

## DEPARTMENT OF THE ARMY PERMIT

### PERMITTEE:

The US Forest Service  
Chattahoochee-Oconee National Forest  
1755 Cleveland Highway  
Gainesville, Georgia 30501

PERMIT NUMBER: RP99

### ISSUING OFFICE:

Savannah District  
US Army Corps of Engineers  
1590 Adamson Parkway, Suite 200  
Morrow, Georgia 30260

NOTE: The term "you" and its derivatives used in this permit, means the permittee or any future transferee. The term "this office" refers to the appropriate District or Division office of the US Army Corps of Engineers having jurisdiction over the permitted activity or the appropriate official of that office acting under the authority of the commanding officer.

You are authorized to perform work in accordance with the terms and conditions specified below.

PROJECT DESCRIPTION: To construct trout habitat structures on US Forest Service property (See attached drawings).

PROJECT LOCATION: US Forest Service Property in the State of Georgia.

### PERMIT CONDITIONS:

#### 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. Any structure or fill shall be properly constructed, stabilized and maintained to ensure public safety.
4. No activity or its operation may impair reserved tribal rights, including, but not limited to, reserved water rights and treaty fishing and hunting rights.

5. 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.

6. 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.

c. Documentation of coordination with USFWS will be submitted with the PCN application.

d. No structures would be authorized under the RP in streams with listed aquatic species, in stream habitat within 1 mile upstream or downstream of these aquatic listed species, or in adjacent riparian buffers.

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.
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 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.
18. All work performed during construction will be done in a manner so as not to violate applicable water quality standards.
19. No oils, grease, materials or other pollutants will be discharged from the construction activities which reach public waters.
20. 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.

21. The US Forest Service, if applicable, shall apply for a Stream Buffer Variance to be issued by the Director of EPD as provided in the Georgia Erosion and Sedimentation Act of 1975, as amended, O.C.G.A. 12-7-6(b)(15) and (16).
22. The US Forest Service, if applicable, shall do mitigation required under the Georgia Erosion and Sedimentation Act and be completed prior to final stabilization of permitted land disturbing activities on the project site.
23. The work authorized by this Regional Permit is valid for a period of five years from the date of issuance unless modified, suspended, or revoked by the District Engineer. The time limit for completing the work authorized by this Regional Permit ends on April 15, 2013.
24. All work shall be performed in accordance with the following enclosed documents, plans, and drawings that are incorporated in and made a part of this permit:

a. Georgia Department of Natural Resources, Environmental Protection Division, Section 401 Water Quality Certification, dated February 14, 2008.

b. Plans and Drawings:

- (1) Location Map.
- (2) Structural drawings.

Your signature below, as permittee, indicates that you accept and agree to comply with the terms and conditions of this permit.

Ray M Ellis  
(PERMITTEE)  
for George Bain

4/23/08  
(DATE)

This permit becomes effective when the federal official, designated to act for the Secretary of the Army, has signed below.

Edward J. Katus  
for Edward J. Katus  
Colonel, US Army  
District Engineer

4/23/08  
(Date)



When the structures or work authorized by this permit are still in existence at the time the property is transferred, the terms and conditions of this permit will continue to be binding on the new owner(s) of the property. To validate the transfer of this permit and the associated liabilities with compliance with its terms and conditions, have the transferee sign and date below.

\_\_\_\_\_  
(TRANSFEEE)

\_\_\_\_\_  
(DATE)