

CESAS-RD  
200701521

SUBJECT: Regional Permit No. 98

Effective Date: February 27, 2008

Expiration Date: February 27, 2013

DEPARTMENT OF THE ARMY  
REGIONAL PERMIT FOR  
PRIVATE SINGLE FAMILY DOCKS  
ON LAKE BLUE RIDGE, FANNIN COUNTY, GEORGIA  
SAVANNAH DISTRICT

DESCRIPTION OF THE REGIONAL PERMIT: On the recommendation of the United States Army Corps of Engineers (USACE), Chief of Engineers, pursuant to Section 404 of the Clean Water Act (33 USC 1344), authority is hereby given to discharge dredged and/or fill material incidental to the construction of private single family docks on Lake Blue Ridge (a Section 10 navigable water of the United States, as per the 1899 Rivers and Harbors Act), in Fannin County, Georgia. This would include floating and fixed docks, walkways, boathoists, connecting ramps, and pilings. This Regional Permit **cannot** be used for construction of docks associated with commercial marinas. The overall project cannot impact more than 0.10-acre of open water. The impact area includes any waters of the US (waters) impacted by floating and fixed structures and fill associated with permanent walkways.

I. GENERAL CONDITIONS

1. The prospective permittee shall not begin the activity until notified in writing by the USACE, Savannah District, Regulatory Division, that the activity may proceed under the RP.
2. The project must be designed and constructed to avoid and minimize any adverse effects (impacts) to waters of the US to the maximum extent practicable.
3. Mitigation will not be required as all impacts associated with this Regional Permit will be less than 0.10-acre of open water.
4. Any structure or fill shall be properly constructed, stabilized and maintained to ensure public safety.
5. No activity or its operation may impair reserved tribal rights, including, but not limited to, reserved water rights and treaty fishing and hunting rights.

6. No activity which may affect historic properties listed, or eligible for listing, in the National Register of Historic Places (NRHP) is authorized, until the DE has complied with the provisions of 33 CFR Part 325, Appendix C. The prospective permittee must notify the DE if the authorized activity may affect any historic properties listed, determined to be eligible, or which the prospective permittee has reason to believe may be eligible for listing on the NRHP, and shall not begin the activity until notified by the DE that the requirements of the National Historic Preservation Act have been satisfied and that the activity is authorized. Information on the location and existence of historic resources can be obtained from the State Historic Preservation Office and the NRHP (see 33 CFR 330.4(g)). For activities that may affect historic properties listed in, or eligible for listing in, the NRHP, the notification must state which historic property may be affected by the proposed work or include a vicinity map indicating the location of the historic property.

7. Endangered Species;

a. No activity is authorized under this RP which is likely to jeopardize the continued existence of a threatened or endangered species or a species proposed for such designation, as identified under the Federal Endangered Species Act, or which will destroy or adversely modify the critical habitat of such species. Prospective permittees shall notify the DE if any listed species or designated critical habitat might be affected or is in the vicinity of the project, or is located in the designated critical habitat and shall not begin work on the activity until notified by the DE that the requirements of the Endangered Species Act have been satisfied and that the activity is authorized. For activities that may affect Federally-listed threatened or endangered species or designated critical habitat, the notification must include the name(s) of the threatened or endangered species that may be affected by the proposed work or that utilize the designated critical habitat that may be affected by the proposed work. As a result of formal or informal consultation with the US Fish and Wildlife Service (USFWS) or National Marine Fisheries Service (NMFS), the DE may add species-specific regional endangered species conditions to this RP.

b. Authorization of an activity by this RP does not authorize the “take” of a threatened or endangered species as defined under the Federal Endangered Species Act (ESA). In the absence of separate authorization (e.g., an ESA Section 10 Permit, a Biological Opinion with “incidental take” provisions, etc.) from the USFWS or the NMFS, both lethal and non-lethal “takes” of protected species are in violation of the Endangered Species Act. Information on the location of threatened and endangered species and their critical habitat can be obtained directly from the offices of the USFWS and NMFS on their web pages at <http://www.fws.gov/athens> and [http://www.nmfs.gov/prot\\_res/esahome.html](http://www.nmfs.gov/prot_res/esahome.html), respectively.

8. No activity may occur in close proximity of a public water supply intake.

9. No activity may consist of unsuitable material (e.g., trash, debris, asphalt, etc.) and material used for construction or discharge must be free from toxic pollutants in toxic amounts (see Section 307 of the Clean Water Act).

10. Activities in breeding areas for migratory waterfowl must be avoided to the maximum extent practicable.

11. A pre-construction notification is required for use of this RP. Impacts to open-waters must be calculated and reported in acres.

12. This RP cannot be used to authorize projects that would impact compensatory mitigation sites or an approved compensatory mitigation bank, unless that project's purpose is to enhance the mitigation site or bank. An individual permit application would be required for these projects.

13. All work conducted under this RP shall be located, outlined, designed, constructed and operated in accordance with the minimal requirements as contained in the Georgia Erosion and Sedimentation Control Act of 1975, as amended. Utilization of plans and specifications as contained in "Manual for Erosion and Sediment Control, (Latest Edition)" published by the Georgia Soil and Water Conservation Commission or their equivalent will aid in achieving compliance with the aforementioned requirements. The latest edition of the manual can be accessed at [www.gaswcc.org](http://www.gaswcc.org).

14. Projects authorized under this RP, but not commenced before the expiration date, must be re-coordinated.

15. This RP cannot be used in conjunction with any other Department of the Army authorization/s in order to enlarge the project size.

16. That the District Engineer or their authorized representative(s) or designee(s) be allowed to make periodic inspections at any time deemed necessary in order to assure that the activity being performed under authority of this permit is in accordance with the terms and conditions prescribed herein.

17. That an activity authorized to a permittee under this Regional Permit may not be transferred to a third party without prior written notice and approval by the District Engineer, requiring either the transferee's written agreement to comply with all terms and conditions of the Regional Permit and the permittee's authorization for the activity issued under the permit or by the transferee subscribing to an authorization issued to them under the permit and thereby agreeing to comply with all terms and conditions of the Regional Permit and their authorization. In addition, if a permittee's interests authorized herein are transferred by conveyance or realty, the deed shall reference the permittee's authorization and the Regional Permit and the terms and conditions specified herein, and their authorization under this permit shall be recorded along with the deed with the Register of Deeds or other appropriate official.

18. That the Savannah District Engineer may determine that an Individual Permit application is required on a case-by-case basis if he or she feels it is in the public interest.

19. This RP cannot be used to authorize projects that involve the discharge of wet or otherwise uncured concrete below the ordinary high water mark unless the concrete is contained within waterproof forms until the concrete cures.

20. All work performed during construction will be done in a manner so as not to violate applicable water quality standards.

21. No oils, grease, materials or other pollutants will be discharged from the construction activities which reach public waters.

## II. SPECIAL CONDITIONS

1. That use of the permitted activity must not interfere with the public's right to free navigation on navigable waters of the United States.

2. That permittee hereby recognizes the possibility that the structure permitted herein may be subject to damage by natural forces and by wave wash from passing vessels. The issuance of this State Programmatic General Permit does not relieve the permittee from taking all proper steps to insure the integrity of the structure permitted herein and the safety of boats moored thereto from damage by wave wash and natural forces, and a permittee shall not hold the United States or the State of Georgia liable for any such damage.

3. The permittee understands and agrees that, if future operations by the United States require the removal, relocation, or other alteration, of the structure or work herein authorized, or if, in the opinion of the Secretary of the Army or his authorized representative, said structure or work shall cause unreasonable obstruction to the free navigation of the navigable waters, the permittee will be required, upon due notice from the Corps of Engineers, to remove, relocate, or alter the structural work or obstructions caused thereby, without expense to the United States. No claim shall be made against the United States on account of any such removal or alteration.

4. The flotation units of floating facilities shall be constructed of material which will not become waterlogged or sink when punctured.

5. The dock shall not be used for human habitation and there shall be no discharge from the dock into the water. There shall be no toilet or fueling facilities allowed on the structures.

6. That no other structure or covers, not specifically authorized herein, shall be constructed on the dock facility without prior Department of the Army approval.

7. That the permittee must install and maintain, at his expense, any safety lights and signals prescribed by the United States Coast Guard (USCG), through regulations or otherwise, on the authorized facilities. The USGC may be reached at the following address and telephone number:

Commander  
7<sup>th</sup> Coast Guard District (OAN)  
Brickell Plaza Federal Building  
909 S.E., First Avenue  
Miami, Florida 33131-3050  
Tel. (305) 415-6730

8. That the work will be accomplished in accordance with the plan and drawings attached hereto which are incorporated in and made a part of this permit.

### III. NOTIFICATION (APPLICATION) REQUIREMENTS

To perform work under the authority of this RP, the prospective permittee must notify the USACE by submitting a pre-construction notification (PCN) as early as possible. However, if the prospective permittee does not provide all of the requested information, then the USACE will notify the prospective permittee that the PCN is still incomplete and what information is necessary. The PCN review process will not commence until all of the requested information has been received by the USACE. The prospective permittee shall not begin the activity until authorization is received in writing from the USACE. The PCN must be in writing and include the following information:

1. Property owner's name, mailing address and daytime telephone number, city, county, latitude/longitude, and maps identifying the project and property boundaries. Maps should be of an appropriate scale to locate the site by nearby landmarks. If the property owner is an organization, identify a contact person. If the property owner is not the applicant, also identify the person making the request including name, mailing address and daytime telephone number;
2. A brief description of the proposed project; the project's purpose; direct and indirect adverse environmental effects the project would cause; any other Department of the Army authorization/s used, or intended to be used, to authorize any part of the proposed project or any related activity;
3. A delineation of the open water onsite. Delineations must be prepared in accordance with the current method required by the Corps. An open water delineation will likely require a survey of Lake Blue Ridge's normal pool elevation (1690' Mean Sea Level);
4. Plan and section view drawings of the dock showing the acres of open water to be impacted (impacts include floating structures and/or filling associated with walkways);
5. An alternatives analysis showing why further measures to avoid/minimize impacts to the aquatic ecosystem are not practicable;
6. Any structure or fill shall be properly constructed, stabilized and maintained to ensure public safety;

7. A statement that the proposed pond would not impair reserved tribal rights, including, but not limited to, reserved water rights and treaty fishing and hunting rights;
8. A statement regarding the presence of endangered species present on the project site. Information regarding Endangered Species can be found [http://athens.fws.gov/endangered/counties\\_endangered.html](http://athens.fws.gov/endangered/counties_endangered.html), <http://www.fws.gov/athens> and [http://www.nmfs.gov/prot\\_res/esahome.html](http://www.nmfs.gov/prot_res/esahome.html);
9. A statement regarding the presence of cultural resources (historic properties listed, or eligible for listing, in the National Register of Historic Places) present on or near the project site and if a survey has been performed. Information on the location and existence of historic resources can be obtained from the State Historic Preservation Office, the National register of Historic Places and at <http://www.nr.nps.gov/>;
10. Distance from the proposed dock facility to the nearest public water supply intake;
11. Description of the material to be used for construction and that it will not contain any trash, debris, asphalt or toxic pollutants;
12. A statement explaining how the proposed dock facilities will avoid activities in breeding areas for migratory waterfowl to the maximum extent practicable.
13. A signed statement that the applicant (and landowner if different) understands the RP's conditions and will comply with them.

#### IV. FURTHER INFORMATION

1. Congressional Authorities: Authorization to undertake the activities described above are pursuant to Section 404 of the Clean Water Act (33 USC 1344).
2. Limits of this authorization:
  - a. This Permit does not obviate the need to obtain other Federal, State or local authorizations required by law.
  - b. This Permit does not grant any property rights or exclusive privileges.
  - c. This Permit does not authorize injury to the property or rights of others.
  - d. This Permit does no authorize interference with any existing or proposed Federal project.
3. Limits of Federal Liability. In issuing this Permit, the Federal Government does not assume any liability for the following:

- a. Damages to the permitted project or uses thereof as a result of other permitted or unpermitted activities or from natural causes.
- b. Damages to the permitted project or uses thereof as a result of current or future activities undertaken by or on behalf of the United States in the public's interest.
- c. Damages to person, property or to other permitted or unpermitted activities or structures caused by the activity authorized by this Permit.
- d. Design or construction deficiencies associated with the permitted work.
- e. Damage claims associated with any future modification, suspension or revocation of this Permit.

4. Re-evaluation of Permit Decision. The US Army Corps of Engineers may re-evaluate its decision on any activity authorized at any time the circumstances warrant. Circumstances that would require a re-evaluation include, but are not limited to, the following:

- a. The permittee's failure to comply with the terms and conditions of the Permit.
- b. The information provided by the permittee in support of his Permit application proves to be false, incomplete or inaccurate.
- c. Significant new information surfaces which the US Army Corps of Engineers did not consider in reaching the original public's interest decision.

Re-evaluation may result in a determination that it is appropriate to use the suspension, modification and revocation procedures contained in 33 CFR 325.7 or enforcement procedures provided in 33 CFR 326.4 and 326.5. The reference enforcement procedures provide for the issuance of an administrative order requiring the permittee to comply with the terms and conditions of his Permit authorizations and for the initiation of legal action where appropriate. The permittee will be required to pay for any corrective measures ordered by the US Army Corps of Engineers, and if the permittee fails to comply with such a directive, the US Army Corps of Engineers may in certain situations (such as those specified in 33 CFR 209.170) accomplish the corrective measures by contract or otherwise and bill the permittee for the cost.

This Regional Permit becomes effective when the Federal official, designated to act for the Secretary of the Army, has signed below.

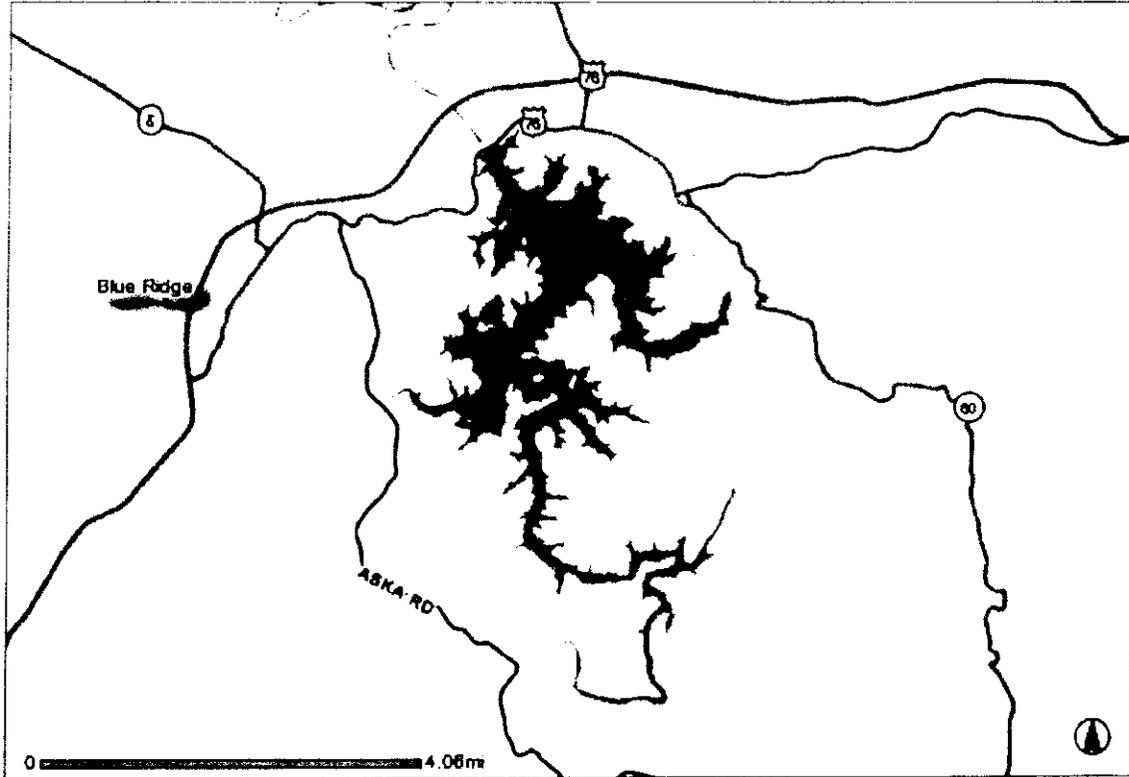
BY AUTHORITY OF THE SECRETARY OF THE ARMY:

  
 \_\_\_\_\_  
 for Edward J. Kertis  
 Colonel, US Army  
 District Engineer

2/19/08  
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 Date

# sites

## Lake Blue Ridge, Fannin County, Georgia



### Legend

-  Interstates
-  Highways
-  Major Roads
-  water
-  Cities
-  Counties
-  States