



DEPARTMENT OF THE ARMY  
U.S. ARMY CORPS OF ENGINEERS  
201 NORTH THIRD AVENUE  
WALLA WALLA, WA 99362-1876

\*NWWOM 1130-1-9

CENWW-OD

Memorandum  
No. 1130-1-9

27 June 2018

## Project Operations

### ENCROACHMENT ACTION HANDBOOK

#### 1. PURPOSE

The purpose of this NWW Office Memorandum (NWWOM) provides policies and procedures for surveillance and safeguarding of U.S. Army Corps of Engineers (Corps), Walla Walla District (District), Government owned fee and easement lands. The goal is to prevent new trespasses and encroachments and to prescribe the actions necessary to remove or resolve existing trespasses and encroachments. See the appendix, Encroachment Action Handbook, for detailed policies and procedures.

2. APPLICABILITY. This NWWOM is applicable District wide.

#### 3. RELATED REFERENCES.

a. 36 Code of Federal Regulations (CFR) § 327, Rules and Regulations Governing Public Use of Water Resource Development Projects Administered by the Chief of Engineers.

b. Engineer Regulation (ER) 405-1-12, Real Estate Handbook.

c. ER 1130-2-540, Environmental Stewardship Operations and Maintenance Policies, Chapter 2, Natural Resources Stewardship.

d. ER 1130-2-550, Recreation Operations and Maintenance Policies, Chapter 2, Recreation Management.

e. Engineer Pamphlet (EP) 1130-2-540, Environmental Stewardship Operations and Maintenance Guidance and Procedures, Chapter 2, Natural Resources Stewardship.

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\*This memorandum supersedes NWWOM 405-1-8, dated 13 July 2009.

f. EP 1130-2-550, Recreation Operations and Maintenance Guidance and Procedures, Chapter 2, Recreation Management.

g. EP 1165-2-316, Rules and Regulations - Governing Public Use of Corps of Engineers Water Resources Development Projects.

h. CECW-PA, Policy Guidance Letter No. 32, 28 April 1993, Subject: Use of Corps Reservoir Flowage Easement Lands.

4. DEFINITIONS. See the appendix for definitions.

5. RESPONSIBILITIES. See the appendix for a discussion of responsibilities.

6. AUTHORITY. The authority for this NWWOM is ER 405-1-12, Real Estate Handbook, and 36 CFR § 327.

7. EFFECTIVE DATE. This NWWOM is effective immediately.

8. POINT OF CONTACT. The point of contact for this NWWOM is the Chief, Natural Resources Management, Operations Division, (509) 527-7131.

/s/ 27 June 2018  
DAMON A. DELAROSA  
Lieutenant Colonel, EN  
Commanding

Appendix: Encroachment Action Handbook

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# ENCROACHMENT ACTION HANDBOOK



**June 2018**

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## ENCROACHMENT ACTION HANDBOOK

### TABLE OF CONTENTS

SECTION 1 - GENERAL .....	1
1.1 Purpose .....	1
1.2 Applicability .....	1
1.3 General Policy .....	1
1.4 Intent .....	1
1.5 Organization of Handbook.....	1
1.6 Definitions.....	2
1.6.1 Abandonment of Personal Property.....	2
1.6.2 Boundary Line Agreement.....	3
1.6.3 Easement and Flowage Easement.....	3
1.6.4 Encroachment .....	3
1.6.5 Shoreline Management Plan - Lake Wallula Only .....	4
1.6.6 Shoreline Use Permit / License – Lake Wallula Only.....	4
1.6.7 Structures and Improvements.....	4
1.6.8 Transient/Non-Transient Violations .....	4
1.6.9 Unauthorized Occupation .....	5
1.6.10 Unauthorized Structures.....	5
1.6.11 Unauthorized Use/Activities and Trespass on Public Property.....	5
1.7 Use of the term Encroachment.....	6
SECTION 2 - PREVENTIVE MEASURES .....	7
2.1 Background .....	7
2.2 Survey and Monumentation on Operating Project Lands .....	7
2.3 Property Boundary Identification.....	7
2.4 Boundary Management .....	7
2.5 Alteration or Destruction of Boundary Markers/Monumentation .....	8
2.6 Inspections .....	8
2.7 Training of Natural Resources Management Staff.....	8
2.8 Communication with Property Owners .....	8
2.9 Outgranted Lands.....	9
2.10 Planned Developments .....	9
2.11 Contiguous Subdivisions .....	9
SECTION 3 - RESOLUTION OF ENCROACHMENTS .....	11
3.1 Encroachment Identification Responsibilities .....	11
3.1.1 Natural Resources Management Staff.....	11
3.1.2 Real Estate Staff.....	11
3.1.3 Lessees .....	11
3.2 Methods of Resolving Encroachments. ....	11
3.2.1 Verbal Communication .....	12
3.2.2 Official Correspondence .....	12
3.2.3 State/Local Law Enforcement.....	12
3.2.4 Real Estate Instrument .....	12
3.2.5 Title 36 Written Warning Citations and Violation Notices.....	13

3.2.6	Impounding Personal Property .....	13
3.2.7	Civil Action.....	13
3.2.8	Encroachments with Associated Shoreline Management Plan Permit/License .....	13
3.2.9	Encroachments (Trespases) Specific to Vegetation, Timber, and Livestock Grazing .....	14
3.3	Documenting Encroachments .....	14
3.3.1	Standard Naming Convention of the Encroachment Detection Record File 14	
3.3.2	Types of Information to Collect .....	15
SECTION 4 - REFERENCES.....		16

## APPENDICES

Appendix A	Resolution of Vegetation and Timber Tresspass and Unauthorized Use by Livestock
Appendix B	Flowchart – Identification of Encroachments
Appendix C	Flowchart – Real Estate Process: Non-Transient Encroachments
Appendix D	Flowchart – Transient Encroachment Process
Appendix E	Flowchart – Timber Encroachment Process
Appendix F	Letter Template – Timber Trespass Cease and Desist Demand
Appendix G	Letter Template – Timber Trespass Follow-Up
Appendix H	Letter Template – To Violators from the Operating Project (Level I) Successful Contact
Appendix I	Letter Template – To Violators from the Operating Project (Level I) Unsuccessful Contact
Appendix J	Letter Template – To Violators from the Operating Project (Level II)
Appendix K	Letter Template – To Violators from the Real Estate Division (Level III)
Appendix L	Letter Template – To Violators from the Real Estate Division (Level IV)
Appendix M	Letter Template – To Adjacent Landowners – Survey/Boundary Line Notice
Appendix N	Adjacent Landowner Brochure
Appendix O	Property Markers from USACE Sign Manual
Appendix P	Flowchart – Encroachment Data Collection Process
Appendix Q	Letter Template – Closing Out Encroachment

## **SECTION 1 - GENERAL**

### **1.1 PURPOSE**

The purpose of this U.S. Army Corps of Engineers (Corps), Walla Walla District (District) Encroachment Action Handbook (Handbook) is to prescribe policies and procedures for surveillance and safeguarding of Corps-managed lands and easements in order to prevent potential encroachments and to prescribe the actions necessary to remove or resolve existing encroachments. This Handbook establishes a program to protect all resources on operating project lands.

### **1.2 APPLICABILITY**

The policies in this Handbook are applicable to all District staff who visit, inspect, or are regularly employed on Corps-managed lands.

### **1.3 GENERAL POLICY**

The general policy is to require removal of encroachments, restore the premises, and collect appropriate administrative costs and fair market value for the term of unauthorized use. Policies and procedures are described in the references specified in Walla Walla District Office Memorandum (NWWOM) 1130-1-9, Encroachment Action Handbook. Exceptions to this general policy are set forth in Engineer Regulation (ER) 405-1-12, Real Estate Handbook, Chapter 8.

### **1.4 INTENT**

It is the intent of the District to use all authorized tools to prevent and resolve encroachments and recapture use of encroached-upon lands for the general use and enjoyment of the public. The minimum level of recourse necessary will be used to prevent and resolve encroachments in accordance with Corps policy.

### **1.5 ORGANIZATION OF HANDBOOK**

This handbook is organized into three main sections:

- General.
- Preventive Measures.
- Resolution of Encroachments.

The handbook also contains the following appendixes:

- Appendix A – Resolution of Vegetation and Timber Trespass and Unauthorized Use by Livestock
- Appendix B – Flowchart - Identification of Encroachments

- Appendix C – Flowchart - Non-Transient Encroachment Process
- Appendix D – Flowchart - Transient Encroachment Process
- Appendix E – Flowchart - Timber Encroachment Process
- Appendix F – Letter Template - Timber Trespass Cease and Desist Demand
- Appendix G – Letter Template - Timber Trespass Follow-Up
- Appendix H – Letter Template - To Violators from the Operating Project (Level I) Successful Contact
- Appendix I – Letter Template - To Violators from the Operating Project (Level I) Unsuccessful Contact
- Appendix J – Letter Template - To Violators from the Operating Project (Level II)
- Appendix K – Letter Template - To Violators from the Real Estate Division (Level III)
- Appendix L – Letter Template - To Violators from the Real Estate Division (Level IV)
- Appendix M – Letter Template - To Adjacent Landowners – Survey/Boundary Line Notice
- Appendix N – Adjacent Landowner Brochure
- Appendix O – Property Markers from USACE Sign Manual
- Appendix P – Flowchart - Encroachment Data Collection Process
- Appendix Q - Letter Template – Closing Out Encroachment

## **1.6 DEFINITIONS**

### **1.6.1 Abandonment of Personal Property**

Title 36 Code of Federal Regulations (CFR) Rules and Regulations Governing Public Use of Water Resource Development Projects Administered by the Chief of Engineers, § 327.15 (Abandonment and Impoundment of Personal Property) states that:

Personal property of any kind shall not be abandoned, stored or left unattended upon project lands or waters. After a period of 24 hours, or at any time after a posted closure hour in a public use area or for the purpose of providing public safety or resource protection, unattended personal property shall be presumed to be abandoned and may be impounded and stored at a storage point designated by the District Commander, who may assess a reasonable impoundment fee. Such fee shall be paid before the impounded property is returned to its owner.



### **1.6.2 Boundary Line Agreement**

As described in ER 405-1-12 (paragraph 8-29.a-c.), a boundary line agreement is a real estate agreement between an adjoining property owner and the Government. Establishing such an agreement may be an appropriate resolution when:

... uncertain boundaries have resulted in technical encroachments by adjoining private property owners and possible encroachment by the United States which could lead to a taking claim. ... Some state laws provide that boundary lines between adjoining owners may be established or changed by mutual agreement between them, that these agreements may be recorded and that such agreements are binding upon all successors in interests and privities to the parties. ... In the states where a boundary line agreement must be in the form of a conveyance deed to bind future parties, the agreement/quitclaim deed must be done in accordance with negotiated disposal procedures or an exchange.

### **1.6.3 Easement and Flowage Easement**

An easement is a valid property right that authorizes an entity to do or construct something on a certain parcel of land for the entity's benefit or to prevent or continue to prevent something being done, in or upon, or in respect of, certain other land not their own. An easement is a non-possessory right to use and/or enter onto the real property of another without possessing it. Easements can be transferred or assigned to other parties in the event of a sale or transfer of property or the asset that is benefitting from the easement. An easements is also often referred to as a right-of-way.

A flowage easement is an easement that the Corps acquired either before construction of its operating projects or after a need was identified to perform certain actions on private land not owned by the Government. The Corps has only purchased certain rights associated with periodic water storage on private property and does not exercise absolute control. Normally, terms of these types of easements dictate that no structure for human habitation shall be constructed or maintained on the land, that no other structure shall be constructed or maintained on the land. Real Estate may consent to the use of an easement, subject to any conditions required to protect the Government's interest. For more information, see USACE Policy Guidance Letter No. 32, Use of Corps Reservoir Flowage Easement Lands.

### **1.6.4 Encroachment**

An encroachment is a non-transient use of lands and, as defined in ER 405-1-12 (paragraph 8-24.a.):

... pertains to a structure or improvement built, installed, or established which interferes with a real estate interest of the United States, either a fee interest or an easement if such is prohibited in the deed. An encroachment has occurred when the structure or improvement extends over, across, in, or upon

lands in which the Government owns a real estate interest which would prohibit such, and the structure or improvement has not been approved.

Encroachments can also be a violation of 36 CFR § 327.

### **1.6.5 Shoreline Management Plan - Lake Wallula Only**

The 2012 McNary Shoreline Management Plan establishes policy for the protection and management of the shoreline, with the goal of safe use by the public and preservation of environmental quality. The authority for preparation of a Shoreline Management Plan is ER 1130-2-406, Shoreline Management at Civil Works Projects.

### **1.6.6 Shoreline Use Permit / License – Lake Wallula Only**

All private floating recreation facilities on Lake Wallula and all vegetative modifications and alterations on McNary Lock and Dam (McNary) operating project lands held in fee simple title must be authorized with either Shoreline Use Permits or Real Estate Licenses. The decision about whether to issue a license versus a permit depends on location and facility design, which are criteria identified within the McNary Shoreline Management Plan. Vegetative modifications are normally authorized by a Vegetation Modification Permit. Shoreline Use Permits and Real Estate Licenses are nontransferable.

### **1.6.7 Structures and Improvements**

ER 405-1-12 (paragraph 8-24.b.) defines a structure or improvement as “a permanent or semi permanent facility, such as [but not limited to] a habitable dwelling, building, fence, deck, porch, barn, outhouse, permanent storage building, road, pond, leach field and septic tank, utility line, levee, excavation, placement of fill material, oil and gas well, mine entrance, and tunnel.”

### **1.6.8 Transient/Non-Transient Violations**

Transient violations include, but are not limited to, the following characteristics:

- Short duration, temporary.
- Non-damaging to property.
- Minor in nature.
- Not trying to possess.
- No permanent structure.
- Incidental.

Non-transient violations include, but are not limited to, the following characteristics:

- Permanent structure.

- Damaging to property.
- Altered landscape, where restoration is required.
- Used for agricultural purposes.
- Attempt to possess the land through repeated use and/or fencing.

### **1.6.9 Unauthorized Occupation**

Title 36 CFR § 327.22 (Unauthorized Occupation) states that:

Occupying any lands, buildings, vessels or other facilities within water resource development projects for the purpose of maintaining the same as a full-or part-time residence without the written permission of the District Commander is prohibited. The provisions of this section shall not apply to the occupation of lands for the purpose of camping, in accordance with the provisions of § 327.7

### **1.6.10 Unauthorized Structures**

36 CFR § 327.20 (Unauthorized Structures) states that:

The construction, placement, or existence of any structure (including, but not limited to, roads, trails, signs, non-portable hunting stands or blinds, buoys, docks, or landscape features) of any kind under, upon, in or over the project lands, or waters is prohibited unless a permit, lease, license or other appropriate written authorization has been issued by the District Commander. The design, construction, placement, existence or use of structures in violation of the terms of the permit, lease, license, or other written authorization is prohibited. The government shall not be liable for the loss of, or damage to, any private structures, whether authorized or not, placed on project lands or waters. Unauthorized structures are subject to summary removal or impoundment by the District Commander. Portable hunting stands, climbing devices, steps, or blinds, that are not nailed or screwed into trees and are removed at the end of a day's hunt may be used.

### **1.6.11 Unauthorized Use/Activities and Trespass on Public Property**

The terms “trespass” and “unauthorized use/activities” refer to transient violations and are used interchangeably throughout this document. ER 405-1-12 uses the term “trespass,” and 36 CFR § 327.14 identifies uses/activities that are prohibited without authorization. These terms are further explained in the paragraphs below.

As described in ER 405-1-12 (paragraph 8-24.c.), trespass “pertains to unauthorized transient use and occupancy, such as [but not limited to] livestock grazing, mowing, planting, cultivation and harvesting of crops, and timber cutting and removal.” For the

purpose of this handbook, timber cutting and removal includes the partial or complete cutting of any trees, shrubs, and vines, whether dead or living.

36 CFR § 327.14 (Public Property) states that:

(a) Destruction, injury, defacement, removal or any alteration of public property including, but not limited to, developed facilities, natural formations, mineral deposits, historical and archaeological features, paleontological resources, boundary monumentation or markers and vegetative growth, is prohibited except when in accordance with written permission of the District Commander.

(b) Cutting or gathering of trees or parts of trees and/or the removal of wood from project lands is prohibited without written permission of the District Commander.

## **1.7 USE OF THE TERM ENCROACHMENT**

Although “encroachment” is defined above as a non-transient use of lands, it is used in this document to encompass encroachments and trespasses (or unauthorized use/activities) since the processes towards resolution are the same for both. There are instances, however, where “trespass” is intentionally used.

## **SECTION 2 - PREVENTIVE MEASURES**

### **2.1 BACKGROUND**

Every effort must be made to prevent encroachments. This is not the sole responsibility of operating project staff. The following paragraphs are best management practices that can be taken to prevent future encroachments.

### **2.2 SURVEY AND MONUMENTATION ON OPERATING PROJECT LANDS**

Operating project area/land boundaries, including Corps-managed land, easements (flowage, utility, access, etc.), will be surveyed and marked upon the ground at the time of acquisition or as soon as possible thereafter, commensurate with funding availability and work priority. Monuments and signage should be placed in such a way that a person standing at any given monument can see the adjacent monument or signage. To deter encroachments, additional line-of-sight markers should be placed along the land boundaries between monuments in heavily developed or densely vegetated areas.

Land boundaries should be maintained, particularly in areas of frequent encroachments, to permit visibility of monuments and line-of-sight markers, to improve access and monitoring of the area by Corps staff, and to increase landowners' awareness of Government land boundaries. Guidance can be found in ER 1130-2-540, Environmental Stewardship Operations and Maintenance Policies, 2-2.g.

### **2.3 PROPERTY BOUNDARY IDENTIFICATION**

Currently, the District has a variety of monuments and line-of-sight markers. All new or replacement line-of-sight markers shall be orange fiberglass posts with appropriate labeling placed at maximum intervals of 300 feet or within line-of-sight (when geographically possible), whichever is less. Appendix O contains further guidelines on the proper identification and marking of Government property.

A fence along land boundaries is an effective tool to deter new encroachments on fee-owned land. Fencing will not only help prevent encroachments, but it will secure and control access to the area's resources. Fencing land boundaries should be coordinated with the District Land Surveyor. As funds become available, the operating project can fence the perimeters of public use areas and other sensitive areas that have a higher probability for potential encroachment.

### **2.4 BOUNDARY MANAGEMENT**

Boundary management is necessary between Corps managed lands and an adjacent landowner's property. The Corps does not assume responsibility for determining adjacent owners' property boundaries. When the Corps performs a land survey, it is to determine the land boundaries of Government fee ownership and/or easements. Government boundary surveys are performed in accordance with the official surveying instructions set forth in the Bureau of Land Management Manual of Surveying

Instructions, Manual supplements, circulars, and in accordance with statutory law and judicial interpretation.

## **2.5 ALTERATION OR DESTRUCTION OF BOUNDARY MARKERS/MONUMENTATION**

Any alteration or destruction to monuments or other Government land boundary markings is a violation of 36 CFR § 327.14.

## **2.6 INSPECTIONS**

Each operating project should create an encroachment or boundary inspection plan that identifies areas and timelines for physical inspections of Corp-managed lands and easement boundaries. Regular boundary inspections help reduce encroachments by adjacent landowners.

Boundaries in areas with the greatest occurrence or likelihood of encroachments should be inspected more frequently than those that are less likely to be encroached upon. The inspection plan should identify these areas and the frequency in which they will be inspected.

Surveyed areas have dedicated resources to inspect and maintain land boundaries and help to prevent encroachments. For non-surveyed areas, Operating Project Managers (OPMs) coordinate directly with the Business Line Manager to develop funding requests (packages) to obtain resources to perform new land surveys and determine the land boundaries of Government fee ownership and/or easements.

If it is discovered that the Corps is encroaching on adjacent property, transient encroachments should be resolved immediately. If it is a non-transient encroachment, Real Estate (RE) staff should be contacted.

## **2.7 TRAINING OF NATURAL RESOURCES MANAGEMENT STAFF**

It is recommended that the District perform routine training for NRM staff on the rules, regulations, and policies concerning encroachments. Suggested training includes: review of this handbook by new staff, training conducted for operating project staff on encroachment-related issues, presentations at NRM workshops, etc.

## **2.8 COMMUNICATION WITH PROPERTY OWNERS**

Natural Resources Management staff will make a concerted effort to become acquainted with adjacent property owners and educate other local contacts, such as county planning and building departments, media outlets, and local real estate professionals. These are all excellent contacts for spreading knowledge about Government rights and encumbrances affecting area lands.

The District brochure entitled Guidelines for Property Owners Adjacent to Public Lands (Appendix N) should be distributed to homeowners and public agencies and used at public meetings and other information meetings for maximum education and exposure.

## **2.9 OUTGRANTED LANDS**

Generally, grantees are required by their real estate instrument to monitor boundaries of their outgranted areas to maintain the integrity of the boundary and will also be required to address encroachments. When a grantee has exhausted its efforts to resolve encroachment issues, the grantee should request assistance from RE staff. In the event that Corps staff identify encroachments affecting outgranted lands, RE staff, in coordination with NRM staff, will notify/request the outgrantee to address the encroachment.

During the monitoring of outgrant area boundaries, grantees should report to RE staff all monumentation, line-of-sight markers, or other signage elements that are missing, damaged, or otherwise in need of replacement or repair.

## **2.10 PLANNED DEVELOPMENTS**

The most economical and effective means of preventing new encroachments is for operating project staff to establish and maintain close relationships with county commissioners, courts, city and county planning and zoning staff, and other officials directly responsible for approving plats and issuing building permits. District RE staff should educate platting and building officials on the purpose of flowage easements and ask for their assistance in requiring developers to document the easements during the normal platting and permitting process.

Local planning departments may request District input on development projects prior to issuing permits and building certifications. District staff, including operating project and RE staff, should use these opportunities to provide input. Although these requests typically require a short turnaround, they represent an important tool in working with local communities. At a minimum, platting departments should encourage the following requirements be performed for all new plats:

- Identify the flowage easement contour as determined by survey.
- Reference the control elevation used to locate the contour and the vertical datum.
- Prominently identify the Government boundary on the plat.

## **2.11 CONTIGUOUS SUBDIVISIONS**

Where adjacent properties have been subdivided, RE staff and/or the District Land Surveyor, with the assistance of the NRM staff, will accomplish the following:

- Determine when the subdivision plat was recorded and when Government real estate rights were acquired. If the plat was recorded prior to acquisition of

Government rights, the legal description in the acquisition should be in plat language, not metes and bounds.

- Forward plat and ownership information to RE staff for comparison of the flowage easement contour line with the contour lines shown on the subdivision plat. If a flowage easement contour line falls within the subdivision, RE staff shall clearly delineate it on the plat thereof.
- Assemble plats and ownership data and examine it closely to determine if the land boundaries align with Government land boundaries. If the position of the potential encroachment is to be directly related to the Government land boundary, then the District Land Surveyor is the only one authorized to determine said boundary.
- Advise adjacent land-owners of existing flowage easement restriction language. Identification of private properties that are affected by easement restriction needs to be determined by a Licensed Land Surveyor.



## **SECTION 3 - RESOLUTION OF ENCROACHMENTS**

### **3.1 ENCROACHMENT IDENTIFICATION RESPONSIBILITIES**

Natural Resourced Management (NRM) and RE staff are responsible for identifying and resolving encroachments. Natural Resourced Management staff at the operating projects will identify and attempt to resolve encroachments using the flowcharts in Appendixes B through E. The flowcharts identify the appropriate time to refer encroachments to RE staff. Appendix C is the flowchart used by RE staff to resolve encroachments.

#### **3.1.1 Natural Resources Management Staff**

Natural Resources Management staff at the operating project should familiarize themselves with Government land boundaries and the types of encroachments that can occur. Although partial definitions are provided in this Handbook, 36 CFR § 327 should be consulted for the full range of violations.

The Corps may have acquired easements on any given operating project. Natural Resources Management staff should note any type of ground disturbance or construction in all areas, and consult with RE staff before taking action.

#### **3.1.2 Real Estate Staff**

Real Estate staff will coordinate their annual compliance inspection trips with NRM staff at the District and project levels. Project NRM staff may accompany the RE staff on the inspections. The RE staff will bring land boundary information, outgrant documentation, and other available information to identify the Government land boundaries of the lands scheduled for inspection. Encroachments not resolved by NRM staff at the operating projects will be referred to RE staff. Real Estate staff will continue to coordinate with the NRM staff to gather information, monitor, and report compliance.

#### **3.1.3 Lessees**

Lessees include state, city, and county governments, and private companies that carry on day-to-day management of leased lands, normally for recreation. Lessees are required to take all reasonable measures to prevent and resolve encroachments on leased areas. Those unresolved should be referred to RE staff.

### **3.2 METHODS OF RESOLVING ENCROACHMENTS.**

As stated in Section 1.4, the minimum level of recourse necessary will be used to resolve encroachments. Resolution methods are provided in the sections below, and the required order of official actions is outlined in Appendixes B through E (for specific actions pertaining to vegetation and timber trespasses and unauthorized use by livestock, see Appendix A).

### **3.2.1 Verbal Communication**

Encroachments can result from unintentional or uninformed actions on the part of adjacent landowners or the public. Verbally informing a potential violator about the encroachment and requesting resolution can be effective. It is appropriate to give the person a reasonable amount of time, typically 30 days, to resolve the encroachment and restore the area. Staff will document verbal requests to resolve encroachments, in accordance with Section 3.3.

### **3.2.2 Official Correspondence**

When the landowner/violator has been non-responsive, non-compliant, or unavailable for verbal communications, official correspondence will be sent. This handbook includes templates for official correspondence (Appendixes F through M, Appendix Q) to be used by Corps staff to resolve encroachments. The Level I letters in Appendix H and I can be used by NRM project staff to inform potential violators about the encroachment and to request appropriate resolution.

Prior to sending a Level II letter (Appendix J), the Executive Office will be notified via the monthly NRM briefing.

The Level III and IV letters in Appendixes K and L are used by RE staff if attempts by NRM staff are unsuccessful or are bypassed. These letters will be sent by certified mail, or other means that provides a return receipt, in case the recipient refuses to sign for the letter. See flowcharts in Appendixes B, C, D, and E.

### **3.2.3 State/Local Law Enforcement**

The Corps has the same rights as landowners regarding protection from encroachment, trespass, or damage to property. Generally, State and local laws and ordinances apply to Corps-managed lands (see 36 CFR § 327.26).

Project NRM staff should establish and maintain positive working relationships with State and local law enforcement officials who have concurrent jurisdiction in Corps-managed areas. Such relationships have proven beneficial in gaining mutual understanding of all levels of enforcement available to the NRM staff in facilitating efficient encroachment resolutions. If desired, District Office of Counsel staff can assist in coordinating efforts with law enforcement and/or prosecutors.

### **3.2.4 Real Estate Instrument**

Issuance of a real estate instrument (e.g., lease, easement, license, or boundary line agreement) is not the preferred method of encroachment resolution, and is typically not appropriate. Any inquiries regarding this option should be directed to RE staff.

### **3.2.5 Title 36 Written Warning Citations and Violation Notices**

Natural Resources Management staff are authorized by the District Commander to issue citations for violations of 36 CFR § 327. Natural Resources Management staff should consult their local collateral forfeiture schedule for fines and mandatory court appearances when issuing citations.

Natural Resources Management staff should consider whether a written warning would effectively resolve the encroachment. This gives the violator an opportunity to resolve the issue, while providing clear notification that a violation of a Federal Regulation has been committed and that future violations may result in more severe action.

There are situations when a citation is clearly appropriate (e.g., intentional or major encroachments). However, because a violation notice involves a criminal action/proceeding, it is likely to end any cooperation on the part of the violator.

The citing of violators will, in all cases, remain secondary to the safety of Corps staff and the public. In difficult situations, Corps staff should request the assistance from appropriate law enforcement agencies.

It should be noted that issuance of a violation notice does not preclude a civil action (Section 3.2.7, below) or sending letters. Office of Counsel staff are also available to help with citation decisions/actions.

### **3.2.6 Impounding Personal Property**

The decision to impound and remove personal property abandoned on Government land is allowed under 36 CFR § 327.15. Due diligence should be made (and documented) to determine the owner of the property and request removal before any impoundment. The District Executive Office will be informed (via the NRM monthly briefing) prior to any planned impoundment of personal property, if there is reason to believe the property was deliberately placed and left in the location with the intent that it remain indefinitely.

### **3.2.7 Civil Action**

If attempts to remedy an encroachment have failed, NRM staff, RE staff, and Office of Counsel staff will evaluate possible legal actions. Office of Counsel staff can request that the U.S. Attorney's Office file a civil action in Federal Court to resolve encroachments. Additionally, there may be a basis for the U.S. Attorney's Office to file a criminal case against a violator.

### **3.2.8 Encroachments with Associated Shoreline Management Plan Permit/License**

Within the District, only Lake Wallula has a requirement for a shoreline management plan (see Section 1.6.5). All private facilities and activities on Federal lands administered by the Corps must be covered by a permit, license, lease, easement, or other legal instrument. Floating or non-floating structures not covered by a legal instrument will be

considered unauthorized structures and subject to removal in accordance with 36 CFR § 327.20.

### **3.2.9 Encroachments (Trespasses) Specific to Vegetation, Timber, and Livestock Grazing**

Vegetation, timber, and livestock grazing are common violations on Corps-managed lands. Due to the nature of these uses/activities, reference Appendix A for specific guidance on how to properly resolve them.

## **3.3 DOCUMENTING ENCROACHMENTS**

All encroachment actions will be recorded, including those immediately resolved. Such documentation can help identify repeat offenders and aid in determinations regarding appropriate resolution methods for future encroachments. Potential encroachment information will be uploaded into the Collector Encroachment Database (CED). This will be done either through the ArcGIS Collector App or on ESRI online mapping tool at <http://cenww.maps.arcgis.com/home/index.html>. Both of these applications require an ESRI ID/password, which can be provided by District GIS staff. This information is stored on the ESRI Cloud, then downloaded into the District GIS system, where a spreadsheet is produced. This is the Encroachment Detection and Action Spreadsheet (EDAS). The EDAS is generated and saved under the applicable operating project file on the S drive at: S:\Operations\TECHNICAL SUPPORT BRANCH\NATURAL RESOURCE MANAGEMENT\. See Appendix P for a flowchart showing the data collection process.

### **3.3.1 Standard Naming Convention of the Encroachment Detection Record File**

The standard naming convention will include the following, in this order:

- Date of initial collection: (yyyy-mm-dd).
- Name of violator: (last name).
- Geographic identifier: (street address in urban area or a specific geographic name for a rural area).
- Two- or three-word comment: (specific encroachment activity).

Examples:

- 2009-04-27 Johnson Big Flat road access.
- 2010-03-10 Smith 2032 Gemstone St. fence.
- 2012-12-03 Sutlick Turner Gulch cattle.

### 3.3.2 Types of Information to Collect

Accurate information is crucial to determine the intent of the potentially encroaching party and resolve the potential encroachment. This includes photos of all aspects of the potential encroachment, to include permanent reference points, if available (e.g. Corps survey monuments). These photos will be uploaded into the CED.

When informally communicating with a potential encroaching party, NRM staff should ask non-threatening questions that help provide additional information. Examples include:

- How long has the property been used in this manner?
- Where is the water source for the livestock?
- Do you have a copy of a land boundary survey you can share?

This information should be added to the “Comment” section in the CED. Other information to collect in the CED includes :

- Date discovered (Automated)
- Time (Automated)
- Is the potential encroachment structural or non-structural? (DropDown)
- Type of structural encroachment? (Drop-Down)
- Type of non-structural encroachment? (Drop-Down)
- Contact with violator? (Y/N)
- Comments/description of encroachment (Who, What, Where)
- Point of contact (Automated)
- Latitude/longitude (Automated)
- Responsible NRM office (Drop-Down)

Data will not be saved until user clicks “Submit.”

## **SECTION 4 - REFERENCES**

Title 36 Code of Federal Regulations (CFR) § 327. Rules and Regulations Governing Public Use of Water Resource Development Projects Administered by the Chief of Engineers.

U.S. Army Corps of Engineers (USACE) Engineer Pamphlet (EP) 1130-2-540. Environmental Stewardship Operations and Maintenance Policies, Chapter 2, Natural Resources Stewardship.

USACE. EP 1130-2-550. Recreation Operations and Maintenance Guidance and Procedures. Chapter 2, Recreation Management.

USACE. EP 1165-2-316. Rules and Regulations - Governing Public Use of Corps of Engineers Water Resources Development Projects.

USACE Engineer Regulation (ER) 405-1-12. Real Estate Handbook.

USACE. ER 1130-2-406. Shoreline Management at Civil Works Projects.

USACE. ER 1130-2-540. Environmental Stewardship Operations and Maintenance Policies, Chapter 2, Natural Resources Stewardship.

USACE. ER 1130-2-550. Recreation Operations and Maintenance Policies, Chapter 2, Recreation Management.

USACE. Headquarters Policy Guidance Letter No. 32. Subject: Use of Corps Reservoir Flowage Easement Lands. 28 April 1993.

USACE Walla Walla District. McNary Shoreline Management Plan. 2012.

## APPENDIX A

### Resolution of Vegetation and Timber Trespass and Unauthorized Use by Livestock

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## **APPENDIX A**

### **Resolution of Vegetation and Timber Trespass and Unauthorized Use by Livestock**

#### **A.1 VEGETATION TRESPASS**

Vegetation violations are one common type of trespass. The process for resolution depends on its severity.

Minor violations generally involve no ground disturbance; the damage to herbaceous and woody vegetation is temporary (full or near full recovery in less than three growing seasons); small in area, and has a minor effect on wildlife or the mission for that area. Minor vegetation (transient) trespasses are a violation of 36 CFR § 327.14.

Resolution of minor vegetation trespasses are normally accomplished by verbal communication. If warranted, resolution may require a written restoration plan be provided by the violator detailing any actions to be taken by the violator, such as providing supplemental irrigation, replanting, or fertilizing. The restoration plan will be requested in one of the official letters of correspondence shown in Appendix F or G, depending on whether NRM staff or the Real Estate Division requests the plan. The letter will be sent via certified mail. Restoration plans will vary depending on the situation and will need to be coordinated with various people, potentially including cultural staff, wildlife biologists, or other NRM staff.

Major vegetation trespasses generally involve large areas or valuable landscapes such as trees of importance to wildlife (threatened and endangered species and their critical habitat) or ornamental vegetation. Impacts include timber cutting or removal, extensive vegetation cutting or removal, and/or substantial ground disturbance. Major vegetation trespasses can be addressed under 36 CFR § 327.14 and/or ER 405-1-12.

Resolution of major vegetation trespasses will require a written plan be provided by the violator detailing actions they will take to restore the property. Examples include providing supplemental irrigation, replanting, or fertilizing.

A Corps Wildlife Biologist, Forester, and, in the case of ground disturbance, a Corps Cultural Resources staff member, will review the restoration plan. A warning citation may also be issued, but often this step is held in abeyance as an additional escalation of enforcement should the violator not comply with the restoration plan.

When investigating and documenting a major vegetation trespass:

- Recognize that contact with the violator may be confrontational.
- Contact will be made with a minimum of two staff members.

- Act quickly to prevent the removal or reduction of evidence.
- Gather boundary maps, historical aerial or onsite photography, records of previous contacts or violations, etc. before making contact.
- Contacting nearby neighbors has proven productive in gathering additional information.

The Real Estate Division will be informed of a major vegetation trespass within 24 hours of discovery if:

- The assumed violator or adjacent property owners are known not to be cooperative.
- The immediate estimated value of vegetation/timber and/or restoration cost exceeds \$5,000, the limit of forfeiture under 36 CFR § 327.25.

The Real Estate Division will become the lead and will coordinate with NRM staff and Office of Counsel to seek resolution.

## **A.2 TIMBER TRESPASSES**

Timber trespasses are a subset of vegetation trespasses. Care must be taken to immediately preserve all types of evidence since obtaining resolution to this type of trespass may take considerable time. There are generally three types of timber trespasses:

- Those associated with legal timber harvesting activities.
- Theft of timber.
- Removal of timber to obtain a better view.

Trespasses associated with legal timber harvesting activities: These usually occur where the Government land boundary is unknown, survey markers have been removed or destroyed, or the markers were not evident.

In the case of trespasses related to harvesting, the adjacent property owner may not be aware that a trespass has taken place, because harvesting activities are normally performed by contract companies who are bonded or insured against such events. However, property owners are responsible for ensuring that their companies and contractors do not encroach onto Government lands and are considered a violator for resolution purposes.

Market value of the lost timber can be closely estimated based on the nearby legal harvest, but since Corps lands are often used primarily as wildlife habitat, determining loss and value requires additional assistance. A Forester, Wildlife Biologist, and a Corps

Cultural Resources staff member (if there is ground disturbance) will be consulted. In addition, the assistance of an Environmental Compliance Specialist may be useful if heavy equipment use is apparent. This type of equipment often leaks oil, fuel, and hydraulic fluids, which may require clean-up.

Theft of timber: Theft of timber will likely result in a trespass where the violator is not known. Collecting and preserving evidence is important so if and when the violator is identified, evidence can be used if a civil or criminal action is initiated. Local sawmills and/or log buyers are a good source of information, since they are often aware of recent sales and may have a business relationship with the person or company who removed the timber.

When the trespass involves unknown parties, or if the adjacent landowner (or landowner through whose land the tract is accessed) denies knowledge of the trespass, additional care must be taken to immediately preserve all types of evidence.

It is likely that the only source of information and evidence will be from adjoining property owners and neighbors. However, because these individuals may be involved in the theft, one should not expect significant cooperation. Best efforts, however, may be limited to documenting the trespass, making it known that the problem is being investigated and documented, and taking steps to prevent future occurrences.

Removal of timber and vegetation to obtain a view: Timber removed to obtain a view by adjacent landowners are handled as other vegetation trespasses as described in A.1. The value of the timber removed and/or the restoration costs will determine if the operating project or Real Estate Division will be the lead office in seeking resolution.

### **A.3 UNAUTHORIZED USE BY LIVESTOCK**

Livestock trespass is a common violation at Corps operating projects. Livestock can be very injurious to vegetation when their presence is not managed under a planned grazing program. Consult with Office of Counsel if addressing a livestock trespass.

The District, on occasion, has erected fences to protect natural resources (and takes responsibility for those fences through a variety of management practices); however, it is incumbent on livestock owners to ensure that the cattle remain off Federal property. Unauthorized use by livestock is usually the result of broken fences. Natural Resources Management staff should identify adjacent landowners who produce livestock and be aware of brands, ear tags, and other identifying markings.

Usually, a call to the owner/operator is sufficient to get the livestock removed and the fence repaired. In high public use areas, or sensitive areas such as wildlife mitigation sites or natural areas, a 24-hour response time is appropriate. In a campground or park, an immediate response is necessary. Landowner response may be extended to 3 days in areas that are remote, feature long stretches of fencing, or where there are no other overriding concerns. If a landowner responds in a cooperative and timely manner, the incident need not be elevated beyond verbal communication. Natural Resources

Management staff will need to document these encroachments to identify repeat offenders. This will be recorded through the CED as described in Section 3.3.

When landowners do not respond, respond inadequately, or when violations occur repeatedly, written communication using the official letter of correspondence will be used.

If attempts to remedy a livestock encroachment through verbal and written communication have failed, NRM staff, Real Estate Division, and Office of Counsel will evaluate possible legal actions.

Impounding livestock or issuing a citation for livestock trespass will not occur before coordinating with District NRM staff, Real Estate Division, Office of Counsel, and the District Executive Office.

## APPENDIX B

### Flowchart Identification of Encroachments

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Appendix B: Identification of Encroachments



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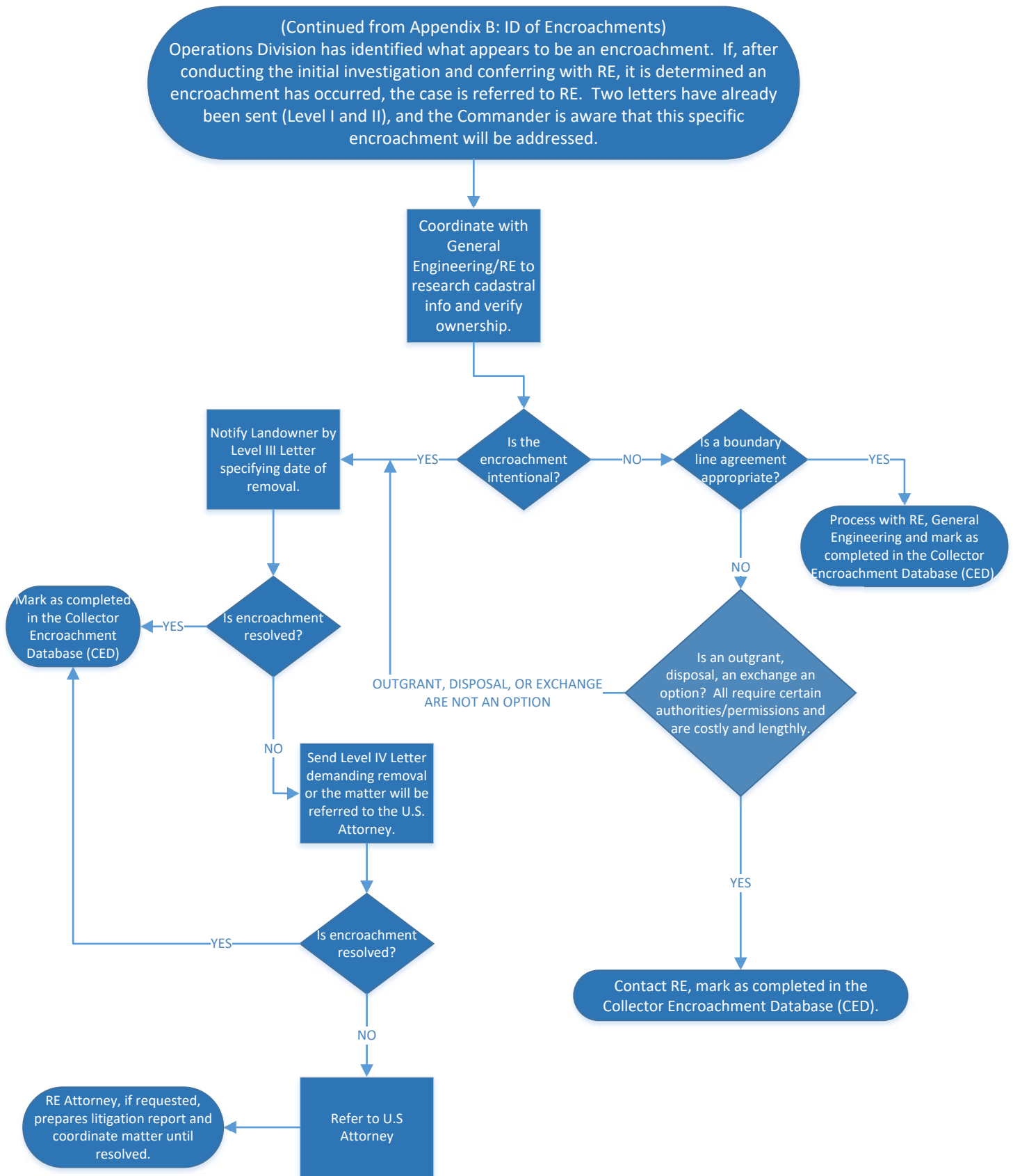


## APPENDIX C

### Flowchart Real Estate Process: Non-Transient Encroachments

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Appendix C: RE Process - Non-Transient Encroachments



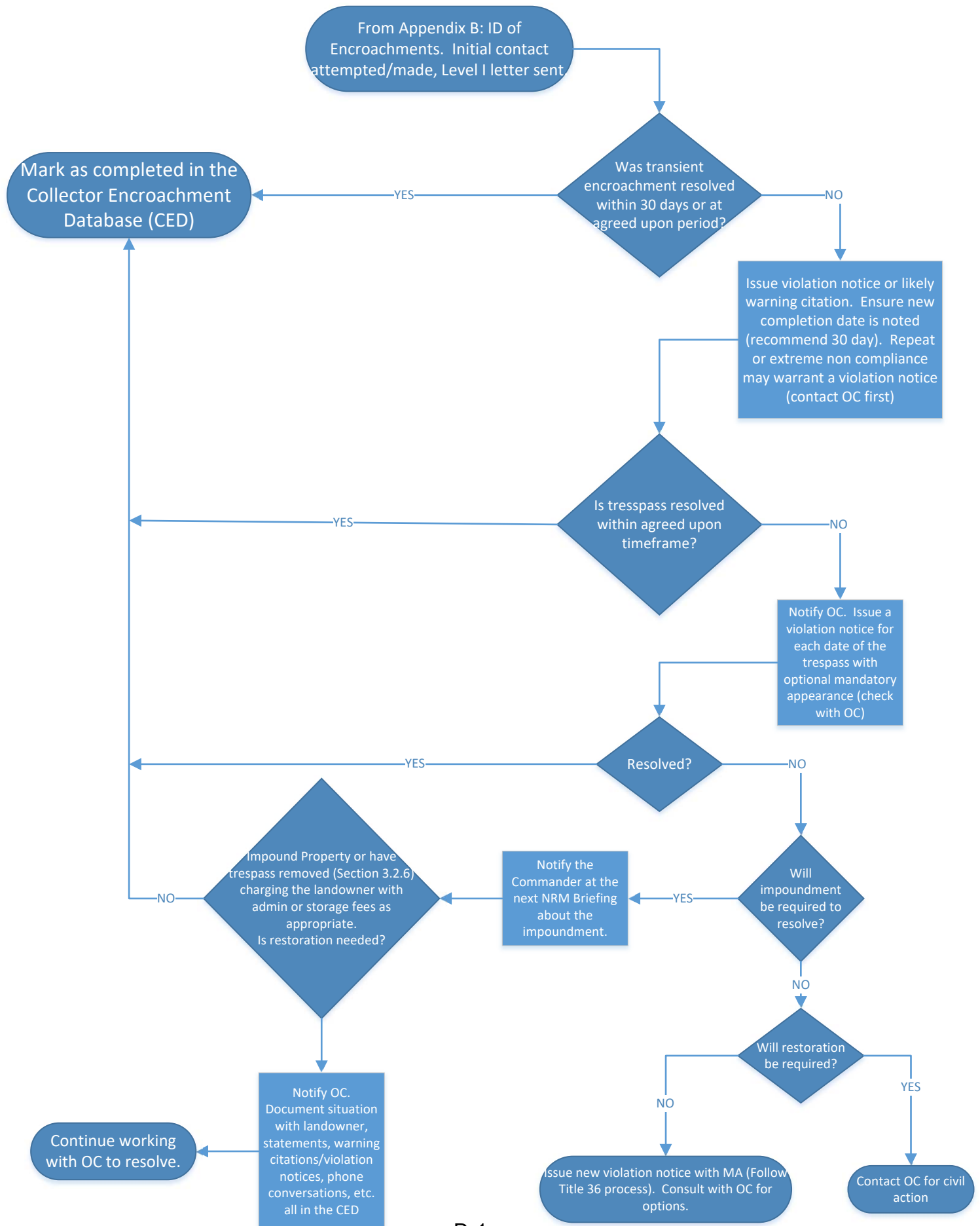
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## APPENDIX D

### Flowchart Transient Encroachment Process

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Appendix D: Transient Encroachments



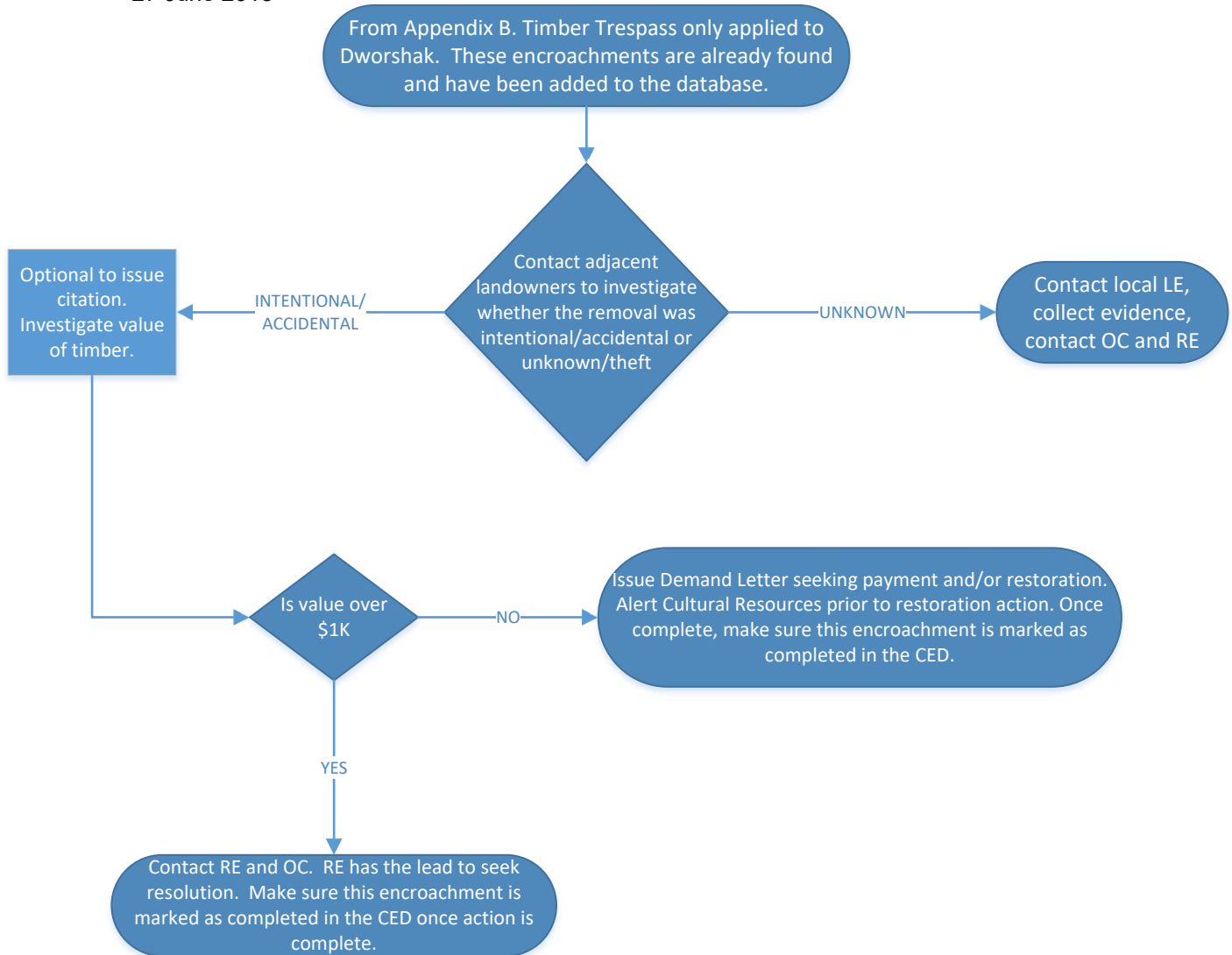
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## APPENDIX E

### Flowchart Timber Encroachment Process

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## APPENDIX F

### Letter Template Timber Trespass Cease and Desist Demand

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DEPARTMENT OF THE ARMY  
ORGANIZATIONAL NAME/TITLE  
STANDARDIZED STREET ADDRESS  
CITY STATE 12345-1234

[Date, civilian style]

[Landowner Name]  
[Landowner Address]  
[Landowner City, State Zip Code]

Dear [Mr./Ms.] [Last Name]:

Personnel from [Project Name], U.S. Army Corps of Engineers, Walla Walla District (Operating Project), recently discovered that [Describe the violation]. The location of this timber trespass is on Operating Project land [Location of violation].

The unauthorized cutting of timber on Operating Project lands is a violation of Title 36 Code of Federal Regulations § 327.14, which (if a citation is issued) can require a mandatory appearance before a U.S. Magistrate. Additionally, this agency has the option of also pursuing a civil remedy through the U.S. Attorney's Office.

Therefore, you are hereby ordered to cease and desist all cutting of timber on Operating Project lands and any other unauthorized use of such lands. In the near future, after this agency has completed its evaluation of the damages, we will send you a second letter outlining the restoration/mitigation required to remedy this timber trespass, as well as a demand for payment of the value of the cut timber.

Please contact [Project Employee, Position], at [Phone or E-mail], to coordinate efforts or if you have additional questions or comments.

Sincerely,

[Name]  
Operations Project Manager  
[Project]

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## APPENDIX G

### Letter Template Timber Trespass Follow-Up

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DEPARTMENT OF THE ARMY  
ORGANIZATIONAL NAME/TITLE  
STANDARDIZED STREET ADDRESS  
CITY STATE 12345-1234

**[Date, civilian style]**

**[Landowner Name]**  
**[Landowner Address]**  
**[Landowner City, State Zip Code]**

Dear **[Mr./Ms.] [Last Name]**:

On **[Date, civilian style]**, this agency sent you a letter identifying a timber trespass on Federal lands at **[Project Name]** and requested that you stop all such activities. That letter also informed you that we would be sending you a second letter outlining necessary restoration/mitigation requirements and any payment owed the agency for the timber.

Enclosed is a Restoration Plan identifying the restoration/mitigation that must be completed by you to remedy the damages to Federal lands caused by your unauthorized timber cutting activities. Additionally, this agency has determined that you owe **[\$[Amount]]** for the timber you cut, which was calculated at **[Number]** times the stumpage rate. Please make payment by check payable to "FAO, USAED, Walla Walla" and mail to: **[Project Address]**.

Failure to complete the restoration/mitigation and/or pay the stumpage fee will result in issuance of a citation under Title 36 Code of Federal Regulations § 327.14, for damage to Government property. In addition, other appropriate legal action may result, including referral of this case to the U.S. Attorney's Office.

Please contact **[Project Employee, Position]**, at **[Phone or E-mail]** if you have additional questions or comments.

Sincerely,

**[Name]**  
Operations Project Manager  
**[Project]**

Enclosure

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## APPENDIX H

### Letter Template To Violators from the Operating Project (Level I) Successful Contact

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DEPARTMENT OF THE ARMY  
ORGANIZATIONAL NAME/TITLE  
STANDARDIZED STREET ADDRESS  
CITY STATE 12345-1234

**[Date, civilian style]**

**[Landowner Name  
Landowner Address  
Landowner City, State Zip Code]**

**Dear [Mr./Ms.] [Last Name]:**

**[I/My colleague, name,]** spoke with you on **[Date]**, regarding **[Describe potential trespass/encroachment in detail]**. This issue was discovered during an inspection of Federal land adjacent to your residence/property, on **[Date]**.

On behalf of the United States Army Corps of Engineers, I would ask that you please contact me, within thirty days of the date of this letter, so we can figure out a means to resolve the situation to everyone's satisfaction. Please be ready to discuss any action you have taken to resolve this situation. I can be reached at **[Phone and E-mail]**.

Thank you for your cooperation.

Sincerely

**[Name]  
[Employee Position]  
[Project]**

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# APPENDIX I

## Letter Template To Violators from the Operating Project (Level I) Unsuccessful Contact

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DEPARTMENT OF THE ARMY  
ORGANIZATIONAL NAME/TITLE  
STANDARDIZED STREET ADDRESS  
CITY STATE 12345-1234

**[Date, civilian style]**

**[Landowner Name  
Landowner Address  
Landowner City, State Zip Code]**

**Dear [Mr./Ms.] [Last Name]:**

**[I/My colleague, name,]** attempted to speak with you on **[Date]**, regarding **[Describe trespass/encroachment in detail]**. This issue was discovered during an inspection of Federal land adjacent to your residence/property, on **[Date]**.

On behalf of the United States Army Corps of Engineers, I would ask that you please contact me, within thirty days of the date of this letter, so we can figure out a means to resolve the situation to everyone's satisfaction. I can be reached at **[Phone and E-mail]**.

Thank you for your cooperation.

Sincerely,

**[Name]  
[Employee Position]  
[Project]**

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## APPENDIX J

### Letter Template To Violators from the Operating Project (Level II)

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DEPARTMENT OF THE ARMY  
ORGANIZATIONAL NAME/TITLE  
STANDARDIZED STREET ADDRESS  
CITY STATE 12345-1234

**[Date, civilian style]**

**[Landowner Name]**  
**[Landowner Address]**  
**[Landowner City, State Zip Code]**

Dear **[Mr./Ms.] [Last Name]**:

During a **[Date, civilian style]** inspection of Federal land adjacent to your residence/property, we discovered **[Describe encroachment in detail]**. The unauthorized use of Federal land is considered an encroachment and a direct violation of Title 36 Code of Federal Regulations (CFR) § 327 (enclosed). Federal lands are managed to protect natural resources and ensure the availability of such lands for public use and enjoyment. Please see the enclosed brochure, Guidelines for Property Owners Adjacent to Public Lands.

This agency hereby requests that you cease any additional unauthorized use of Federal lands and remedy the encroachment by taking the following actions, within 30 days of the date of this letter:

**[Describe what the violator needs to include in their restoration plan and when it is due by.]**

Please know that if you fail to submit the necessary restoration plan, this agency may issue you a citation for violations of Title 36 CFR § 327 and take other appropriate legal action.

If you have any questions, please contact **[Project Employee]**, **[Employee Position, Project Name]**, at **[Phone or E-mail]**.

Thank you for your cooperation.

Sincerely,

**[Name]**  
Operations Project Manager  
**[Project]**

Enclosures

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## APPENDIX K

### Letter Template To Violators from the Real Estate Division (Level III)

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DEPARTMENT OF THE ARMY  
ORGANIZATIONAL NAME/TITLE  
STANDARDIZED STREET ADDRESS  
CITY STATE 12345-1234

**[Date civilian style]**

**[Landowner Name]**  
**[Landowner Address]**  
**[Landowner City, State Zip Code]**

Dear **[Mr./Ms.] [Last Name]**:

On **[Date, civilian style]**, you were mailed a letter from **[Operating Project Name]** requesting that you discontinue unauthorized use of Federal land adjacent to your property and that you remedy the encroachment by performing necessary restoration actions. To date, you have failed to cure the **[Trespass or Encroachment]** and/or complete the restoration actions.

This agency has a duty to protect Federal lands for public use and enjoyment. This agency, therefore, directs that you immediately cease all unauthorized use of Federal lands and remedy the encroachment by completing the restoration actions within 30 days of the date of this letter.

Failure to comply may result in citation for violations of Title 36 CFR § 327 and other appropriate legal action.

If you have any questions, please contact **[Real Estate Employee]**, **[Employee Position]**, at **[Phone or E-mail]**.

Sincerely,

**[Name]**  
Real Estate Specialist

cc:  
Walla Walla District Office of Counsel

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## APPENDIX L

### Letter Template To Violators from the Real Estate Division (Level IV)

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DEPARTMENT OF THE ARMY  
ORGANIZATIONAL NAME/TITLE  
STANDARDIZED STREET ADDRESS  
CITY STATE 12345-1234

**[Date civilian style]**

**[Landowner Name]**  
**[Landowner Address]**  
**[Landowner City, State Zip Code]**

Dear **[Mr./Ms.] [Last Name]**:

On **[Date, civilian style]**, you were mailed a letter from the Real Estate Division of the Walla Walla District of the U.S. Army Corps of Engineers requesting that you discontinue unauthorized use of Federal land adjacent to your property and that you remedy the encroachment by performing necessary restoration actions. To date, you have failed to cure the **[Trespass or Encroachment]** and/or complete the restoration actions.

This agency has a duty to protect Federal lands for public use and enjoyment. If you continue the unauthorized use of Federal land and fail to perform the necessary restoration, this agency will have no choice but to forward this matter to the U.S. Attorney's Office for appropriate legal action.

This agency, therefore, directs that you immediately cease all unauthorized use of Federal lands and remedy the encroachment by completing the restoration actions within 30 days of the date of this letter.

If you have any questions, please contact **[Real Estate Employee]**, **[Employee Position]**, at **[Phone or E-mail]**.

Sincerely,

**[Name]**  
Chief, Management and Disposal

cc:  
Walla Walla District Office of Counsel

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## APPENDIX M

### Letter Template To Adjacent Landowners – Survey/Boundary Line Notice

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DEPARTMENT OF THE ARMY  
ORGANIZATIONAL NAME/TITLE  
STANDARDIZED STREET ADDRESS  
CITY STATE 12345-1234

**[Date, civilian style]**

**[Landowner Name]**  
**[Landowner Address]**  
**[Landowner City, State Zip Code]**

Dear **[Mr./Ms.] [Last Name]**:

I am writing to inform you of the established, or recently surveyed, land boundary between your property and Federal lands managed by the U.S. Army Corps of Engineers (Corps of Engineers). A copy of the land survey, dated **[Date, civilian style]**, is enclosed for your review. I have also enclosed a copy of a brochure, Guidelines for Property Owners Adjacent to Public Lands.

The Corps of Engineers is required to manage public lands in a manner that protects natural resources and preserves public use and enjoyment. Unauthorized use of such lands is illegal and contrary to those management principles. Additionally, unauthorized use of Federal land is considered an encroachment and a direct violation of Title 36 Code of Federal Regulations § 327 (enclosed). Typical encroachments include, but are not limited to, gardening, vegetation clearing or mowing, fencing, grazing, dumping, abandoned personal property, roads or pathways, walkways/paths, utility lines, woodpiles, swing sets, propane gas tanks, patios, and doghouses.

This agency strives to be a good neighbor, as well as a good land manager. If you have any questions regarding the boundary line, or what constitutes unauthorized use of Federal lands, please contact **[Name]**, Natural Resources Manager, **[Project Name]**, at **[Phone or E-mail]**.

Thank you for your cooperation.

Sincerely,

**[Name]**  
Operations Project Manager  
**[Project]**

Enclosures

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## APPENDIX N

### Adjacent Landowner Brochure

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# Guidelines for Property Owners Adjacent to Public Lands



US Army Corps  
of Engineers  
Walla Walla District



**Introduction** It is the responsibility of the U.S. Army Corps of Engineers to manage and protect the natural resources of public lands now and in the future. To help accomplish this task, we rely on adjacent landowners' spirit of stewardship for these beautiful lands – lands managed by the Corps for everyone to enjoy.

Corps-managed public lands in the Walla Walla District are typically located along lakes and rivers where our dams and related facilities have been constructed. While not all shoreline lands contain Corps-managed areas, much of it does. In some places, it's a narrow strip of land running along the shore; in other areas, it includes many acres of protected habitat.

Often, adjacent private lands for sale are advertised as "waterfront property," creating the impression that the property boundaries include the shoreline. Unauthorized use of public or flowage easement lands is prohibited. Owners and prospective buyers of property located next to Corps-managed lakes and rivers are strongly encouraged to verify property boundaries before conducting any work that would disturb the ground or vegetation.

This pamphlet provides information and answers some common questions that adjacent property owners ask about Corps management policies for public lands and flowage easements.

## Your rights as an adjacent land owner

Property owners adjacent to public lands have the same rights and privileges as other citizens. However, adjacent property owners have no additional or implied rights by virtue of the location of their property.

It is the policy of the Walla Walla District to protect the natural resource base and integrity of public lands by preventing new encroachments and by resolving existing ones by fair, consistent and timely use of all available remedies.

The District acknowledges instances of inconsistent enforcement of this policy in the past because of lack of available resources and/or funding. Inaction in the past, however, shall not provide a basis to deviate from appropriate enforcement and/or resolution actions in the future.

Corps policy generally prohibits private exclusive use of public land by adjacent private property owners or any member of the public which leads the public to believe public land is privately owned. Adjacent land owners may request permission for uses such as mowing or other vegetation modification, building a boat dock, establishing a fire break, constructing stairs or a path, etc., on Corps-managed public lands.

All requests involving public or flowage easement lands should be made to the nearest Corps office. Requests are evaluated on a case-by-case basis under a number of criteria: compliance with applicable laws/policies, private exclusive use considerations, safety aspects of the proposed action, and potential impacts to land/water habitats, Corps structures (levees), protected species, cultural/historical resources, navigation and commercial entities.

Depending upon the details of a request, other federal and state agencies' policies may apply and require consideration in the evaluation process.

**Unauthorized uses/activities** of public property are defined by Title 36 of the Code of Federal Regulations, Part 327, as "destruction, injury, defacement, removal or any alteration of public property". Types of Title 36 violations that impact public property include, but are not limited to, dumping garbage or grass clippings, mowing, grazing livestock, gardening, timber cutting, spraying herbicides or pesticides, placing unattended personal

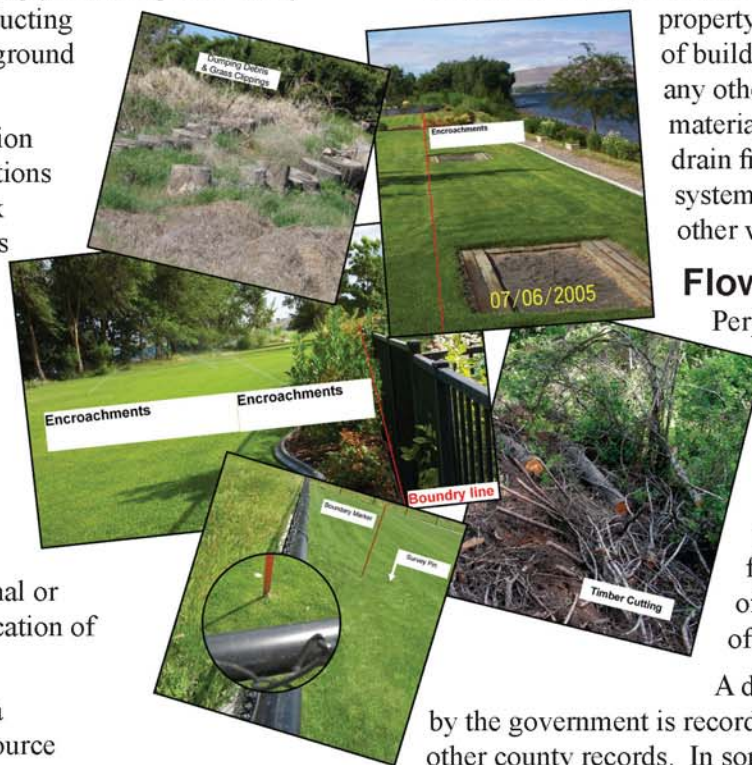
property on public property, construction of buildings, roads, fences, ponds, or any other facilities, placement of fill material or landscaping, septic tanks, drain fields, utility lines or irrigation systems or planting trees, shrubs or other vegetation.

## Flowage easements

**Perpetual flowage easement** interests, which the government holds on property owned by others, grant the government full, complete and perpetual right, power and privilege to overflow, flood and submerge lands as part of the operation and maintenance of water resource projects.

A description of the rights acquired by the government is recorded in the appropriate deed or other county records. In some instances, the reference to a flowage easement restriction is omitted during the preparation of new deeds with changes in property ownership. This omission does not diminish the legality or validity of flowage easement restrictions over the property involved. When proposing to purchase land that you think may be subject to a Corps' flowage easement or is adjacent to Corps-managed land, you should contact the Walla Walla District Real Estate Office or the local Corps office.

The Corps is engaged in preserving and/or restoring the natural scenic beauty of the lands we manage for the public. We appreciate adjacent landowners' cooperation and partnership in being responsible stewards of the flood prevention structures that protect our communities and some of the most beautiful, natural resource areas along rivers and reservoirs in the Walla Walla District.





# Posts, pins and markers...

The U.S. Army Corps of Engineers' development and stewardship of water-resource projects and associated public lands in the Mid-Columbia region and Snake River basin predate the 1948 establishment of the Walla Walla District.

Public lands owned in fee by the government are defined by the U.S. Reservation boundary line. Through the decades, many types of markers were used to identify the boundaries of public lands managed by the Corps' Walla Walla District.

These markers include concrete monuments, survey pins with caps of brass or aluminium, survey-marked trees in forested areas, fences, shrubbery, mowed strips, signs and posts made of a variety of materials: wood, metal or synthetic polymer.

Boundary corners throughout the Walla Walla District are typically marked with a concrete monument with a brass survey pin on top. In many locations, boundary lines intersecting with adjacent non-Corps properties are usually marked with survey pins set in the ground or post markers.

When looking for markers set in the ground, first refer to your property map to direct you to the general location of your corner boundary. Do not dig on Corps-managed lands in an attempt to locate the boundary markers. If vegetation growth or displaced dirt is concealing a survey pin on public lands, contact the nearest Corps office for help.



Photos of boundary markers  
in the Walla Walla District  
(types not limited to those shown)



**For more information about lands managed by the Walla Walla District, contact our nearest Corps office:**

## Lower Granite Natural Resources Management

100 Fair Street  
Clarkston, WA 99403  
(509) 751-0240  
ClarkstonNaturalResources@usace.army.mil

## Ice Harbor Natural Resources Management

1215 E. Ainsworth  
Pasco, WA 99301  
(509) 547-2048  
IceHarborParks&Recreation@usace.army.mil

## Dworshak Natural Resources Management

P.O. Box 48  
Ahsahka, ID 83520  
(208) 476-1261  
DworshakRecreation-NaturalResources@usace.army.mil

## McNary Natural Resources Management

P.O. Box 1230  
Umatilla, OR 97882  
(541) 922-2268  
McNaryParks&Recreation@usace.army.mil

## Mill Creek Dam and Bennington Lake

3211 Reservoir Road  
Walla Walla, WA 99362  
(509) 527-7160  
MillCreek@usace.army.mil

## Lucky Peak Dam and Lake

9723 East Highway 21  
Boise, ID 83716-9393  
(208) 343-0671  
LuckyPeakLake@usace.army.mil


## Natural Resources Management

Operations Division  
Walla Walla District Headquarters  
201 N. 3rd Avenue  
Walla Walla, WA 99362  
(509) 527-7131  
corpsoutdoors@usace.army.mil

## Real Estate Division

Walla Walla District Headquarters  
201 N. 3rd Avenue  
Walla Walla, WA 99362  
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cenww-re@usace.army.mil





# Frequently Asked Questions

**Q** - What is meant by the phrase, “create the appearance of private ownership?”

**A** - That phrase refers to actions taken by adjacent property owners making it appear they own public land. Activities creating the appearance of private ownership include establishing grass lawns or landscaping, placing personal items like sheds, furniture, vehicles or trailers on public land, etc. Corps policy generally prohibits private exclusive use of public land by adjacent private property owners or any member of the public which leads the public to believe public land is privately owned.

**Q** - Does private property extend down to the shoreline?

**A** - Private property does not usually extend to the waterline. Even if private property lines extend into the water, this does not exempt landowners from complying with the laws and regulations regarding Waters of the United States.

**Q** - Since my property adjoins public land, can I mow or cut brush beyond my boundary line?

**A** - On Lake Wallula, upstream of McNary Lock and Dam, you may apply for a shoreline use permit to modify vegetation as defined in the McNary Shoreline Management Plan and administered by the Ice Harbor Natural Resources Management Office. At all other District locations, adjacent property owners should contact the nearest Corps office for information on policies specific to their location.

**Q** - There are trees on Corps land blocking my view of the river – can I cut them down or remove them?

**A** - Trees along a shoreline typically provide high-quality wildlife habitat and shoreline erosion protection and may not be removed. In some cases, trees considered to be invasive species or on a state noxious weed list might be allowed to be removed, but only with full replacement mitigation and not for purely aesthetic reasons. Each request for vegetation modification is evaluated on a site-specific basis.

**Q** - May I construct a road or trail to provide lake access?

**A** - Roads, improved pathways or any other access facilities may not be built on public land without a license. Access licenses are typically granted only if such would benefit the general public or serve an operational purpose.

**Q** - May I construct a fence along my boundary to mark my property line?

**A** - Fences and shrub rows may be constructed by adjacent landowners *on their property* to delineate their boundary.

**Q** - Are there any restrictions on the type of buildings or other facilities that can be constructed on flowage easements?

**A** - As an owner of land subject to flowage easements, you may not construct or maintain any structure for human habitation, permanent or temporary, on the flowage easement land. Generally, you may not place or raise a structure within the easement area by use of piling or other type of foundation or raise the site through use of fill. Owners of land subject to flowage easements may request, in writing, permission from the District Engineer to build any structure, other than those designed or intended for human habitation. These structures include, but are not limited to, buildings, ramps, ditches, channels, dams, dikes, wells, ponds, roads and utility lines.

**Q** - How far away from the government property line on my property should I construct a building?

**A** - Check your city and county zoning laws and setback requirements to ensure compliance with local laws. Regardless of municipal code, federal policy requires buildings on adjacent lands be constructed so that no part of it is built on or overhangs government property. You should also leave enough room around the building to perform maintenance without impacting government property.

**Q** - What type of activities are allowed on flowage easement lands?

**A** - Owners of land subject to easements may clear, plant vegetation, or otherwise use the flowage easement property as desired, if not in conflict with the terms or rights acquired by the government. Owners also have the right to sell or lease the flowage easement land to others, subject to all the restrictions contained in the flowage easement instrument.

**Q** - Why does the distance from the government boundary line to the shoreline vary?

**A** - The distance from the government boundary line to the shoreline varies based on the local topography, the acquisition policy in place when project lands were acquired or the desires of a property owner selling land to the government.



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## APPENDIX O

### Property Markers from USACE Sign Manual

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**Introduction: Property Markers****EP 310-1-6a****01 Jun 06**

The identification and marking of government property is an important part of project management. Boundary marking serves as a guide for Corps personnel and informs users that they are on government land.

Several different sign types are provided for this purpose. These include witness posts, boundary lines, easement lines, and identification of wildlife management areas.

There are two graphic formats, a large and a small format, for all property markers. Both formats have a primary legend identifier using the Helvetica Bold typeface, and a secondary legend that includes a local district address which is shown in the Helvetica Regular typeface. A positive version of the Corps Signature appears on every marker.

The shoreline management permit may be issued to land owners whose property abuts a water project. This marker is displayed on page 12-4.

Hiking trails which cross government lands should be clearly identified. See page 7-58 for identification with trail shield, and Section 8 for use of the hiking trail symbol to mark these routes.

**Sign Panel Size:** Small panel sizes are recommended for most marking situations. These signs are rarely read from a great distance and as a small panel they are less susceptible to damage from vandalism. Markers that are larger than those specified in this manual should be placed only as required on a site-by-site basis. Generally, as long as the white panel can be seen from the desired viewing distance, the sign is appropriately sized.

**Materials:** Two basic types of property markers are specified:

1. An individual polyethylene panel with screen printed (epoxy) legend. Polyethylene is recommended because it is a low cost marker that has a long life span in harsh exterior environments, is less susceptible to deterioration from ultraviolet rays, and does not become brittle under extreme low temperature conditions. The flexible panel can easily be mounted on a wooden post or on a structure. Specifications for mounting on a wooden post are not included in this section.
2. An integrated post and panel marker, consisting of a flexible post and a screen printed, reflective marker. The post, composed of glass fiber, marble, and thermosetting polymers, will not rust or become brittle from cold or ultraviolet exposure. It has a sign graphic that is factory-applied to the property marker post. Although white is the preferred color; red, yellow, orange, or brown flexible posts may be used. Refer to Appendix B for material and assembly specifications.

**EP 310-1-6a  
01 Jun 06****Small Format Property Markers**

The small format property marker is shown below. Examples of other legends are shown on the following pages.

A review of recommended sign materials

is provided on page 10-1. Placement guidelines are shown on page 10-8. All property markers have black legends and are placed on white panels.

Three different types of posts are specified, each with a different size graphic. These include a wide flexible stake and a narrow rigid fiberglass stake, both with a factory applied graphic; and a polyethylene panel that can be applied to existing posts. The size of the graphic will differ depending on the type of post used.

- 1) Rigid fiberglass stake with a 2.5" x 3.66" graphic on a 2.625" wide upright (single face only).
- 2) Flexible fiberglass stake with a 3" x 4.4" graphic on a 4" wide upright (single or double face).
- 3) Polyethylene panels with a 3.75" x 5.5" graphic are for mounting on existing posts or structures.

Artwork for each panel is provided in Appendix F. The address and telephone number should not contain more than five lines of type as shown, with no line having more than 28 characters (including word space). The typography is 12 pt. Helvetica Regular with 12 pt. leading.

## Boundary Line

Please Do Not Disturb  
For Information Contact:

U.S. Army Corps of Engineers  
Portland District  
P.O. Box 2870  
Portland, Oregon 97208  
(000) 000-0000



US Army Corps  
of Engineers

Grid A

## Limited Development Area

Please Do Not Disturb  
For Information Contact:

U.S. Army Corps of Engineers  
Portland District  
P.O. Box 2870  
Portland, Oregon 97208  
(000) 000-0000



US Army Corps  
of Engineers

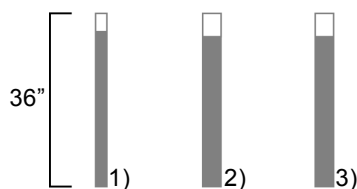
Grid B: For primary legend lengths that are too long for the Grid A format.

Sign Type	Legend Size (A)	Panel Size	Post Size	Specification Code	Mounting Height	Color Bkg/Lgd
BLM-00	-	none	2.625"x.125"	FSM-7	36"	WH/BK
BLM-00	-	none	4"x.125"	FSM-7	36"	WH/BK
BLM-00	-	3.75"x5.5"	4"x4"	FSM-7	36"	WH/BK

1) Narrow flexible post with screen printed, reflective vinyl marker

2) Wide flexible post with screen printed, reflective marker

3) Wooden post with screen printed, polyethylene panel





## Small Format Property Markers (cont'd)

EP 310-1-6a

01 Jun 06

Shown below are approved small format property marker signs.

## Grid A

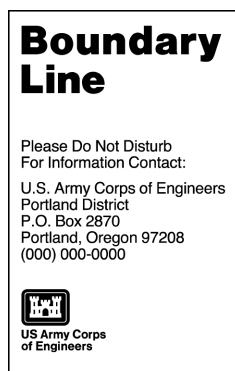
**Boundary Line:** Boundary line signs are used to delineate the government fee property line at Corps projects.

**Witness Posts:** These survey markers are used to identify the location of government witness posts. Witness posts are used as a reference point from which surveyors may triangulate to locate a government fee property corner, easement corner, or other surveying marker on government land.

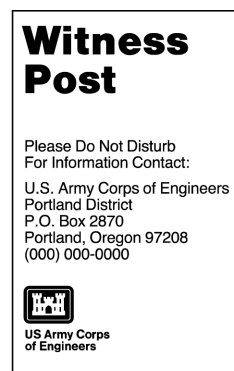
**Property Boundary:** Same as Witness Post.

**Survey Marker:** Used as alternate to Witness Post per local convention.

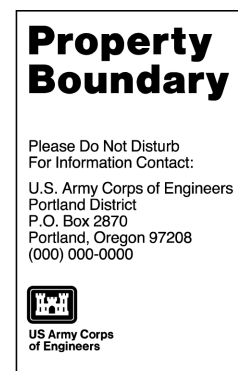
**Easement Line:** These signs are used to delineate flowage easements at Corps projects, as well as other government easements on land that is not government fee property.



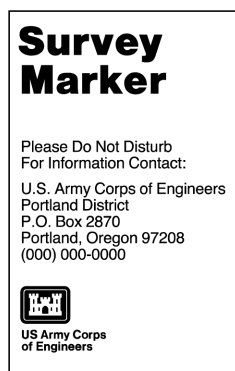
BLM-07



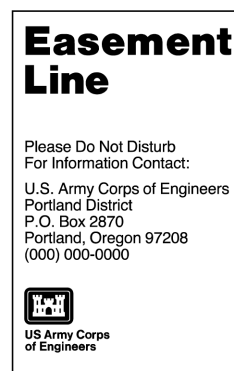
BLM-08



BLM-09



BLM-010



BLM-011

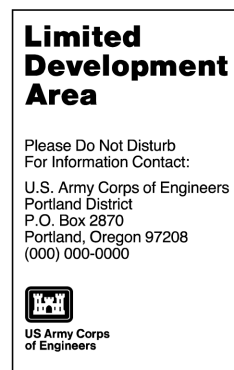
## Grid B

**Permitted Mowing Area:** Delineates an area within government land in which mowing is permitted.

**Limited Development Area:** These signs serve as guides for Corps personnel.



BLM-12



BLM-13

EP 310-1-6a

01 Jun 06

Large Format Property Markers

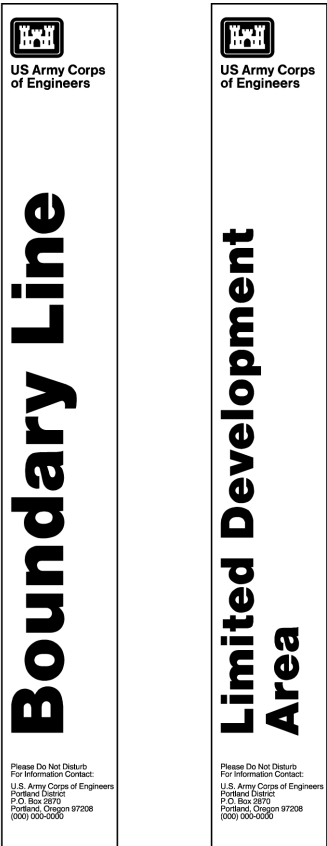
Shown below is the alternate “book spine” type boundary marker with the legend shown on a vertical baseline. It is specified for use where the legend must be readable from a distance greater than a few feet from the marker. Using these grids can extend the distance at which the sign can be read up to 75 feet.

This sign may be used as a double or single face sign. All property markers have black legends and are placed on white panels.

This graphic is only to be used with the wide flexible stake with the ribbed edges. Do not use this graphic with the narrow rigid stake or on polyethylene panels.

Flexible fiberglass stake with 3" x 22" graphic on a 4" wide upright (single or double face).

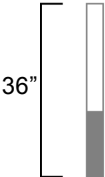
The contact address and telephone number should not contain more than five lines of type as shown, with no line having more than 28 characters (including word space). The typography is 14 pt. Helvetica Regular with 14 pt. leading.



Grid D

Grid E: For primary legends which are too long for the Grid D format.

Sign Type	Legend Size (A)	Panel Size	Post Size	Specification Code	Mounting Height	Color Bkg/Lgd
BLM-00	-	none	4"x.125"	FSM-7	36"	WH/BK



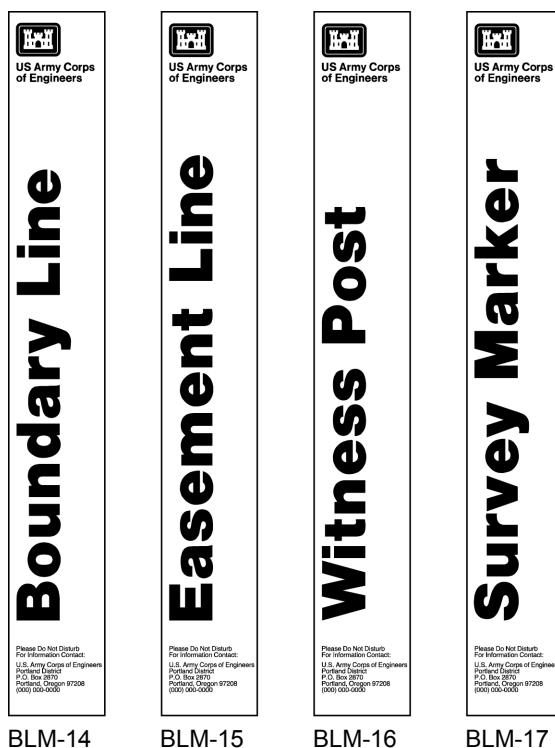
## Large Format Property Markers (cont'd)

EP 310-1-6a

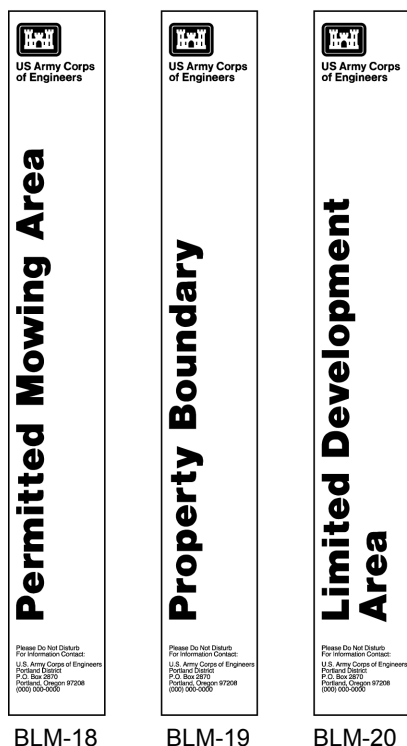
01 Jun 06

Shown below are approved large format property marker signs, as they appear on posts.

Grid D



Grid E



## EP 310-1-6a

01 Jun 06

## Wildlife Management Area Markers

Shown below are three versions of the Wildlife Management Area identification markers. They are used primarily for information purposes and may be used to delineate a property line.

The signs are generally placed around wildlife management areas, along access roads and fire trails, or in other locations where special respect for wildlife is requested.

The selection of the appropriate subhead legend will depend on local requirements.

This sign follows the same color and graphic format as the property markers shown on page 10-2.

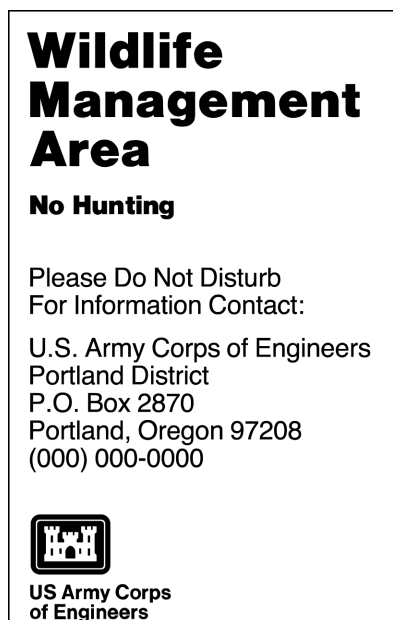
Three different types of posts are specified, each with a different size graphic. These include a wide flexible stake and a narrow rigid fiberglass stake, both with a factory applied graphic, and a polyethylene panel that can be applied to existing posts. The size of the graphic will differ depending on the type of post used.

1) Rigid fiberglass stake with a 2.5" x 3.66" graphic on a 2.625" wide upright (single face only).

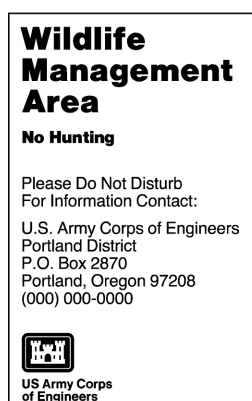
2) Flexible fiberglass stake with a 3" x 4.4" graphic on a 4" wide upright (single or double face).

3) Polyethylene panels with a 3.75" x 5.9" graphic are for mounting on existing posts or structures.

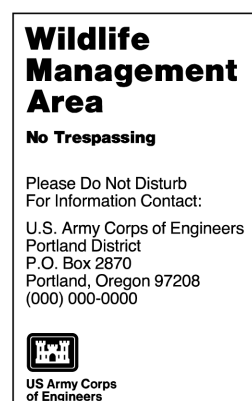
Insert contact address and telephone number. The address and telephone number should not contain more than five lines of type as shown, with no line having more than 28 characters (including word space). The typography is 12 pt. Helvetica Regular with 12 pt. leading.



Grid C: For panels with a subhead



BLM-21



BLM-22



BLM-23

Sign Type	Legend Size (A)	Panel Size	Post Size	Specification Code	Mounting Height	Color Bkg/Lgd
BLM-00	-	none	2.625"x.125"	FSM-7	36"	WH/BK
BLM-00	-	none	4"x.125"	FSM-7	36"	WH/BK
BLM-00	-	3.75"x5.9"	4"x4"	SCP-7	36"	WH/BK

Shown below is the alternate “book spine” type Wildlife Management Area identification marker. It is specified for use where the legend must be readable from a distance greater than a few feet from the marker. Using these grids can extend the distance at which the sign can be read up to 75 feet.


This sign may be used as a double or single face sign. The signs are always white with black legends.

Grid F: For panels with a subhead.

This graphic is only to be used with the wide flexible stake with the ribbed edges. Do not use this graphic with the narrow rigid stake or on a polyethylene panel.

Flexible fiberglass stake, with 3" x 22", graphic on a 4" wide upright (single or double face).

The contact address and telephone number should not contain more than five lines of type as shown, with no line having more than 28 characters (including word space). The typography is 14 pt. Helvetica Regular with 14 pt. leading.




US Army Corps of Engineers

Wildlife Management Area

No Hunting

Please Do Not Disturb  
For Information Contact:  
U.S. Army Corps of Engineers  
Portland District  
P.O. Box 2870  
Portland, Oregon 97208  
(000) 000-0000

BLM-24




US Army Corps of Engineers

Wildlife Management Area

No Trespassing

Please Do Not Disturb  
For Information Contact:  
U.S. Army Corps of Engineers  
Portland District  
P.O. Box 2870  
Portland, Oregon 97208  
(000) 000-0000

BLM-25



US Army Corps of Engineers

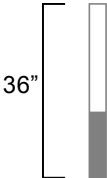
Wildlife Management Area

No Motor Vehicles

Please Do Not Disturb  
For Information Contact:  
U.S. Army Corps of Engineers  
Portland District  
P.O. Box 2870  
Portland, Oregon 97208  
(000) 000-0000

BLM-26

Sign Type	Legend Size (A)	Panel Size	Post Size	Specification Code	Mounting Height	Color Bkg/Lgd
BLM-00	-	none	4"x.125"	FSM-07	36"	WH/BK

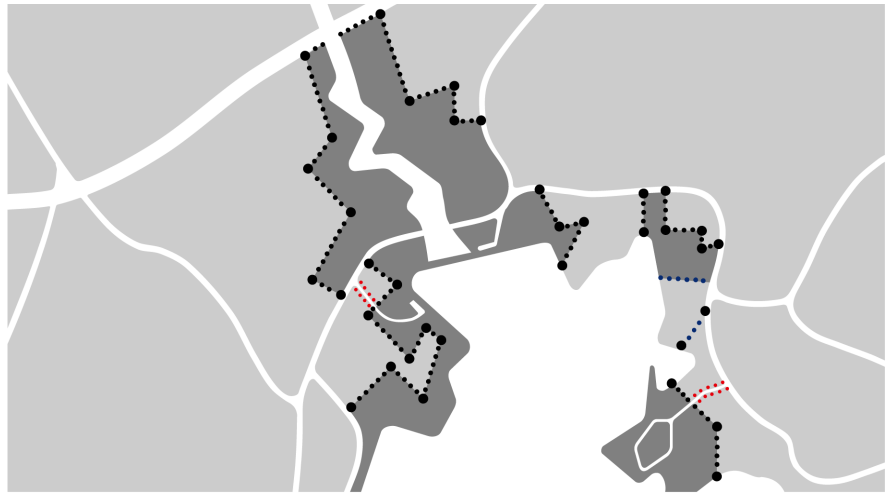


The procedure for boundary marking will vary depending on site conditions and local Corps policy. It is however important to be scrupulous in the placement of boundary line markers so they are as close as possible to the boundary. A viewer reading a boundary line marker will be under the assumption that it is placed on the boundary and therefore placement is crucial. The sign should

always face away from the project land being marked.

Both aesthetics and frequency of placement are factors that need to be taken into consideration when marking boundary lines. Accessibility of the boundary, usage of adjoining land, presence or absence of line fencing or other physical or natural features should be evaluated to deter-

mine specific boundary marking requirements. Refer to ER 1130-2-540, 2-2, g., Boundary Surveys and Marking, for additional information.



● ● Boundary line signs should be placed as close to the actual government boundary line as possible and will be placed only on government property and not on adjoining private property. These signs should be placed (where terrain, vegetation, and common sense permit) so that at least two of them can be clearly viewed by an individual approaching the government property line from any point on adjacent private property. These signs will be used to identify the limits of government fee acquisition on all Corps projects. The actual extent of boundary line marking will be agreed upon between the district and project Sign Program Managers and the project manager. In areas that are adjacent to a private housing development or private dwelling, it may be appropriate to place the sign on both sides of the upright.

● Witness posts, property boundary markers and survey markers are placed as a reference point from which surveyors may triangulate to locate a government fee property corner, easement corner or other surveying marker on government fee property. These signs may be used where they are deemed appropriate and necessary.

● ● Easement line signs should be placed as close to the actual easement line as possible and will be placed only on easement property and not on adjoining private property. These signs should be placed (where terrain, vegetation, and common sense permit) so that at least two of them can be clearly viewed by an individual approaching the easement line from any point on adjacent private property. These signs may be used where they are deemed appropriate and necessary.

● ● Wildlife management area signs should be placed using the same guidance mentioned under boundary line signs. Where permission has been granted by the property owner, these signs may also be placed to show the limits of wildlife management areas on land that is not held in fee by the Corps.

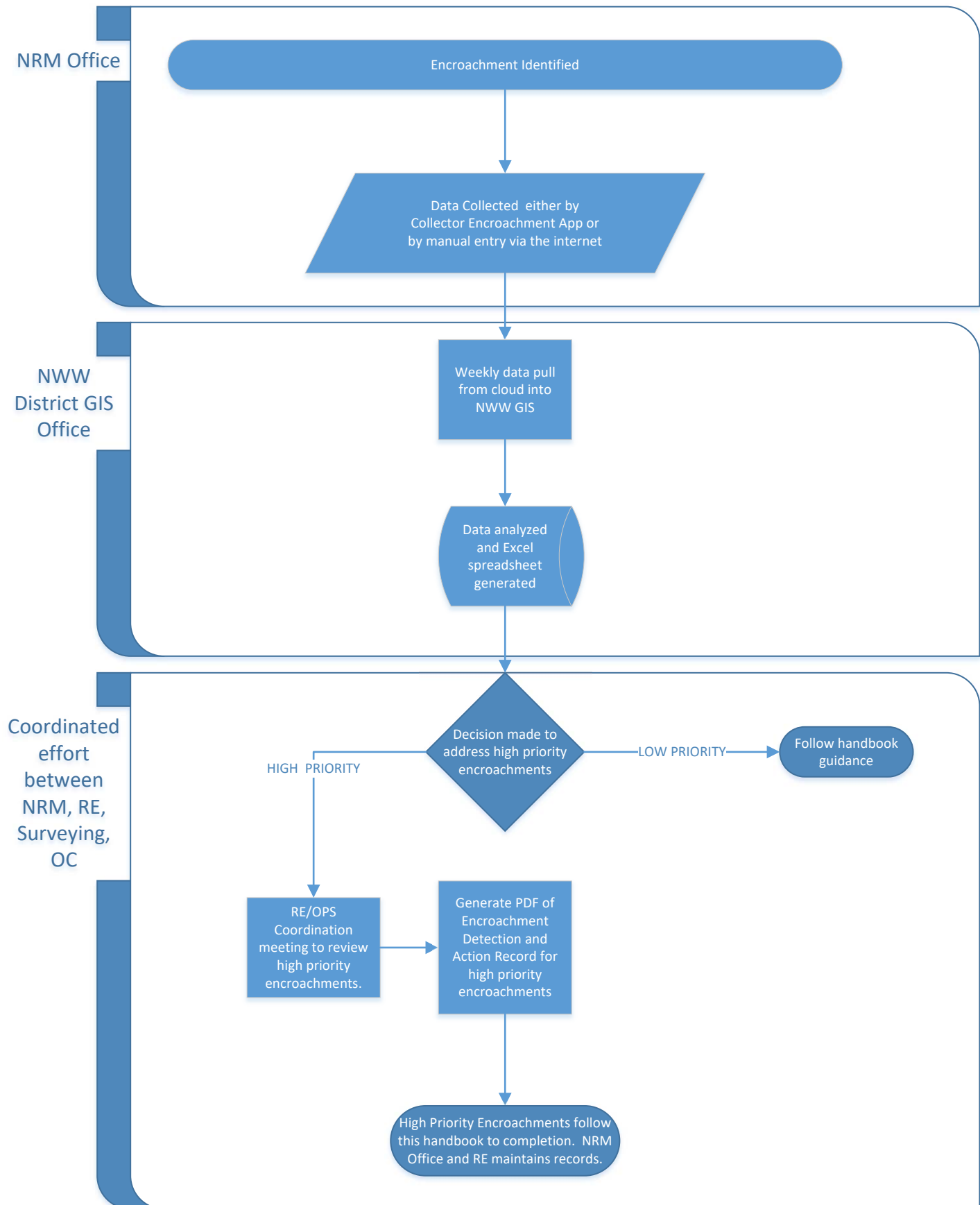
## APPENDIX P

### Flowchart Encroachment Data Collection Process

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Appendix P: Encroachment Data Flow



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## APPENDIX Q

### Letter Template Closing Out Encroachment

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DEPARTMENT OF THE ARMY  
ORGANIZATIONAL NAME/TITLE  
STANDARDIZED STREET ADDRESS  
CITY STATE 12345-1234

**[Date, civilian style]**

**[Landowner Name]**  
**[Landowner Address]**  
**[Landowner City, State Zip Code]**

Dear **[Mr./Ms.] [Last Name]**:

On **[Date, civilian style]**, we sent you a letter concerning an encroachment we found while inspecting the Federal property located at **[Specific Area]** managed by the U.S. Army Corps of Engineers, Walla Walla District, as part of the **[Project Name]**.

Our Natural Resource Management staff have confirmed that the encroachment listed in the letter was successfully removed. We have enclosed the pictures provided by **[NRM Staff]** for your records. We appreciate your effort in resolving this issue in a timely manner.

If you determine you have a requirement to use Federal land in the future, please contact Real Estate Division prior to beginning work to obtain an application so we can determine if your request can be approved. This will avoid the creation of any trespass or encroachment issues. You can contact Real Estate Division staff at the above address, by phone at 509-527-7320, or by email at CENWW-RE@usace.army.mil.

Sincerely,

**[Staff Name]**  
**[Title]**  
**[Project/Branch]**

Enclosure

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