

Draft

November 17, 2016

Dear Claytor Lake Resident:

Attached please find information related to Appalachian Power Company's Occupancy and Use Permit for constructing a boat dock intended to serve a single family residential use on Claytor Lake. To streamline the permitting process, a copy of the Application for Permit, details of Appalachian's guidelines for single family docks, the permit's Terms and Conditions, and a blank permit form for signature are being provided to you at the beginning of the process.

Instructions for completing this application and obtaining an Occupancy and Use Permit include the following:

1. Read the entire application packet carefully.
2. To help ensure a prompt response, please include all requested information. Incomplete applications will be returned for additional information.
3. The application requires a drawing of the proposed structure that will be considered the Exhibit A of the permit. It is important that this drawing accurately reflects the dock you want to build. A sample drawing for Exhibit A is included for your reference.
4. The Claytor Shoreline Management Plan (SMP) dated June 26, 2009, as modified and approved by the Federal Energy Regulatory Commission's Order Issuing New License dated December 27, 2011, and the Commissions' Order Approving Amended Shoreline Management Plan issued January 7, 2014 can be found at [www.claytorhydro.com](http://www.claytorhydro.com) under Shoreline Management Plan.
5. There may be additional requirements depending upon the Shoreline Classification within the project boundary at your proposed dock site. Shoreline classification maps can be found at [www.claytorhydro.com](http://www.claytorhydro.com) under Shoreline Management Plan. Any additional requirements can be found in the SMP.
6. If vegetation must be removed to provide access to the dock, then a Permit for Vegetation Removal must be obtained. Applications can be found at [www.claytorhydro.com](http://www.claytorhydro.com) under Shoreline Management Plans / Forms.
7. If shoreline stabilization is part of the project, then a Permit for Shoreline Stabilization must be obtained. Applications can be found at [www.claytorhydro.com](http://www.claytorhydro.com) under Shoreline Management Plans / Forms.

8. The property owner, not an agent or contractor, is required to sign the permit application and permit. Applications with incorrect signatures will be returned.
9. Information pertaining to the parcel number and deed book can be obtained by contacting Pulaski County. On-line information is available at <http://www.netgis.pulaskicountyva.gov/pulaski/>.
10. Your signature must be notarized on the blank permit.
11. Mail the completed application and the signed and notarized permit to the following address:

Appalachian Power Company  
Hydro Generation Department  
P.O. Box 2012  
Roanoke, VA 24012
12. Your final permit will be recorded at the Clerk of Court's office. Please enclose a check for \_\_\_\_\_ made payable to Pulaski County Clerk of the Circuit Court, for the recording fee.

If the structure complies with the SMP, an occupancy and use permit signed and notarized by Appalachian Power Company (APCO) will be issued. A copy of the permit will be mailed to the applicant and a copy of the permit will be forwarded to Pulaski County. The original will be recorded at the Clerk of Court's office.

The applicant will be responsible for obtaining the necessary permits from Pulaski County. A copy of the Pulaski County permit must be forwarded to APCO by the applicant for the APCO permit to be valid.

Should you have any additional questions, you may contact the following:

Wayne Alexander  
[wmalexander@aep.com](mailto:wmalexander@aep.com)  
540/985-2469

Elizabeth Parcell  
[ebparcell@aep.com](mailto:ebparcell@aep.com)  
540-985-2441

Sincerely,  
Elizabeth B. Parcell  
Process Supervisor Senior

**APPLICATION FOR PERMIT  
LOW DENSITY USE  
BOAT DOCK / PIER  
Claytor Hydroelectric Project**

\_\_\_\_\_, whose address is \_\_\_\_\_,  
\_\_\_\_\_ hereinafter referred to as **PERMITTEE OR GRANTEE**, makes this Application for a **Use and Occupancy Permit (“Permit”)** to **APPALACHIAN POWER COMPANY**, a Virginia corporation, hereinafter referred to as **APCO**.

WITNESSETH

**THAT, WHEREAS**, APCO either owns in fee, or holds easement rights over all land located with the 1850 foot contour elevation; and

**WHEREAS**, APCO has the authority and responsibility under its Federal Energy Regulatory Commission (FERC) license (“License”) and its land rights to review and authorize certain activities with the Claytor Project Boundary (all land within the 1850 foot contour) (the “Project”); and

**WHEREAS**, Permittee submits herewith its application for a Permit for a structure (“Permitted Facility”) for a structure “Permitted Facility” in accordance with the following described request:

Permittee’s Name(s): \_\_\_\_\_

Mailing Address: \_\_\_\_\_  
(street) (city) (state) (zip code)

Telephone: \_\_\_\_\_  
(day) (cell) (email)

Permit Activity Location  
Address (the “Site”): \_\_\_\_\_  
(street) (city) (state) (zip code)

County Tax Map and Parcel No.: \_\_\_\_\_

Deed Book and Page No. or Document No.: \_\_\_\_\_

Directions By Land: \_\_\_\_\_

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**To Be Completed by APCO**

Shoreline Classification: \_\_\_\_\_

Applicable SMP Regulations: \_\_\_\_\_

Project boundary at this location: \_\_\_\_\_



### To Be Completed by Applicant

Read the following carefully and fill in appropriate information.

Check appropriate box:

- New Low Density Single Family Residential boat dock, pier or similar structure
- Expansion or modification to existing low density single family residential boat dock, pier or similar structure

**Note 1:** A drawing with the following information must be provided before a Permit will be issued [Exhibit A attached]:

- Location and dimensions (length, width and height) of the proposed structure (the "Permitted Facility")
  - Location and dimensions of any existing structures to be retained within the Project boundary
  - Location of the Project boundary (generally the 1850-foot contour)
  - Location of the base elevation (1846-foot contour – full pond elevation)
  - Total length of shoreline at base elevation. (If the lot is less than 100' then documentation must be provided documenting that the lot was subdivided and recorded prior to August 14, 2003.)
  - Property lines (side lot lines and along shoreline).
  - Dock easement lines. (If dock easement lines are not extended property lines, then a copy of the plat for the subject area must be provided.)
  - Setback distances. (Distance between Permitted Facility to dock easement lines.)
  - Size and location of enclosed areas.
  - Total Square Footage: \_\_\_\_\_ sq. ft.
  - Distance across cove (as measured to the closest point on the shoreline): \_\_\_\_\_
  - If expansion, show existing and proposed.
  - If expansion, include a photo of existing structure.
  - Brief description of proposed work: \_\_\_\_\_
- 
- Subdivision plat showing lot or individual plat of lot.

Subdivided by and recorded.

**NOTE 2:** Routine maintenance to an existing structure (no new slips, no new pilings, no new personal watercraft slips, no change in size or shape of existing structure, no enclosing previously opened areas, etc.) does not require an APCO Permit unless a Pulaski County Permit is required.

**NOTE 3:** This APCO permit is contingent upon approved county permits. Copies of approved county permits (zoning and building) (the "County Permit"), once received, must be submitted to APCO by the Permittee for a Permit to be valid.

**NOTE 4:** The Permitted Facility must meet the requirements of the Claytor Project Shoreline Management Plan dated June 26, 2009 as approved and modified by FERC Order Issuing New License issued December 27, 2011 and by FERC Order Approving Amended Shoreline Management Plan issued January 7, 2014.

**The Permittee acknowledges and accepts the Terms and Conditions of APCO's Permit for Occupancy and Use as set forth in Exhibit "B" and future acknowledges the following:**

APCO, pursuant to its License, has the continuing responsibility to supervise and control the uses and occupancies for which it has granted permission and to monitor the use of and ensure compliance with the conditions under which this Permit has been granted. As a result, the use and occupancy hereby permitted is deemed to be made under a revocable license from APCO. As such, if the use and occupancy violates any condition of the License or any other condition imposed for the protection and enhancement of the project's scenic, recreational or other environmental values, or upon the petition of any other permitting agency, or at its discretion as landowner or easement rights holder, APCO shall take such lawful action necessary to address the situation. Such action may include, if necessary, the cancellation of this Permit and the removal of the non-complying structures and facilities. Furthermore, any structures or other use associated with this Use and Occupancy Permit must be maintained in good repair and comply with applicable federal, state and local requirements.

In addition, the water levels at Claytor can fluctuate two feet during peaking operations and the reservoir may be lowered in anticipation of high inflow events, for maintenance, annual drawdown for dock / shoreline stabilization maintenance (if approved) or due to drought. Mail the completed Application with Exhibits "A" and "B" and the permit signed by you to the following address:

Appalachian Power Company  
Hydro Generation Department  
P.O. Box 2012  
Roanoke, VA 24012

I/We certify that the above information is true and correct, and that I/we have read and agree to the Terms and Conditions of the Permit as set forth on Exhibit B.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature of Permittee

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Signature of Permittee

\_\_\_\_\_  
Print Name

Exhibit A – Dock Drawing to be Provided by Applicant

Sample Exhibit A

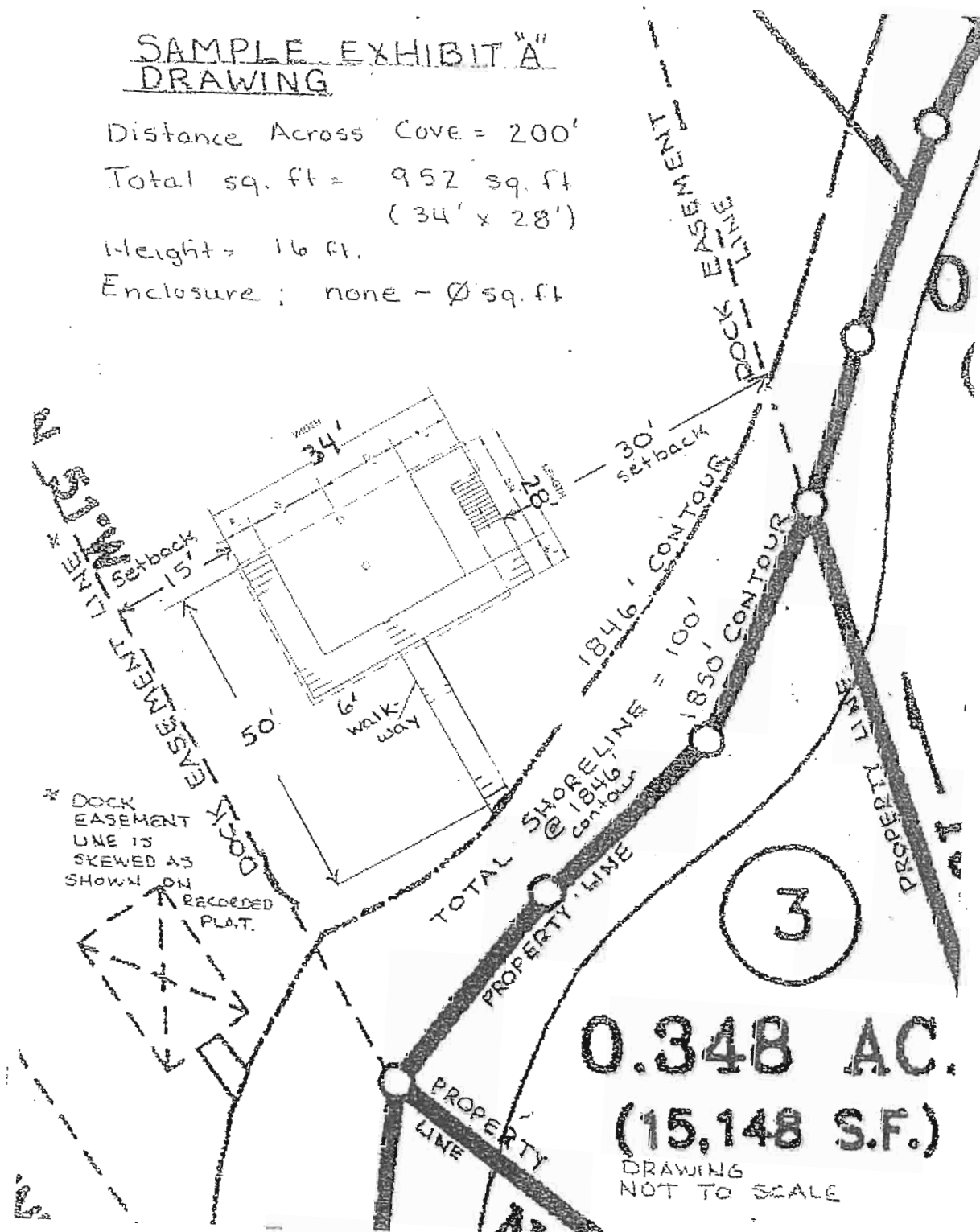
SAMPLE EXHIBIT "A"  
DRAWING

Distance Across Cove = 200'

Total sq. ft = 952 sq. ft  
(34' x 28')

Height = 16 ft.

Enclosure : none - Ø sq. ft





## Exhibit B

### Low Density Use - Boat Dock / Pier Claytor Lake

#### TERMS AND CONDITIONS OF PERMIT FOR PERMITTED FACILITY

This permit is granted by APCO and accepted by Grantee, subject to the following terms and conditions:

1. Grantee is the owner or lessee of the property adjacent to the 1850 foot contour elevation surrounding the Claytor Lake.
2. This Permit is granted solely for the purpose described in this Permit. No addition or design change shall be made to this Permitted Facility without prior approval from APCO.
3. Construction shall begin within 90 days and shall be completed within one (1) year of the Permit issuance date.
4. All shoreline distances are measured from the 1846 foot contour National Geodetic Vertical Datum (NGVD). Verifying the location of these elevations and all appropriate distances is the responsibility of the Grantee.
5. The Permitted Facility shall not be used for human or animal habitation.
6. The Permitted Facility shall not contain permanent or temporary sanitation facilities.
7. Floating facilities shall be securely anchored.
8. No attempt shall be made by the Grantee to forbid the full and free use by the public of all waters within the project boundary, at or adjacent to the Permitted Facility or to unreasonably interfere with that full and free use in connection with the ownership, construction, operation or maintenance of the Permitted Facility.
9. a) APCO may revoke this Permit whenever it determines that the public interest necessitates such revocation. The revocation notice shall be by thirty (30) days' notice, mailed to the Grantee by registered or certified letter, and shall specify the reason for such action.  
  
b) APCO may revoke this Permit whenever it determines that the Grantee has failed to comply with the conditions of this Permit. The revocation notice shall be by thirty (30) days' notice, mailed to Grantee by registered or certified letter, and shall specify the reason for such action. The permit will not be terminated if Grantee is diligently working to cure such violations within a reasonable period after such notice.
10. The Grantee is responsible for proper design, engineering, construction, maintenance and placement of the Permitted Facility. APCO's review and approval of the plans are not guarantee or assurance the Grantee's plans are proper or adequate for the purpose intended.
11. It is understood and agreed by and between APCO and Grantee that part of the consideration for the granting of this Permit for shoreline uses is the Grantee's agreement to keep Project lands and waters occupied by and surrounding the Permitted Facility free

of all waste, garbage, and other unsightly debris and materials and is to comply with local health rules and regulations.

12. This Permit is granted to Grantee as a personal right and the parties agree that nothing herein shall be construed to create any easement or other property interest in Grantee. This Permit may be assigned to (i) a successor who shall purchase, inherit or otherwise acquire the land that is benefited by this Permit or (ii) to a property or unit owners association which shall be responsible for the maintenance of the boat slips permitted hereby and the land which is benefited by this Permit or (iii) to a bank or other licensed lending institution which shall provide a loan on the land that is benefited by this Permit or for the construction of the boat slips which are permitted hereby. In order to be effective, any assignment shall provide for the assignee's agreement in writing to comply with the terms of this Permit and APCO must give its written consent to such assignment, which consent shall not be unreasonably withheld. Any other attempted assignment or transfer shall render this Permit null and void.
13. In the event that any previously known or unknown cultural resource materials are discovered, all work associated with this permit must be stopped. APCO must be notified and consultation with the State Historic Preservation Office (SHPO) must be completed before any further work within the work area will be allowed to continue. In addition:
  - a. The Grantee shall notify APCO and SHPO immediately and follow-up with a written account of the discovery. The Grantee may be required to employ an archaeologist who meets or exceeds the qualifications described in the Secretary of the Interior's Professional Qualifications Standards (48 FR 44738-9) to assess the eligibility of the resource for inclusion in the National Register.
  - b. If the resource is determined to be eligible for inclusion in the National Register, and the Grantee wishes to continue with the activity, the Grantee shall ensure that an archaeologist who meets or exceeds the qualifications described in the Secretary of the Interior's Professional Qualifications Standards (48 FR 44738-9) shall prepare a plan for its avoidance, protection, or recovery of information. The SHPO shall approve such plan, prior to implementation.
  - c. Work in the affected area shall not proceed until either:
    - i. Appropriate data recovery or other approved mitigation procedures are developed and implemented, or
    - ii. The determination is made that the located resources are not eligible for inclusion on the National Register.
14. Any other associated work within the project boundary shall be done in accordance with the Shoreline Management Plan for the Claytor Project, dated June 26, 2009, as modified and approved by the Federal Energy Regulatory's Order Issuing New License dated December 27, 2011 and the Commission's Order Approving Amended Shoreline Management Plan issued January 7, 2014 and all associated amendment, addendum and revision hereto in effect as of the date of this Permit.
15. The Permitted Facility shall be constructed, maintained, and operated in accordance with plans heretofore submitted to and approved by APCO. No modifications to the Permitted Facility, or additions thereto, or use thereof, shall be made without first securing the approval of APCO.

16. This Permit is granted at the sole risk of Grantee, their employees, agents, contractors, subcontractors and designees and Grantee agrees to indemnify, hold harmless, and defend APCO, and its agents, employees, officers, directors and contractors to the extent permitted by law, against all costs, expenses, suits, actions, and claims arising out of injuries to persons (including death) or damages to property, caused by Grantee, their employees, agents, contractors, subcontractors or designees attributable to the performance of work on the above described Site, the presence or use of the Permitted Facility by Grantee, their employees, agents, contractors, subcontractors, or designees, excepting any liability arising from APCO's sole negligence, or that portion of any liability attributable to APCO's contributing or concurrent negligence.
17. This Permit is granted subject to all of the terms and conditions of APCO's License for the Claytor Project No. 739, and any amendments or renewals thereof, and any orders granted by Federal Energy Regulatory Commission pursuant to the provisions of the License; to all prior easements, rights-of-way, covenants, conditions, and servitudes whether or not of record affecting title to the Site, and to such state of facts as an accurate survey or examination of the Site may reveal.
18. Grantee shall at their expense keep and maintain the Site and the Permitted Facility thereon and appurtenances, thereof in good repair and in safe and sanitary condition, ordinary wear and tear excepted. Grantee shall conform with and do all things necessary to comply with every applicable state, federal, or local governmental statute, law, regulation, order, or requirement relating to the Permitted Facility. Grantee shall take appropriate action to guard and warn against dangerous conditions, uses, structures, or activities on the Site. At the expiration or earlier termination of this Permit, Grantee shall return the Site to APCO in substantially the same condition as when the Grantee's occupancy commenced, ordinary wear and tear excepted unless otherwise directed. Throughout the term of this Permit, APCO shall have the right to all reasonable times to enter the Site for the purpose of inspecting same.
19. Grantee shall keep and maintain the Site and the Permitted Facility thereon and appurtenances thereof free of any unapproved regulatory markers and any non-regulatory markers or buoys.
20. Grantee agrees that they will assert no interest contrary to that held by APCO with respect to the Site, and that their status hereunder shall be deemed to be that of a licensee.
21. Grantee shall make any person using the Permitted Facility aware of these conditions and ensure their compliance therewith.
22. Grantee agrees to all conditions set forth in Shoreline Management Plan for the Claytor Project, dated June 26, 2009, the Order Issuing New License dated December 27, 2011 and the Order Approving Amended Shoreline Management Plan issued January 7, 2014 and all associated amendment, addendum and revision hereto in effect as of the date of this Permit.
23. Where applicable, the terms of the **FLOWAGE RIGHT AND EASEMENT DEED CLAYTOR HYDROELECTRIC PROJECT** (the "Easement") that apply to the Permitted Facility are incorporated herein by reference. The terms and provisions of the Easement shall control wherever the same may be in conflict with this Permit.

**OCCUPANCY AND USE PERMIT**  
**Prepared by Appalachian Power Company**

This Permit by and between **APPALACHIAN POWER COMPANY (APCO)**, a Virginia corporation, whose address is 40 Franklin Road, S.W., Roanoke, Virginia 24022, hereinafter referred to as the **GRANTOR**; and \_\_\_\_\_, hereinafter referred to as the **GRANTEE**, whose address is \_\_\_\_\_.

**WITNESSETH**

**THAT, WHEREAS**, APCO either owns in fee, or holds easement rights over all land located with the 1850 foot contour elevation; and

**WHEREAS**, APCO has the authority and responsibility under its Federal Energy Regulatory Commission (FERC) license ("License") and its land rights to review and authorize certain activities with the Claytor Project boundary (all land within the 1850 foot contour) (the "Project"); and

**WHEREAS**, Grantee has received all necessary approvals from the responsible state and local authorities to install the following improvements (the "Permitted Facility") adjacent to property located at \_\_\_\_\_ (the "Site") and referred to as Tax Map and Parcel Number \_\_\_\_\_ according to the Pulaski County Real Estate Records and as submitted in an application to Grantor signed and dated \_\_\_\_\_ with cover letter from APCO signed and dated \_\_\_\_\_:

- New Low Density Single Family Residential boat dock, pier, or similar structure
- Expansion or modification to existing low density single family residential boat dock, pier or similar structure

**WHEREAS**, no money has exchanged hands for this permit.

**WHEREAS**, the Permitted Facility is a type of a use and occupancy of the Project's lands and waters for which a Permit may be granted under the License; and

**WHEREAS**, Grantor has the continuing responsibility to supervise and control the uses and occupancies for which it has granted a Permit and to monitor the use of and ensure compliance with the conditions under which the Permit has been granted; and

**WHEREAS**, Grantor is willing to issue this Permit to Grantee for the aforesaid use and occupancy of the Project's lands and waters upon the terms and conditions hereinafter set forth.

**NOW THEREFORE**, for and in consideration of the Premises and other good and valuable consideration, the receipt of which is hereby acknowledged, Grantor grants to Grantee this Permit, being the right and license to enter upon the Project lands lying adjacent to and abutting Grantee's property for the purpose of installing, operating and maintaining the Permitted Facility, including the right of ingress and egress, with all materials and equipment necessary or convenient to effectively carry out the above stated activity in a good and workmanlike manner.

By acceptance of this Permit, Grantee agrees to the Terms and Conditions set forth on Exhibit "B" attached hereto and the following:

Grantor, pursuant to its License, has the continuing responsibility to supervise and control the uses and occupancies for which it has granted permission and to monitor the use of and ensure compliance with the conditions under which this Permit has been granted. As a result, the use and occupancy hereby permitted is deemed to be made under a revocable license from Grantor. As such, if the use and occupancy violates any condition of the License or any other condition imposed for the protection and enhancement of the Project's scenic, recreational or other environmental values, or upon the petition of any other permitting agency, Grantor shall take such lawful action necessary to address the situation. Such action may include, if necessary, the cancellation of this Permit and the removal of the non-complying structures and facilities. Furthermore, any structures or other use associated with this Use and Occupancy Permit must be maintained in good repair and comply with applicable federal, state and local requirements.

In addition, the water levels at Claytor can fluctuate two feet during peaking operations and the reservoir may be lowered in anticipation of high inflow events, for maintenance or due to drought.

The Grantee acknowledges that the any Permit granted shall be limited to Grantor's authority under its License and to its land rights to the property within the Project.

DATED this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

GRANTOR:

APPALACHIAN POWER COMPANY

By: \_\_\_\_\_

Bradley R. Jones  
Plant Manager - Hydro  
American Electric Power Service Corporation  
Authorized Signer

GRANTEE:

\_\_\_\_\_  
\_\_\_\_\_

STATE OF VIRGINIA )  
 ) To-wit:  
\_\_\_\_ OF \_\_\_\_\_ )

The foregoing Permit was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, by Bradley R. Jones, Plant Manager - Hydro, American Electric Power Service Corporation, Authorized Signer for Appalachian Power Company, on behalf of the company.

\_\_\_\_\_  
Notary Public  
My commission expires: \_\_\_\_\_

STATE OF \_\_\_\_\_ )  
 ) To-wit:  
\_\_\_\_ OF \_\_\_\_\_ )

The foregoing Permit was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, by \_\_\_\_\_, GRANTEE.

\_\_\_\_\_  
Notary Public  
My commission expires: \_\_\_\_\_