owned, including BSMH-owned lands. Also, as described in the BSMH Project Relicensing Settlement Agreement (RSA), a North Carolina Riparian Lands Conservation Easement (NC Riparian Easement) was placed on certain BSMH-owned lands along Santeetlah Reservoir and the Cheoah River, Yellow Creek, and Cheoah and Calderwood reservoirs. The BSMH Project Shoreline Management Plan (SMP), effective upon filing with FERC in October 2004, classifies the shoreline along Santeetlah Reservoir as: 1) Other/General Development, 2) Stewardship Area, or 3) Conservation Easement.

Generally, the Project Boundary along Cheoah Reservoir follows contour elevation 1,362.5-ft or the normal full-pool elevation along both the north and south shorelines of the reservoir. The Cheoah Reservoir has 19.6 miles of shoreline and is bounded on the north side by U.S. Highway 129, BSMH-owned lands, the Great Smoky Mountains National Park (GSMNP), the Tennessee Valley Authority (TVA), and NC Highway 28.

To accommodate plant operations and maintenance activities, the Project Boundary at Calderwood Development includes the entire horseshoe shaped area known as the Calderwood Bypass. The Project Boundary along the right side (facing downstream) of the reservoir follows metes and bounds for about a mile with the balance of the boundary at the 1,180-ft contour. The Project Boundary on the left side of the reservoir follows the 1,107.5-ft contour from the

Cheoah River to just downstream of the Tennessee and North Carolina border and the 1,180-ft contour to just upstream of the dam. Calderwood Reservoir has 16.9 miles of shoreline. Most of the land bordering the Project Boundary around Calderwood Reservoir is BSMH-owned lands. The Nantahala and Cherokee National Forests and the Joyce Kilmer-Slickrock Creek Wilderness Area also border the Project Boundary at Calderwood Reservoir.

The Project Boundary at Chilhowee Reservoir includes an area around Chilhowee Dam and extends downstream into the tailrace about 3,000 feet. The Project Boundary on the northeast side of the reservoir generally follows either the 925-ft or the 887.5-ft contours. Approximately 75 percent of the Project Boundary on the southwest side of the reservoir is the 925-ft contour with intermittent areas defined by metes and bounds. Chilhowee Reservoir has 26.4 miles of shoreline and is bordered on the northeast side by U.S. Highway 129, the Great Smoky Mountains National Park, BSMH-owned lands, and private lands and on the southwest side by BSMH-owned lands, private lands, and the Cherokee National Forest.

Generally, the majority of the shoreline around Cheoah, Calderwood, and Chilhowee reservoirs and the Calderwood Bypass are classified as Stewardship Area. Also, as described in the Relicensing Settlement Agreement, a permanent or term conservation easement was placed on certain BSMH-owned lands including lands along the shoreline of the mainstem reservoirs and the Calderwood Bypass (the “Conservation Easements”).

Generally, the purposes of the aforementioned Conservation Easements are to ensure that the property included in the easement is preserved in its predominantly undeveloped, natural, scenic, open space and/or forested condition, and to prevent any use of the property that will significantly impair or interfere with the identified Conservation Values (natural, scenic, open space, forest, wildlife habitat, watershed protection, historical, cultural, educational, and/or recreational values) of the property. The shoreline property included in the Conservation Easements may be used by the general public for ingress and egress to and from adjoining properties for recreational purposes (e.g. lawful hunting, fishing, hiking) so long as that right existed prior to FERC’s issuance of a new license. However, the Conservation Easements generally restrict the following activities and uses on property included in the Conservation Easements: construction; excavation; cutting or removal; dumping; pollution; vehicles, bikes, horses; and exploration.

BSMH has no management oversight over any lands owned or managed by the U.S. Forest Service (USFS), the National Park Service (NPS), or TVA. Accordingly, BSMH will not grant any permits pursuant to these Subdivision Access Approval, Multi-use Facility Permitting, and Industrial Approval Procedures (Procedures) for lands managed by others than BSMH. Property owners desiring to use USFS, NPS, or TVA lands to access the Project reservoirs, shoreline, or BSMH-owned lands must consult with and obtain any necessary permits from the USFS, NPS or TVA before BSMH will consider issuing a permit.

Under its FERC license, BSMH has the authority to grant permission for certain types of use and occupancy of Project lands and waters and to convey certain interests in Project lands and waters. However, this can be done only if the proposed use and occupancy is consistent with the purposes of protecting and enhancing the recreational,

environmental, aesthetic and cultural resource values of the Project. Therefore, BSMH has the continuing responsibility to supervise and control the uses and occupancies for which it grants permission, and to monitor the use of, and ensure compliance with, the covenants of the instrument of conveyance for any interests that it has conveyed under its FERC license. If a permitted use or occupancy violates any condition of BSMH's FERC license or any other condition imposed by BSMH for the protection and enhancement of the Project's recreational, environmental, aesthetic, and cultural resource values, or if a covenant of a conveyance made under the authority of its FERC license is violated, BSMH may take any lawful action necessary to correct the violation, as described in Section 7.

These Procedures apply to subdivisions adjoining Santeetlah Reservoir, the shoreline, defined as the normal full-pool elevation of Santeetlah Reservoir, and/or BSMH-owned lands and multi-use facilities and industrial uses/facilities within any of the Project reservoirs, along the reservoir shoreline, or BSMH-owned lands.

Based on recent FERC guidance on critical energy infrastructure information (CEII guidance, 18 CFR Parts 375 and 388), BSMH will maintain and operate the four Project developments (i.e. dams, powerhouses, and ancillary structures) to minimize the vulnerability of the Project to potential security threats. BSMH will maintain security buffer areas around the Project developments by not allowing third party, non-Project development of lands included in the FERC Project Boundary and associated BSMH-owned non-Project lands.

BSMH also has a Shoreline Stewardship Policy, which summarizes BSMH's policies, procedures, and requirements regarding use of the Project reservoirs, shoreline, and BSMH-owned lands. Applicants are encouraged to familiarize themselves with the Shoreline Stewardship Policy and the procedures and requirements that eligible property owners¹ and others must comply with in order to maintain eligibility to construct, maintain, and/or operate facilities within the Project reservoirs, along the shoreline, or on BSMH-owned lands.

Entities considering the development of subdivisions, the construction of new multi-use or industrial uses/facilities or the modification of existing facilities should contact BSMH as early as possible in the planning process to discuss the specific permitting/approval requirements that apply to the proposed activity and to obtain copies of the appropriate application materials and instructions.

BSMH will review and update these Procedures in conjunction with the SMP as necessary every ten years in consultation with the North Carolina Department of Environment and Natural Resources, North Carolina Wildlife Resources Commission, North Carolina State Historic Preservation Office, USFS, U.S. Fish and Wildlife Service, Bureau of Indian Affairs, GSMNP, Eastern Band of Cherokee Indians, Cross Creek Property Owners Associations, Friends of Lake Santeetlah, Town of Lake Santeetlah, Town of Robbinsville, Graham County, Sierra Club, American Rivers, Tennessee Clean Water Network, The Nature Conservancy, Tennessee

¹ An "eligible property owner" is a property owner who is eligible for a private recreation facility permit from BSMH because of being an adjoining property owner.

Department of Environment and Conservation, Tennessee Wildlife Resources Agency, Tennessee Historical Commission, and the Tennessee State Historic Preservation Office. SMP updates will be filed with FERC for approval.

2 SUBDIVISION ACCESS APPROVAL

No subdivision access will be permitted on Cheoah, Calderwood, and Chilhowee reservoirs, along the shoreline (defined as the normal full-pool elevations of the mainstem reservoirs), or on BSMH-owned lands.

Reservoir access for lots in new subdivisions adjoining Santeetlah Reservoir, the shoreline defined as the normal full-pool elevation of Santeetlah Reservoir, or USFS lands will not be granted unless the proposed subdivision access is first reviewed and approved by BSMH. If the proposed subdivision abuts USFS lands, the applicant must also obtain a Special Use Permit from the USFS that approves access across its lands to the reservoir. Only after BSMH has approved the subdivision access will any lots be eligible to apply for either a construction permit or a private recreation facility (individual or shared pier) permit. In the case of subdivisions for which the applicant is proposing multi-use facilities (as defined below), prior notice to or prior approval by FERC may also be required.

2.1 Access Approval Process

The subdivision access approval process is a process under which BSMH, or in certain cases, FERC, determines whether the requirements of BSMH's FERC license are met as they relate to the effect of the reservoir access anticipated for the subdivision on the reservoir and adjoining shoreline. Included in this determination is a final decision, with respect to lot width and cove width only, as to whether certain lots adjacent to the reservoir shoreline are eligible for a private pier.

For lots that are deemed eligible for a private pier as part of this subdivision access approval process, the procedures and requirements set forth in the Shoreline Stewardship Policy and Specifications for Private Recreation Facilities (Specifications) must also be complied with before BSMH will consider issuing a construction permit to any eligible property owner.

The subdivision access approval process requires that the applicant prepare an Environmental Assessment (EA) for some proposed subdivisions. A full EA, as described in Section 5, is required for the following types of subdivisions:

1. Any subdivision where the applicant is seeking eligibility for private recreation and/or multi-use facilities located along shoreline classified as Stewardship Area.
2. Any subdivision with more than five lots if the applicant is seeking eligibility for private recreation and/or multi-use facilities.

Applicants for all other types of subdivisions are not required to prepare a full EA, but must prepare an Agency Consultation Process Information Package (Information Package) as described in Section 6.

Subdivision developers seeking to include multi-use facilities (see Section 3) as part of the subdivision need only complete a single EA for the proposed subdivision. In these cases, the EA must include information required for both the private access needs of the subdivision and multi-use facility aspects of the proposed subdivision, and will be used by BSMH to review and evaluate any private access requested by the subdivision and any proposed multi-use facilities.

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

2.1.1 Pre-Application Meeting

2.1.1.1 A subdivision developer must meet with BSMH prior to submitting an application for subdivision access approval. This initial meeting should be held as early as possible in the planning process to avoid confusion and delay in preparing information required for the application.

2.1.1.2 Prior to the meeting, the applicant must complete a Pre-Application Meeting Worksheet that identifies the information that the applicant is expected to bring to the meeting, including:

1. Maps or sketches showing the location of the proposed subdivision with respect to the reservoir, shoreline, BSMH-owned lands, USFS, NPS, or TVA lands and existing property boundaries;
2. General information on the proposed subdivision, including:
 - the number of subdivision lots and the number, size, and type of other facilities involved;
 - the anticipated need for access to Project lands and waters;
 - the anticipated need for use of or access across BSMH-owned lands;
 - the anticipated need for use of or access across USFS, NPS, or TVA lands.
3. A proposed schedule for submitting the application and constructing the proposed subdivision;
4. The name, address, and phone number of a Professional Engineer that the applicant proposes to certify any planned multi-use facilities;
5. The name, address, and phone number of the environmental professional(s) that the applicant proposes to conduct the required EA.

6. At the pre-application meeting, BSMH will review the information on the proposed subdivision access for consistency with the Shoreline Stewardship Policy and other applicable requirements and review the requirements for completing the subdivision access approval process including the EA. At this time, BSMH will inform the applicant of the local, state, and federal agencies that BSMH must consult with including the following:
 1. Bureau of Indian Affairs
 2. Eastern Band of Cherokee Indians (EBCI) Tribal Historic Preservation Office (THPO)
 3. Graham County
 4. North Carolina Department of Cultural Resources (NCDCR)
 5. North Carolina Division of Water Quality (NCDWQ)
 6. North Carolina Division of Water Resources (NCDWR)
 7. North Carolina Wildlife Resources Commission (NCWRC)
 8. Town of Lake Santeetlah
 9. Town of Robbinsville
 10. U.S. Army Corps of Engineers (USACE)
 11. U.S. Fish and Wildlife Service (USFWS)
 12. U.S. Forest Service (USFS)

BSMH shall also notify any homeowners association that has requested that it be notified of requests for subdivision access.

2.1.2 Application Development

- 2.1.2.1 An applicant seeking subdivision access approval must file a complete application to include an EA or Agency Consultation Process Information Package for the proposed subdivision as required. Specifications for conducting an EA are detailed in Section 5 of these Procedures. Section 6 outlines the information that must be contained in the Information Package.
- 2.1.2.2 As described in Section 2.1, an EA is required for any of the following types of subdivisions:
 1. Any subdivision where the applicant is seeking eligibility for private recreation and/or multi-use facilities located along shoreline classified as Stewardship Area.
 2. Any subdivision with more than five lots if the applicant is seeking eligibility for private recreation and/or multi-use facilities.
- 2.1.2.3 EAs are not required for other types of subdivisions, but the applicant must prepare an Agency Consultation Process Information Package as part of the application as described in Section 6.
- 2.1.2.4 The EA must be prepared by a qualified environmental professional.

- 2.1.2.5 The applicant must submit the EA to BSMH as part of the Subdivision Access Approval Application. A complete application must include:
1. An Application Checklist.
 2. A complete EA or Agency Consultation Process Information Package.
 3. Proof that the applicant has published notice, in at least two consecutive issues, of a local newspaper that it is applying to BSMH for subdivision access approval, and any communications received in response to the newspaper notice.
 4. Two copies of the subdivision plat map that will be recorded and approved by Graham County.
 5. A non-refundable subdivision access approval application fee in accordance with BSMH's current fee schedule (attached hereto) for subdivision applications.
- 2.1.2.6 BSMH will review the application for completeness. If BSMH finds the application to be incomplete, it may request additional information from the applicant.
- 2.1.2.7 Upon finding that an application is complete, BSMH will submit the EA and/or Information Package to the local, state, and federal agencies listed in Section 2.1.1.2 for review and comment. BSMH will determine the applicable FERC notice and/or approval requirements. For any aspect of the subdivision that requires prior FERC notice and/or approval, BSMH will provide notice to or file a request with FERC for the proposed subdivision. The decision on whether any aspect of the proposed subdivision requires prior FERC notice and/or approval will be made solely by BSMH on a case-by-case basis. FERC has 45 days from the filing date of prior notice to require an application for prior FERC approval. If FERC does not require an application for prior FERC approval, BSMH may approve the subdivision access/facility for which prior notice was given. If prior FERC approval is required, the applicant should anticipate an additional review period by FERC.
- 2.1.3 Approval Notification
- 2.1.3.1 BSMH will determine whether to issue approval or denial of the proposed subdivision access based on its review of the application, its consultation with local, state and federal agencies, and, where applicable, FERC's response. BSMH's determination will be based, in part, on the following criteria:
1. The proposed subdivision access and the applicable subdivision covenants are consistent with BSMH's Shoreline Stewardship Policy.
 2. The proposed subdivision access will not adversely impact the reservoir and shoreline environment, or the applicant has proposed measures to adequately mitigate any adverse environmental impacts.

3. The proposed subdivision access will not adversely impact any significant cultural resources located in the reservoir or along its shoreline, or the applicant has proposed measures to adequately mitigate any adverse impacts to cultural resources.
 4. The proposed subdivision adequately addresses safety impacts and will not unduly impede or restrict public use of, or access to, Santeetlah Reservoir.
 5. Lots in the subdivision for which the applicant anticipates private or shared piers will meet BSMH's minimum requirements for lot and cove widths.
 6. Proposed facilities have been reviewed by EBCI THPO, local, state, and federal agencies and they have indicated that they have no concerns, or that their concerns have been adequately addressed.
 7. In the case of proposed subdivisions with any aspect that requires prior FERC notice and/or approval, BSMH may deny a permit if it finds any requirements or conditions imposed by FERC unacceptable.
- 2.1.3.2 BSMH reserves the right to make case-by-case determinations in situations that are not explicitly covered by these Procedures.
- 2.1.3.3 As stated above, the subdivision access approval process is a process whereby BSMH, or in certain cases, FERC, determines whether the requirements of BSMH's FERC license are met as they relate to the effect of the reservoir access anticipated for the subdivision on the reservoir and adjoining shoreline. Included in this determination is a final decision, with respect to lot width and cove width only, as to whether certain lots adjacent to the reservoir shoreline are eligible for a private pier. Although the determination is subject to being revoked for failure to conform to the Shoreline Stewardship Policy or other permitting requirements existing at the time the private access approval is granted, or by supervening regulatory authorities that are not within BSMH's control, it is unaffected by changes in ownership of the individual lots.
- 2.1.3.4 If BSMH decides to approve the proposed subdivision access, BSMH will issue the applicant a written approval. This approval will contain a list of lots within the subdivision that BSMH has determined meet BSMH's current requirements for minimum lot width and cove width. BSMH can offer no assurances regarding future changes in requirements or the effect of such changes on private pier eligibility, including BSMH's or FERC's discretion under the Federal Power Act to continue to permit such facilities.
- 2.1.3.5 After BSMH has approved the proposed subdivision access, BSMH will begin processing private pier applications in accordance with the requirements of its Specifications. Eligible property owners must apply for a construction permit and then a private recreation facility permit, and must comply with the Shoreline Stewardship Policy and the Specifications.

- 2.1.3.6 The primary sanctions for failure by the eligible property owner to comply with any of the Shoreline Stewardship Policy or Specification requirements include the loss of eligibility for a private recreation facility permit and use of, or private access across, BSMH-owned lands. BSMH will also require corrective action including but not limited to restoration and/or mitigation. For enforcement details, see Section 7.
- 2.1.3.7 If BSMH denies the subdivision access application, a written statement will be mailed to the applicant stating the reasons for denial. An applicant may reapply for subdivision access approval at any time. An applicant can also request a meeting with BSMH to discuss the reasons for application denial and steps, if any, that the applicant may take to improve the application.

3 MULTI-USE FACILITY PERMITTING

For entities other than federal, state or local governments, multi-use facilities permitted by BSMH generally include community boat docks serving more than two lot owners and marinas. For entities other than federal, state or local governments, other types of multi-use facilities (such as, but not limited to boat launches, swimming areas, picnic areas, floating trampolines², and permanent water ski courses) are not permitted.

Private, multi-use recreation facilities (e.g. marinas, community boat docks) will be permitted on Santeetlah Reservoir only. No private, multi-use recreation facilities will be permitted on the three mainstem reservoirs: Cheoah, Calderwood, and Chilhowee or the Cheoah River and Calderwood Bypass.

3.1 Multi-use Permitting Process

BSMH must review and approve the construction, modification (reconstruction, additions, or expansion), and operation of any multi-use recreation or access facility on the Project reservoirs, along the shoreline defined as the normal full-pool elevation of the reservoir, or on BSMH-owned lands. Repairs to an existing multi-use facility that require a building permit from the county also require a written construction permit from BSMH. Additional guidance may be obtained from BSMH by calling 865-803-3899. Depending upon the type of facility being proposed, prior notice to or prior approval of FERC may also be required. Following construction, operation of these facilities requires a multi-use facility operating permit from BSMH.

Consistent with its FERC license, BSMH may authorize certain multi-use recreation and access facilities occupying Project lands and waters only if the proposed use and occupancy is consistent with the purposes of protecting and enhancing the aesthetic, recreational, environmental and cultural resource values of the Project. The multi-use facility permitting process is a process whereby BSMH, or in some cases FERC, determines whether the

² Floating trampolines existing on the date of the filing of the Project SMP with FERC will be “grandfathered”.

requirements of BSMH's license are met as they relate to the effect of the construction and operation of proposed multi-use facilities on the reservoir and adjoining shoreline.

To be eligible for a multi-use facility construction or operating permit, the applicant must be an adjoining property owner. If the applicant's property abuts USFS, NPS, or TVA lands, the applicant must also obtain any necessary permit(s) entitling the property owner to cross the USFS, NPS or TVA land to access the reservoir.

The multi-use facility permit process requires the applicant to prepare an Environmental Assessment (EA) for some types of proposed facilities. A full EA, as described in Section 5, is required for any proposed new construction or modification of the following types of multi-use facilities:

1. Any multi-use facility that is located wholly or partly within a shoreline Stewardship Area;
2. Any multi-use facility(ies) where FERC prior notice and/or approval is required.

Applicants for all other types of permitted multi-use facilities are not required to prepare a full EA, but must prepare an Agency Consultation Process Information Package (Information Package) as described in Section 6.

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

3.2 Multi-use Approval Process

Under its FERC license, BSMH may authorize certain types of multi-use facilities without prior FERC notice and/or approval. Other facilities require prior FERC notice and/or approval. Table 1 summarizes the types of multi-use facilities (and industrial uses/facilities as described in Section 4) that BSMH may approve without prior FERC notice, and those that require a 60-day prior notice to FERC. Table 1 also indicates EA and Agency Consultation requirements for various types of multi-use facilities. In the case of a new subdivision for which more than one multi-use facility is proposed, BSMH will aggregate the proposed multi-use facilities and consider the combined number of watercraft that could be accommodated by the facilities.

A multi-use facility permittee planning any modification of an existing multi-use facility must first notify BSMH, and BSMH will determine prior FERC notice and/or approval requirements and EA or Agency Consultation requirements, and whether an amendment to the existing multi-use permit is required.

Table 1 Summary of Required Prior FERC Notice and/or Approval for Multi-use Facilities and Industrial Uses/Facilities

Facility Description	BSMH Written Permission or Permit Required	BSMH File Annual Report w/FERC by January 31	FERC 60-Day Prior Notice Required¹	Prior FERC Approval Required²	EA³ or Agency Consultation (AC) Required
Multi-use Facilities					
Facility(ies) accommodates 1–10 watercraft ⁴ , is not operated as part of a commercial enterprise, and is not a private (individual or shared) pier.	Yes	No	No	No	AC
Facility(ies) accommodates 1–10 watercraft and is operated as part of a commercial enterprise.	Yes	No	Yes ⁵	FERC decision	EA
Private or public marinas that can accommodate no more than 10 watercraft ⁴ at a time, and are located at least ½ mile (measured over Project waters) from any other private or public marina.	Yes	No	Yes ⁵	FERC decision	EA
Facility(ies) accommodates watercraft, is operated as part of a commercial enterprise, and is located within ½ mile of an existing marina	Yes	No	Yes ⁵	FERC decision	EA
Facility(ies) accommodates more than 10 watercraft and is operated as part of a commercial enterprise. ⁴	Yes	No	Yes ⁵	FERC decision	EA
Facility(ies) accommodates more than 10 watercraft and is not operated as part of a commercial enterprise. ⁴	Yes	No	Yes ⁵	FERC decision	EA
Facility(ies) is a boat launch ramp operated as part of a commercial enterprise or provides other services.	Yes	No	Yes ⁵	FERC decision	EA
Facility(ies) is a boat launch ramp not operated as part of a commercial enterprise and provides no other services.	Yes	No	No	No	AC
Facility(ies) is a pier with no accommodation for watercraft and is operated as part of a commercial enterprise (examples include commercial fishing piers).	Yes	No	Yes ⁵	FERC decision	EA

Facility Description	BSMH Written Permission or Permit Required	BSMH File Annual Report w/FERC by January 31	FERC 60-Day Prior Notice Required¹	Prior FERC Approval Required²	EA³ or Agency Consultation (AC) Required
Facility(ies) is a pier with no accommodation for watercraft, but which is available for use by more than two adjoining lot owners (Examples include fishing piers, homeowner association piers, private club piers, etc.).	Yes	No	No	No	AC
Industrial Uses/Facilities					
Replacement, maintenance, or expansion of existing bridges or roads with all state and federal approvals	Yes	Yes ⁵	No	No	AC
New bridges or roads with all state and federal approvals	Yes	No	Yes ⁵	FERC decision	EA
Minor access roads	Yes	Yes ⁵	No	No	AC
Storm drains and water mains	Yes	Yes ⁵	No	No	AC
Sewers that do NOT discharge into Project waters	Yes	Yes ⁵	No	No	AC
Sewer or effluent lines that discharge directly into Project waters with all state and federal permits	Yes	No	Yes ⁵	FERC decision	EA
Other pipelines that cross project lands or waters but do NOT discharge into Project waters	Yes	No	Yes ⁵	FERC decision	EA
Non-project transmission lines/cables with NO support structure in Project Boundary	Yes	Yes ⁵	No	No	AC
Non-project overhead transmission lines/cables with support structure in Project Boundary	Yes	No	Yes ⁵	FERC decision	EA
Major telephone, gas or electric distribution lines/cables (submarine, underground or overhead)	Yes	Yes ⁵	No	No	AC
Water intake or pumping facilities < 1 mgd	Yes	Yes ⁵	No	No	AC
Water intake >1 mgd (including irrigation systems)	Yes	No	Yes ⁵	FERC decision	EA

1 Unless the Director of the Office of Energy Projects, within 45 days from filing date of the prior notice, requires an application for prior approval, the licensee may convey the intended interest at the end of that period.

2 The Director of the Office of Energy Projects has 45 days from filing date of the prior notice to require an application for prior approval.

3 An EA is required for all proposed multi-use facilities or industrial uses/facilities, regardless of category, that are located wholly or partly within a Shoreline Stewardship Area.

4 For subdivisions and commercial enterprises, BSMH will aggregate all proposed multi-use facilities, except for planned individual and shared piers, to determine the total number of watercraft that the facilities can accommodate.

5 Before conveying lands, the licensee shall determine that the proposed use is not inconsistent with any approved R or approved report on recreational resources of an Exhibit E; or if there is not an approved exhibit R or approved report on recreational resources, that the lands to be conveyed do not have recreational value.

Multi-use facility construction and operating permits will be issued only to the eligible property owner who will benefit from or be serviced by the proposed multi-use facilities. However, the eligible property owner may designate a “contact agent” who has authority to act on behalf of the owner in any discussions with BSMH.

In any instance in which a governmental body operates a facility either solely or with any other entity (except BSMH), a multi-use permit will be issued solely to the governmental body or jointly to the governmental body and all such entities acting in conjunction with the governmental body, respectively. With regard to joint operating permits, the governmental body and all such entities will be jointly and severally responsible for compliance with all terms and conditions of the permit.

The multi-use facility permittee(s) is solely responsible for operating and maintaining the permitted facilities in compliance with all terms and conditions of the permit, the Shoreline Stewardship Policy, all applicable BSMH procedures and requirements, and all applicable local, state, and federal laws. The permittee(s) will indemnify and hold harmless Brookfield Smoky Mountain Hydropower LLC and its affiliates, successors and assigns from any personal injury, property damage, losses of or damage to natural resources or the environment, or other liability resulting from the permittee’s operation of the facilities or the permittee’s failure to comply with any applicable local, state, or federal laws, as is set forth in more detail in the multi-use permit.

A four-part process is utilized for the issuance of a permit for new multi-use facility construction and the amendment of a multi-use permit. The four parts are: 1) pre-application meeting; 2) application development; 3) construction permit; and 4) multi-use facility operating permit. Each is described below.

3.2.1 Pre-Application Meeting

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

3.2.1.2 Prior to the meeting, the applicant must complete a Pre-Application Meeting Worksheet that identifies the information that the applicant is expected to bring to the meeting including:

1. Maps or sketches showing the location of the proposed facilities with respect to the reservoir, reservoir shoreline, BSMH-owned lands, USFS, NPS, and TVA lands and existing property boundaries;
2. General information on the proposed facilities including:
 - the number, type and size of facilities involved, including an estimate of the number of watercraft the facilities can accommodate;

- the anticipated need for access to lands and waters within the Project Boundary;
 - the anticipated need for use of or access across BSMH-owned lands
 - the anticipated need for use of or access across USFS, NPS, or TVA lands;
3. A proposed schedule for submitting the application and constructing the proposed facilities upon issuance of the construction permit;
 4. The name, address, and phone number of a Professional Engineer that the applicant proposes to certify the proposed multi-use facilities;
 5. The name, address, and phone number of the environmental professional(s) that the applicant proposes to conduct the required EA;
 6. At the pre-application meeting, BSMH will review the information on the proposed multi-use facilities for consistency with the Shoreline Stewardship Policy and other applicable requirements, review the requirements for completing the multi-use facility permitting process including the EA. At this time BSMH will also provide notice of its insurance requirements and inform the applicant of the local, state, and federal agencies that BSMH must consult with including the following:
 1. Bureau of Indian Affairs
 2. Eastern Band of Cherokee Indians (EBCI) Tribal Historic Preservation Office (THPO)
 3. Graham County
 4. North Carolina Department of Cultural Resources (NCDCCR)
 5. North Carolina Division of Water Quality (NCDWQ)
 6. North Carolina Division of Water Resources (NCDWR)
 7. North Carolina Wildlife Resources Commission (NCWRC)
 8. Town of Lake Santeetlah
 9. Town of Robbinsville
 10. U.S. Army Corps of Engineers (USACE)
 11. U.S. Fish and Wildlife Service (USFWS)
 12. U.S. Forest Service (USFS)

3.2.2 Application Development

- 3.2.2.1 An applicant seeking a multi-use facility construction permit must prepare a multi-use facility construction permit application, including an EA or Agency Consultation Process Information Package as required, and receive a signed construction permit from BSMH prior to beginning construction of new facilities or modification of existing multi-use facilities.
- 3.2.2.2 A full EA, as described in Section 5, is required for any proposed new construction or modification of the following types of multi-use facilities:

1. Any multi-use facility that is located wholly or partly within a shoreline Stewardship Area;
 2. Any multi-use facility where FERC prior notice and/or approval is required.
- 3.2.2.3 Applicants for all other types of multi-use facilities are required to prepare an Agency Consultation Process Information Package as part of the application as described in Section 6.
- 3.2.2.4 The EA must be prepared by a qualified environmental professional.
- 3.2.2.5 A complete application for a multi-use facility construction permit must include:
1. An Application Checklist;
 2. A map of the proposed development site showing all existing and proposed facilities. The map must also clearly indicate the location of the reservoir, reservoir shoreline, BSMH-owned lands, and USFS lands, if applicable. (Such a map should be included in the EA);
 3. Legible construction plans or detailed drawings of the proposed facilities, at a scale of 1:2,400 (1 inch = 200 feet) or larger;
 4. Certification by an approved registered Professional Engineer that the proposed facilities and any changes to existing facilities are safe and structurally sound;
 5. A complete EA or Agency Consultation Process Information Package;
 6. Proof that the applicant has published notice, in at least two consecutive issues of a local newspaper, that it is applying to BSMH for multi-use facility approval, and any communications received in response to the newspaper notice;
 7. A non-refundable construction permit application fee in accordance with BSMH's current multi-use facility application fee schedule (attached hereto).
- 3.2.2.6 BSMH will review the application for completeness. If BSMH finds the application to be incomplete, it may request additional information from the applicant.
- 3.2.2.7 Upon finding that an application is complete, BSMH will submit the EA and/or Information Package to the local, state, and federal agencies listed in Section 3.2.1.2 for review and comment. BSMH will determine the applicable FERC notice and/or approval requirements. For all new multi-use facilities that require prior FERC notice and/or approval, BSMH will provide notice to or file a request with FERC for the proposed facility. The decision on whether proposed new facilities or modification of existing permitted facilities require prior FERC notice and/or approval will be made solely by BSMH on a case-by-case basis. FERC has 45 days from the filing date of

prior notice to require an application for prior FERC approval. If FERC does not require an application for prior FERC approval, BSMH may approve the multi-use facility for which prior notice was given. If prior FERC approval is required, the applicant should anticipate an additional review period by FERC.

3.2.3 Construction Permit Approval Criteria and Provisions

3.2.3.1 The applicant is expected to obtain all local, state, and federal permits required for the proposed facility. Copies of all required local, state, and federal permits must be submitted to BSMH prior to issuance of a multi-use facility construction permit.

3.2.3.2 BSMH will determine whether to issue or deny a multi-use facility construction permit based on its review of the application, its consultation with local, state and federal agencies, and, where applicable, FERC's response. BSMH's determination will be based, in part, on the following criteria:

3.2.3.2.1 Proposed facilities shall meet the following specifications:

1. Proposed facilities will generally not encroach or extend into the Project reservoirs more than $\frac{1}{4}$ of the distance to the opposite shoreline or more than 120 feet into Santeetlah Reservoir, whichever is less; and in no case will the proposed facilities extend further into the water than is necessary to achieve the intended use;
2. Proposed facilities will meet a minimum water depth requirement of 8 feet at normal full-pool elevation such that a minimum water depth is available to all proposed slips or along all portions of the facilities intended for docking watercraft;

BSMH reserves the right to make the final determination regarding the specifications of a multi-use facility based on the particular conditions of the lot. The narrowness of certain coves and/or lay of some lots may cause BSMH to either deny a permit or issue a permit for a multi-use facility that is different than those proposed by the applicant.

3.2.3.2.2 Community boat docks and marinas will incorporate the use of floating sections such that the facilities will remain functional under normal fluctuations in reservoir water levels that occur during the recreation season;

3.2.3.2.3 The proposed multi-use facilities are otherwise consistent with BSMH's policies for shoreline development, including BSMH's Shoreline Stewardship Policy, and will adequately meet their intended purpose;

3.2.3.2.4 The proposed multi-use facilities will not adversely impact the reservoir and shoreline environment, or the applicant has proposed measures to adequately mitigate any adverse environmental impacts;

- 3.2.3.2.5 The proposed multi-use facilities will not adversely impact any significant cultural resources located in the reservoir or along its shoreline, or the applicant has proposed measures to adequately mitigate any adverse impacts to significant cultural resources;
- 3.2.3.2.6 The proposed multi-use facilities will take into account “dark sky” values in their choice and use of lighting (low-wattage or colored bulbs are required). The proposed facilities shall have fixtures and lights that are not mounted to extend beyond the outer perimeter of the pier and the lighting shall be aimed downward;
- 3.2.3.2.7 The proposed multi-use facilities will not unduly impede or restrict public use of, or access to, the reservoir and will not interfere with navigation, ingress, or egress to adjoining properties, or in any manner present a safety hazard or nuisance;
- 3.2.3.2.8 Proposed facilities have been reviewed by EBCI THPO, local, state, and federal agencies and they have indicated that they have no concerns, or that their concerns have been adequately addressed;
- 3.2.3.2.9 Proposed facilities providing for the sale of petroleum products will, at a minimum, comply with all applicable federal, state, and local regulations and will be installed to ensure that adverse environmental and safety impacts are avoided;
- 3.2.3.2.10 In the case of proposed facilities that require prior FERC notice and/or approval, BSMH may deny an application if it finds any requirements or conditions imposed by FERC unacceptable; and
- 3.2.3.2.11 The applicant has provided BSMH with a certificate of insurance evidencing that it carries insurance in the amount and form required by BSMH.
- 3.2.3.3 BSMH reserves the right to make case-by-case determinations in situations that are not explicitly covered by these Procedures.
- 3.2.3.4 When issued, the multi-use facility construction permit will be mailed to the applicant. If the application is denied, a written statement will be mailed to the applicant stating the reasons for denial. An applicant may reapply for a multi-use facility construction permit at any time. An applicant can also request a meeting with BSMH to discuss the reasons for application denial and steps, if any, that the applicant may take to improve the application.
- 3.2.3.5 Upon receipt of the construction permit, the applicant must secure a building permit from the locality. Construction may not begin until BSMH has received from the applicant a copy of the approved building permit.
- 3.2.3.6 Approved new construction, or modification of existing multi-use facilities, must be completed within 18 months from the issuance of the construction permit or within such other time frame as may be stated in the construction permit.

- 3.2.3.7 An extension of time, not to exceed one year, may be granted at BSMH's discretion in response to a written request from the permittee, including justification for the requested extension.
- 3.2.3.8 BSMH reserves the right to modify a construction permit to include additional or modified standards and requirements at the time of the permit extension, if the applicable standards and requirements have been modified since the issuance of the original construction permit.
- 3.2.3.9 The permittee must notify BSMH when construction is completed and must provide BSMH with a copy of a final county inspection certificate.

3.2.4 Multi-use Facility Operating Permit

- 3.2.4.1 BSMH will issue a multi-use facility operating permit to the applicant for new or modified facilities when the following requirements have been met:
1. Final inspection — Upon completion of construction and receipt of the county final inspection certificate, BSMH will schedule and conduct a final inspection to ensure that the facilities are constructed in conformance with the construction permit.
 2. Permit fee — Payment of applicable operating permit fees, which vary based on the type and number of facilities, use of the facilities, and ownership (attached hereto).
- 3.2.4.2 All multi-use facilities must carry comprehensive general liability insurance for personal injury and property damage and other insurance required by BSMH in an amount and with terms satisfactory to BSMH. Such insurance must be primary and must name Brookfield Smoky Mountain Hydropower LLC as an additional insured. A multi-use facility's owner or operator must provide to BSMH, on an annual basis, a certificate evidencing the insurance required by BSMH and proof that all premiums on the policy are paid and up to date.
- 3.2.4.3 Any governmental body desiring to construct, maintain, and otherwise operate a multi-use facility must obtain and maintain for the facility comprehensive general liability insurance for personal injury and property damage and other insurance required by BSMH in an amount and with terms satisfactory to BSMH. Such insurance must be primary and must name Brookfield Smoky Mountain Hydropower LLC as an additional insured, and must insure BSMH against any acts and omissions of any governmental employee, agent, or contract employee (collectively "employees"). The governmental multi-use facility must also provide, on an annual basis, a certificate evidencing the insurance required by BSMH and proof that all premiums on the policy are paid and up to date. In instances in which a governmental body operates a multi-use facility in conjunction with another governmental body or any other entity as co-

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

- 3.2.4.4 All of the requirements for the issuance of a multi-use operating permit must be met within 90 days of completion of construction, and no operating permit will be issued absent written proof of meeting the requirements.
- 3.2.4.5 If a multi-use facility operating permit is not renewed, lapses, or is terminated, closure of the multi-use facility is required at the permittee's sole expense, and the permittee, at its sole expense, must remove any and all structures, equipment, appurtenances, and any other materials associated with the facilities, and restore the reservoir, reservoir shoreline, or BSMH-owned lands to their original condition. BSMH may also undertake other enforcement as detailed in Section 7.

3.3 Fees

Multi-use operating permit fees will be paid to BSMH prior to issuance or renewal of the operating permit in accordance with BSMH's current fee schedule (attached hereto).

3.4 Permit Renewal or Termination

- 3.4.1 A multi-use operating permit must be renewed every five years. BSMH will notify the permittee of the upcoming permit expiration date.
- 3.4.2 In order to renew a multi-use facility operating permit, (i) the permittee must have complied with the permit at all times, (ii) the permittee must pay an operating permit fee, (iii) the permittee must provide a certificate of insurance evidencing that the permittee carries insurance in the amount and form required by BSMH, (iv) if BSMH determines that additional mitigation measures are necessary, the permittee must implement said measures and (v) the permittee must provide BSMH with certification from a registered Professional Engineer that all permitted facilities are in good repair, structurally sound, and in compliance with all applicable local, state, and federal requirements.
- 3.4.3 A multi-use operating permit may be terminated by BSMH in accordance with its terms and as provided in Section 7 below.

3.5 Multi-Use Permit Transfers

- 3.5.1 Multi-use facility operating permits are not automatically transferable.
- 3.5.2 Prior to the sale or transfer of multi-use facilities, the current property owner (seller) or seller's agent must contact BSMH to request a permit transfer (this may be done by calling 865-803-3899). Upon request, BSMH will arrange a site visit. If BSMH finds (i) the seller has complied with the permit, the Shoreline Stewardship Policy, and all other applicable BSMH procedures and requirements, (ii) all fee payments are up to date,

(iii) that no additional mitigation measures are necessary, and (iv) a registered Professional Engineer has determined that all permitted facilities are in good repair, structurally sound, and in compliance with all applicable local, state, and federal requirements, BSMH will provide the seller or the seller's agent with a form to request transfer of the permit.

3.5.3 The buyer must provide BSMH with proof of insurance for the multi-use facilities, at which time BSMH will provide to the buyer a new multi-use facility permit that must be completed and signed by the buyer at the time of closing.

3.5.4 If facilities are deemed not transferable at the time of inspection, BSMH will provide the seller or the seller's agent with a written description of repairs and required mitigation [up to and including replacement of the existing structure(s)], and other actions that must be undertaken before the facilities will be transferable. A written construction permit must be obtained from BSMH prior to undertaking such repairs.

3.6 Existing Multi-Use Facilities

3.6.1 BSMH may at times be aware of existing multi-use facilities that have not previously been issued a multi-use facility operating permit. BSMH will provide written notice to the owner of the unpermitted facilities of the need to submit an application for a multiuse facility operating permit in accordance with these Procedures. Generally, an EA will not be required for facilities existing prior to the effective date of these Procedures. However, existing facilities will be reviewed by BSMH to ensure their general compliance with the Shoreline Stewardship Policy, and consultation with EBCI THPO, local, state, and federal agencies may be required.

3.6.2 BSMH will inspect the facilities, determine the adequacy of the information provided, and determine the applicability of any FERC notice and/or approval. Upon receipt of any required FERC approval, payment of an operating permitting fee, if applicable, and satisfaction of the insurance requirements, BSMH will issue a multi-use facility operating permit for the facilities.

3.6.3 Modification of existing multi-use facilities must be approved pursuant to the standard four-part permitting process described above.

4 INDUSTRIAL APPROVAL PROCEDURES

Uses or facilities other than those related to recreation and adjoining property owner access to the Project are generally considered industrial uses. All industrial uses/facilities of, or on, the Project reservoirs, along the shoreline, or BSMH-owned lands require BSMH's written permission. If the applicant's lands abut USFS, NPS, or TVA lands, the applicant must obtain any necessary permit(s) entitling the property owner to cross the USFS, NPS or TVA land to access the reservoir.

Depending upon the proposed use/facility, under its FERC license BSMH may be required to provide FERC with 60 days notice before considering approval of the proposed use/facility and seek prior approval from FERC. In some cases, BSMH can authorize a proposed industrial use/facility without prior FERC notice and/or approval but must report such authorizations to FERC annually. Table 1 in Section 3 summarizes the types of industrial uses/facilities that BSMH may approve without prior FERC notice and/or approval and those that require a 60-day prior notice to FERC.

BSMH requires applicants for all proposed industrial uses/facilities that require prior FERC notice and/or approval to prepare and submit an Environmental Assessment (EA) as part of its request to BSMH for permission to use/occupy the Project reservoirs, reservoir shorelines, or BSMH-owned lands. In addition, an EA is required for all proposed industrial uses/facilities located wholly or partly within a shoreline Stewardship Area. Applicants for all other proposed industrial uses/facilities must prepare an Agency Consultation Process Information Package (Information Package) and submit it to BSMH. BSMH will then consult with local, state, and federal agencies as necessary as there may be other process and/or approval requirements. Information on the EA and the Agency Consultation Process Information Package is included in Sections 5 and 6 respectively. Table 1 also indicates EA and Agency Consultation requirements for various types of industrial uses/facilities.

5 ENVIRONMENTAL ASSESSMENT SPECIFICATIONS

The Environmental Assessment (EA) must examine resources and potential impacts to Project lands and waters, along the shoreline within 100 feet of the normal full-pool elevation of the reservoir(s).

Specific information requirements of the EA are outlined below. Most EA requirements apply to subdivision access, multi-use facilities, and industrial uses/facilities, although some EA requirements are specific to one type or another and are so identified. Developers of subdivisions that also include one or more proposed multi-use facilities must provide all information required for both proposed subdivision access and multi-use facilities. In the case of modification of existing facilities, the EA must address the impact of the proposed modification.

5.1 Proposal

5.1.1 General Description — a detailed description of the proposed subdivision, multi-use facilities, or industrial uses/facilities, including maps illustrating boundaries of the subdivision property or facilities, proposed lot lines, and the placement of structures in relation to existing property boundaries and the reservoir shoreline. Maps must clearly indicate the location of the reservoir, shoreline, BSMH-owned lands, and USFS, NPS, or TVA lands adjoining the site of the proposed subdivision or facility. In the case of subdivisions, the EA must also contain the following specific information:

1. A map of the subdivision showing all proposed private lots, as well as any lots to be used as common areas. Each lot should be clearly identified with an individual lot number, and the map must clearly indicate the location of the reservoir, shoreline, BSMH-owned lands, and USFS, NPS, or TVA lands.
2. A list or map showing lots that are proposed for private, shared (for two adjoining lots), or multi-use facilities, or other facilities that require a permit from BSMH.
3. The shoreline width of each lot as measured along the Santeetlah shoreline at normal full-pool elevation of the reservoir (elevation 1940.9-ft). Lot width in areas where there are BSMH-owned lands or in areas where access across USFS lands is required should be measured along the Santeetlah shoreline by extending the side lot lines to the normal full-pool elevation of the reservoir, as measured along the contour of the BSMH-owned lands or USFS lands.

5.1.2 Purpose — a description of the purpose and need for the proposed subdivision or facilities or modification of existing facilities.

5.1.3 Shoreline Impact — a description of the amount and type of impact on the reservoir and the shoreline within 100 feet of the normal full-pool elevation of the reservoir.

5.1.4 Required Permits — a listing of all federal, state, and local permits/approvals that will be required.

5.1.5 Shoreline Development Restrictions — a description of any state or local development restrictions that apply to the proposed subdivision or facilities, including any county ordinances, watershed protection, buffer zone, or setback requirements.

5.2 Existing Environment

5.2.1 Existing Shoreline Characteristics — a description of the shoreline and adjoining land area within 100 feet of the normal full-pool reservoir elevation, including a general description of existing land use and condition, shoreline topography, shoreline vegetation, and other notable features.

5.2.2 Existing Reservoir Characteristics — a description of the reservoir area adjacent to the proposed subdivision or facilities, the slope of the reservoir bottom, a description of the reservoir substrate, and a description of any reservoir features including the presence of any aquatic vegetation and lap trees.

5.2.3 Existing Reservoir Access/Facilities — a description of any existing access to the reservoir such as pathways or piers on the property proposed for the subdivision or facilities.

5.2.4 Designation as Stewardship Area — an estimate of the portion of the proposed subdivision or facilities that would fall within a Stewardship Area and a description of those features that make the location a Stewardship Area.

5.3 Environmental Impacts and Proposed Mitigation

5.3.1 Environmental Impacts — a detailed assessment of the potential impact on the reservoir and the land area along the shoreline within 100 feet of the normal full-pool reservoir elevation. This section must at a minimum consider the following effects:

1. Change in shoreline land use.
2. Impact of completed subdivision or facilities on the reservoir shoreline.
3. Impact on shoreline vegetation and plant communities.
4. Impact on shoreline wildlife and wildlife habitat.
5. Impact on the reservoir as habitat for fish and other aquatic life.
6. Impact on wetlands and areas of aquatic vegetation.
7. Impact on reservoir water quality, including the potential for increased sedimentation and nonpoint source pollution from runoff.

- 5.3.2 Recreation Use Impacts — an assessment of the increase in recreation use of the reservoir and reservoir shoreline resulting from the proposed subdivision or facilities, or modification, and the effects of increased use on the reservoir and shoreline. This section must consider the following:
1. An estimate of resulting increased boating and/or other water-related recreation use.
 2. An assessment of the effects that the increased recreation use will have on the reservoir and the reservoir shoreline.
- 5.3.3 Mitigation Proposals — a description of any measures proposed by the applicant to avoid, reduce, or mitigate impacts to the reservoir and reservoir shoreline that are expected to occur as a result of the proposed or modified/expanded subdivision or facilities. For a subdivision or facilities wholly or partly within a shoreline Stewardship Area, the EA should emphasize mitigation of adverse effects on the important natural resources found in the Stewardship Area.
- 5.4 Cultural Resource Evaluation
- 5.4.1 For proposed facilities or subdivisions located wholly or partly within High or Moderate cultural resource probability zones, a cultural resource evaluation will also be required as part of the EA.
- 5.4.2 The cultural resource evaluation requires an assessment of potential impacts to cultural resources located along the shoreline within 100 feet of the normal full-pool reservoir elevation.
- 5.4.3 In cases where a cultural resource survey must be conducted, applicants must include the following information in the EA:
1. The results of a survey conducted by a professional archaeologist indicating the location of any significant historic/prehistoric cultural sites in the area that are along the shoreline within 100 feet of the normal full-pool reservoir elevation.
 2. A description of potential impacts to cultural resources resulting from the proposed subdivision or facilities.
 3. The applicant's proposal for avoiding or mitigating anticipated impacts to cultural resources.
- 5.5 Applicant Information
- 5.5.1 Name, address, and phone number(s) of the applicant, along with a brief description of the background and qualifications of the applicant in terms of type of business experience, and where registered or licensed.

5.5.2 A brief description of the background and qualifications of any/all firms that assisted in the preparation of the EA.

6 AGENCY CONSULTATION PROCESS

Certain types of smaller subdivisions, multi-use facilities, and industrial uses/facilities that are not located within a shoreline Stewardship Area are not required to complete an Environmental Assessment (EA) but are required to prepare the Agency Consultation Process Information Package (Information Package) that BSMH will submit to local, state, and federal agencies for review including the following:

1. Bureau of Indian Affairs
2. Eastern Band of Cherokee Indians (EBCI) Tribal Historic Preservation Office (THPO)
3. Graham County
4. North Carolina Department of Cultural Resources (NCDRC)
5. North Carolina Division of Water Quality (NCDWQ)
6. North Carolina Division of Water Resources (NCDWR)
7. North Carolina Wildlife Resources Commission (NCWRC)
8. Town of Lake Santeetlah
9. Town of Robbinsville
10. U.S. Army Corps of Engineers (USACE)
11. U.S. Fish and Wildlife Service (USFWS)
12. U.S. Forest Service (USFS)

BSMH shall also notify those homeowners associations that have requested to be notified of requests for approval of subdivision access, multi-use facilities, and industrial facilities or uses.

The information package must include the following basic information. In the case of modification of existing facilities, the information package must focus on the proposed modification.

6.1 Information Package

6.1.1 Cover Letter — a cover letter providing the agency with basic information regarding the proposed subdivision access or facilities.

6.1.2 Description — a brief description of the proposed subdivision or facilities or modification, including maps illustrating boundaries of the subdivision property or facilities, proposed lot lines, and the placement of structures in relation to property boundaries and the reservoir shoreline. Maps should clearly indicate the location of the reservoir, shoreline, BSMH-owned lands, and USFS, NPS, or TVA lands. In the case of subdivisions, the applicant should also include (i) a copy of the subdivision plat that will be filed with the county, (ii) a description of the anticipated desires of individual property owners for reservoir access and individual recreation access facilities (piers), and (iii) a description of provisions for joint or common access to the reservoir, including any multi-use facilities proposed.

- 6.1.3 Shoreline Impact — a brief description of the anticipated impact on the reservoir and the shoreline within 100 feet of the normal full-pool elevation of the reservoir.
- 6.1.4 Required Permits — a list of all federal, state, and local permits/approvals that will be required.
- 6.1.5 Shoreline Development Restrictions — a description of any state or local development restrictions that apply to the proposed subdivision or facilities, such as any watershed protection, buffer zone or setback requirements.
- 6.1.6 Applicant Information — Name, address, and phone number of the applicant, and a brief description of the background of the applicant.
- 6.2 Cultural Resource Evaluation
- 6.2.1 For proposed subdivisions or facilities located wholly or partly within High or Moderate cultural resource probability zones, a cultural resource evaluation will also be required as part of the Information Package submitted to BSMH.
- 6.2.2 The cultural resource evaluation requires an assessment of potential impacts to cultural resources located along the shoreline within 100 feet of the normal full-pool reservoir elevation.
- 6.2.3 In cases where a cultural resource survey must be conducted, applicants must include the following information in the Information Package:
1. The results of a survey conducted by a professional archaeologist indicating the location of any significant historic/prehistoric cultural sites in the proposed development area that are along the shoreline within 100 feet of the normal full-pool reservoir elevation.
 2. A description of potential impacts to cultural resources resulting from the proposed subdivision or facilities.
 3. The applicant's proposal for avoiding or mitigating anticipated impacts to cultural resources.

7 ENFORCEMENT

- 7.1 One of the underlying goals of these Procedures is to protect and enhance the environmental, cultural and aesthetic resources within the Project Boundary and on the adjoining lands. BSMH's highest priority is to preserve the natural character of the shoreline as it exists today, and this is reflected in the procedures and requirements of these Procedures as well as the Shoreline Stewardship Policy. BSMH believes that adjoining property owners and developers appreciate the beauty and importance of a natural shoreline and will comply with these Procedures. In those instances where violations of these Procedures occur, however, BSMH will consider those violations as serious matters. Violations of these Procedures include: (i) any failure to comply with the provisions of these Procedures, the Shoreline Stewardship Policy, or other applicable BSMH procedures or requirements; and (ii) failure to obtain or to comply with written permission from BSMH, where required, before undertaking construction or other activities. BSMH will notify the USFS of any enforcement actions on a facility which abuts USFS lands and will encourage the USFS to notify it of any enforcement action that the USFS takes with regard to an activity on lands that abut the reservoir, shoreline, or BSMH-owned lands.
- 7.2 The primary sanctions for violations of these Procedures are loss of eligibility for: (i) a multi-use facility permit within the Project Boundary (i.e. on a reservoir) or subdivision reservoir access approval or industrial use/facility approval; and (ii) use of, or access to the Project lands and waters across BSMH-owned lands. BSMH will also require corrective action including but not limited to restoration and/or mitigation. Eligibility may be reinstated only where adequate restoration and/or mitigation is undertaken and BSMH determines that reinstatement of eligibility is otherwise consistent with the underlying goals reflected in these Procedures, the Shoreline Stewardship Policy, and BSMH's Shoreline Management Plan. BSMH, as it deems appropriate, will consult with federal and state regulatory agencies in determining adequate restoration and/or mitigation measures.
- 7.3 In addition, in the event of a violation of these Procedures, BSMH, at its sole option, has the right to: (i) terminate any existing multi-use facility, industrial, or other permits, requiring closure of the facility at the adjoining property owner's (or applicant's) sole expense, revoke any subdivision reservoir access approval previously given to the applicant if the applicant is responsible for the violation, and terminate any industrial approval or rights granted; and (ii) erect a barrier along the Project Boundary or across BSMH-owned lands or the Conservation Easement to restrict access to the Project lands and waters; and (iii) require, at the adjoining property owner's (or the applicant's) sole expense, (a) removal of any multi-use facilities and any pathways or other facilities and structures located within the Project Boundary, BSMH-owned lands, or the Conservation Easement and (b) restoration and/or mitigation, up to and including restoring Project lands and waters, BSMH-owned lands, or the Conservation Easement to their original condition. In addition, if the adjoining property owner (or the applicant) fails to take the required action after notice from BSMH, BSMH will consider any facilities or structures remaining within the Project Boundary, BSMH-owned lands, or the Conservation

Easement as a trespass upon its property, and reserves the right to, at the adjoining property owner's or the applicant's sole expense, remove the facilities or structures, treat them as its own property without any liability to the adjoining property owner or the applicant for payment, and perform the required restoration and/or mitigation. BSMH also may pursue any other rights or remedies, including damages, it may have in any permit, or at law or in equity.

Brookfield Smoky Mountain Hydropower LLC
Permitting Fee Schedule for Subdivision Access Approval and Multi-use Recreation and
Access Facilities
Effective October 2004

Facility Type/Description	Application Fee	Construction Permit	Annual Fee
Subdivision Access			
Subdivision access for subdivisions with 5 or fewer lots	\$1,000		
Subdivision access for subdivisions with more than 5 lots but no more than 10 lots	\$3,500		
Subdivision access for subdivisions with more than 10 lots	\$5,000		
Multi-use Recreation and Access Facilities			
Marina (commercial and non-commercial) – accommodates more than 10 watercraft		\$2,500	\$150
Marina (commercial) – accommodates 1-10 watercraft		\$1,000	\$150
Boat dock – non-commercial and accommodates 1-10 watercraft		\$500	\$150
Launch ramp (commercial and non-commercial)		\$500	\$150
Multi-use pier (commercial and non-commercial) – accommodates no watercraft		\$100	\$100

Notes:

1. These are BSMH permitting fees only, and do not include any other fees charged by state or federal agencies that may have jurisdiction over these facilities. The applicant will be responsible for any fees associated with securing other necessary approvals.
2. Fees for multi-use recreation and access facilities will be waived for federal and state agencies who are constructing a facility proposed in the BSMH Project Relicensing Settlement Agreement (BSMH RSA, Table 2.4-1).