



DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS, SAVANNAH DISTRICT
4751 BEST ROAD, SUITE 140
COLLEGE PARK, GEORGIA 30337-5600

February 9, 2022

Regulatory Division
SAS-2012-00944 – Draft Programmatic Permit 98
SAS-2016-00798 – Draft Regional Permit 99

JOINT PUBLIC NOTICE
Savannah District/State of Georgia

**PROPOSAL TO REISSUE PROGRAMMATIC GENERAL PERMIT 98
AND REGIONAL PERMIT 99
TO AUTHORIZE MINOR STRUCTURES AND WORK
IN BLUE RIDGE, NOTTELY AND CHATUGE RESERVOIRS
WITHIN THE STATE OF GEORGIA**

The Savannah District, U.S. Army Corps of Engineers (Corps) proposes to reissue Programmatic General Permit 98 (PGP 98) and Regional Permit 99 (RP 99) for a period of five (5) years, to authorize minor structures and work in waters of the United States.

Scope: Programmatic General Permits (PGPs) are used by the Corps to avoid unnecessary duplication of regulatory control over activities that are regulated by another Federal, state, or local agency. Regional Permits (RPs) are used by the Corps to expedite review. Both PGP 98 and RP 99 would be used to authorize activities that are substantially similar in nature and cause only minimal individual and cumulative environmental impacts (33 CFR Parts 322.2(1), 325.2(e) and 330).

Location: PGP 98 and RP 99 would authorize activities in Blue Ridge Reservoir, located on the Toccoa River in Fannin County, Georgia (Lat 34.8825, Lon -84.2790); Nottely Reservoir, located on the Nottely River in Union County, Georgia (Lat 34.9614; Lon -84.0960); and the southern portion of Chatuge Reservoir, located on the Hiwassee River in Towns County, Georgia (Lat 34.9851, Lon -83.7944).

Authorities: The Tennessee Valley Authority (TVA) is the lead Federal agency for permitting reservoir shoreline development on Blue Ridge, Nottely and Chatuge Reservoirs through issuance of Section 26a permits, which regulate the construction of shoreline structures and other related activities. Section 26a of the TVA Act (US Congress, 1933, as amended) requires TVA approval be obtained prior to construction, operation, or maintenance of any activity, appurtenant works, or other obstruction affecting navigation, flood control, public lands, or reservations along or in the Tennessee River or its tributaries.

Blue Ridge Reservoir is regulated by the Corps under Section 10 of the Rivers and Harbors Act of 1899 (33 United States Code (U.S.C.) 403) (Section 10), and Section

404 of the Clean Water Act (33 U.S.C. 1344) (Section 404). Nottely and Hiwassee Reservoirs are regulated by the Corps solely under Section 404.

Proposed PGP 98: Prior to conducting work under authority of PGP 98, a Section 26a Permit must be issued by TVA. When TVA completes review of a proposal and issues a Section 26a Permit for a structure or work listed in PGP 98, such a structure or work would thereby be verified by the Corps to be authorized by PGP 98. Neither the permittee nor TVA would be required to coordinate with the Corps to confirm that such a structure or work is authorized by PGP 98. Activities proposed for authorization under PGP 98 include docks, marinas, buoys, pilings, dolphins, new work excavation, bank stabilization, boat ramps, jetties, breakwaters, swim beaches, and fish attractors. A copy of draft PGP 98 is attached.

Proposed RP 99: New work excavation for navigation access would be authorized by PGP 98, as proposed; however, subsequent excavation of accumulated sediment for maintenance purposes would not be authorized by the PGP. When TVA issues a 26a Permit for channel access, the permit also authorizes subsequent maintenance excavation of accumulated sediment, if required; and the 26a Permit does not expire if work commences within eighteen months of the date of issuance. Conversely, PGP 98 authorization for channel access would only be valid for a period of five years. Therefore, subsequent maintenance excavation of accumulated sediment would require separate Corps' authorization under RP 99. Prior to performing maintenance excavation an application must be submitted to the Corps, and written verification must be received from the Corps that the work is authorized by RP 99. A copy of draft RP 99 is attached.

STATE OF GEORGIA

Water Quality Certification: The activities proposed for authorization under PGP 98 and RP 99 involve structures and work that would only be performed between the reservoir shoreline and surface of the lake, when the lake is well below full pool elevation, referred to as "work in the dry". These proposed activities would have very little, if any potential, to impact water quality.

The Georgia Department of Natural Resources, Environmental Protection Division, intends to certify PGP 98 and RP 99 at the end of 30 days in accordance with the provisions of Section 401 of the Clean Water Act, which is required for a Federal Permit to conduct activity in, on, or adjacent to the waters of the State of Georgia. The proposed PGP and RP are enclosed with this Joint Public Notice. Any person who desires to comment, object, or request a public hearing relative to State Water Quality Certification must do so within 30 days of the date of this notice and state the reasons or basis of objections or request for a hearing. Comments, objections, or requests for a public hearing should be sent to the Georgia Department of Natural Resources,

Environmental Protection Division, Water Protection Branch, 7 Martin Luther King Jr. Drive, Suite 450, Atlanta, Georgia 30334.

State-owned Property and Resources: Persons intending to perform work under authority of the PGPs may also require assent from the State of Georgia, which may be in the form of a license, easement, lease, permit or another appropriate instrument.

US ARMY CORPS OF ENGINEERS

Background: PGP 98 expired on January 25, 2022, and RP 99 is due to expire on March 21, 2022.

Cultural Resources Assessment: The proposed PGP and RP would not authorize activities which would adversely affect properties registered or listed as eligible for inclusion in the National Register of Historic Places. Presently unknown archaeological, scientific, prehistorical, or historical data may be located within the areas of consideration and could be affected by the proposed work.

Endangered Species: Pursuant to Section 7(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 et seq.), there are no known federally listed threatened or endangered species, or critical habitat present in the vicinity of the areas on Blue Ridge, Nottely or Chatuge Reservoirs, where work would be authorized by PGP 98 or RP 99. Therefore, the Corps has determined that reissuance of PGP 98 and RP 99, and the structures and work that would be authorized by these General Permits would have no effect on threatened or endangered species. By this Joint Public Notice, the Corps is requesting concurrence of its no effect determination from the U.S. Department of the Interior, Fish and Wildlife Service. There are no species under the purview of the National Marine Fisheries Service listed for the Georgia Counties where these reservoirs are located.

Public Interest Review: The decision whether to reissue PGP 98 and RP 99 will be based on an evaluation of the probable impact including cumulative impacts of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefit which reasonably may be expected to accrue from the proposal must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the proposal will be considered including the cumulative effects thereof; among those are conservation, economics, aesthetics, general environmental concerns, wetlands, historic properties, fish and wildlife values, flood hazards, flood plain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, considerations of property ownership and in general, the needs and welfare of the people.

Consideration of Public Comments: The Corps is soliciting comments from the public; federal, state, and local agencies and officials; Native American Tribes; and other interested parties to consider and evaluate the impacts of PGP 98 and RP 99. Any comments received will be considered by the Corps to determine whether to issue, modify, condition or not reissue these General Permits. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

Application of Section 404(b)(1) Guidelines: Certain activities that would be authorized by PGP 98 or RP 99 could involve the discharge of dredged or fill material into the waters of the United States. The Savannah District's evaluation of the impact of the activity on the public interest will include application of the guidelines promulgated by the Administrator, Environmental Protection Agency, under the authority of Section 404(b) of the Clean Water Act.

Public Hearing: Any person may request, in writing, within the comment period specified in this notice, that a public hearing be held to consider the reissuance of PGP 98 and RP 99. Requests for public hearings shall state, with particularity, the reasons for requesting a public hearing. The decision whether to hold a public hearing is at the discretion of the District Engineer, or his designated appointee, based on the need for additional substantial information necessary in evaluating the proposed PGP and RP.

Comment Period: Anyone wishing to comment on this application for a Department of the Army Permit should submit comments in writing to: Commander, U.S. Army Corps of Engineers, Savannah District, Attention: Adam White, 4751 Best Road, Suite 140, College Park, Georgia 30337-5600, no later than **30 days** from the date of this notice. Submittal of comments via email, to the address listed below, is also acceptable.

If you have any further questions concerning this public notice, please contact Adam F. White, Project Manager, Piedmont Branch at 678-422-2730, or adam.f.white@usace.army.mil.

Enclosures
Draft Programmatic General Permit 98
Draft Regional Permit 99

Programmatic General Permit No. 98

Effective Date: XXXX

Expiration Date: XXXX

DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS, SAVANNAH DISTRICT
PROGRAMMATIC GENERAL PERMIT 98
FOR MINOR STRUCTURES AND WORK IN
TENNESSEE VALLEY AUTHORITY RESERVOIRS
BLUE RIDGE, NOTTELY, AND CHATUGE
WITHIN THE STATE OF GEORGIA

1. On the recommendation of the Chief of Engineers, pursuant to Section 10 of the Rivers and Harbors Act of 1899 (33 United States Code (U.S.C.) § 403) (Section 10) and Section 404 of the Clean Water Act (CWA, 33 U.S.C. § 1344) (Section 404), authority is hereby given under Programmatic General Permit 98 (PGP 98) for minor structures and work in Blue Ridge Reservoir located on the Toccoa River in Fannin County, Georgia (Latitude 34.8825, Longitude -84.2790); Nottely Reservoir located on the Nottely River in Union County, Georgia (Latitude 34.9614, Longitude -84.0960); and the southern portion of Chatuge Reservoir located on the Hiwassee River in Towns County, Georgia (Latitude 34.9851, Longitude -83.7944). Blue Ridge Reservoir is regulated by the U.S. Army Corps of Engineers under Section 10 and Section 404. Nottely and Hiwassee Reservoirs are regulated under Section 404 only.

2. The Tennessee Valley Authority (TVA) manages reservoir shoreline construction in Blue Ridge, Nottely, and Chatuge Reservoirs through issuance of Section 26a Permits, which regulate the construction of shoreline structures and other related activities. Section 26a of the TVA Act (U.S. Congress, 1933 as amended) requires that the TVA approval be obtained prior to construction, operation, or maintenance of any dam, appurtenant works, or other obstruction affecting navigation, flood control, public lands, or reservations across, along or in the Tennessee River or its tributaries. The TVA administers Section 26a authority under Title 18: Code of Federal Regulations.

3. PGP 98 authorizes activities which are considered to be minor in nature and would cause only minimal individual and cumulative environmental impacts. All proposals must be in accordance with the guidelines and limitations set forth in the conditions of PGP 98. Activities not authorized by PGP 98, and activities that exceed the limitations of the PGP would require individual review by the Corps and authorization under Nationwide Permit, Letter of Permission, or Individual Permit. The District Commander may also require individual review of a project on a case-by-case basis if it is determined that authorization by PGP 98 is not in the public interest.

4. Prior to conducting work under authority of PGP 98, a Section 26a Permit must first be obtained from TVA. When TVA completes review of a proposed activity and issues a Section 26a Permit for a structure or work listed below, such a structure or work is automatically verified to be authorized by the Corps pursuant to Section 10 and/or Section 404, under authority of PGP 98:

a. Docks, Piers, Boathouses, and Other Water Use Facilities. Construction, modification, and maintenance of fixed and floating docks, piers, and boathouses; steps leading to the reservoir; walkways leading to dock facilities; water intakes, geothermal heat exchange units or electrical lines attached to dock facilities; and other associated structures. (Section 10)

b. Marina Facilities. New construction, modification, reconfiguration, and maintenance of commercial fixed and floating dock structures, and associated appurtenant works within TVA authorized harbor limits. (Section 10)

c. Mooring Buoys, Mooring Pilings, Dolphins, and Information Buoys and Signs. (Section 10)

d. Fish Attractors. Installation of fish attractant and habitat structures, and non-native aquatic vegetation removal. (Section 10 and 404)

e. New Work Channel Excavation. Excavation of material from the reservoir bottom to create sufficient depth for mooring and navigation of vessels. The volume of material and the excavation area is limited to the length, width, and depth needed to achieve a water depth of 3 feet, at normal full pool elevation of the reservoir. Excavation shall only be performed between the reservoir shoreline and surface of the lake, when the reservoir is below full pool elevation; referred to as work in the dry. Excavated material shall be disposed of in a confined upland disposal site located above the 100-year floodplain. The discharge of effluent from a confined upland disposal site is not authorized. (Sections 10 and 404)

NOTE: Maintenance excavation of previously authorized facilities is not authorized by PGP 98. A separate application must be submitted to the Corps for use of Regional Permit 99 prior to conducting maintenance excavation in a facility with a valid TVA 26.a Permit.

f. Shoreline Stabilization. Shoreline stabilization necessary for erosion control. All fill and excavation work shall be performed in the dry. (Sections 10 and 404)

g. Boat Ramps and Other Recreation Watercraft Launching Facilities. The discharge of the fill material and/or the excavation of material necessary for the construction, improvement, expansion, or maintenance of boat ramps, or other recreational watercraft launching facilities. Only clean, inert material shall be used for fill material. Excavated material not used for boat ramp construction will be disposed of in a confined upland disposal site located above the 100-year floodplain. All fill and

excavation work shall be performed in the dry. The discharge of effluent from a confined upland disposal site is not authorized. (Sections 10 and 404)

h. Jetty/Breakwater. The discharge of fill material necessary for the construction of a jetty or breakwater. A jetty is oriented perpendicular to the shoreline, and a breakwater is oriented parallel to the shoreline. All work shall be performed in the dry. (Sections 10 and 404)

i. Public Recreational Swim Beaches. Excavation of material, and/or the discharge of fill material for the construction or maintenance of beaches. Only clean, inert material shall be used for any discharge. Excavated material not used for swim beach construction, will be disposed of in a confined upland disposal site located above the 100-year floodplain. All fill and excavation work shall be performed in the dry. The discharge of effluent from a confined upland disposal site is not authorized. (Sections 10 and 404)

GENERAL CONDITIONS:

1. Modification, suspension, or revocation of this PGP shall not be the basis for any claim for damages against the United States.
2. No attempt shall be made by a Permittee to prevent the full and free use by the public of all navigable waters at or adjacent to an activity authorized by this PGP.
3. If and when a Permittee desires to abandon the activity authorized by this PGP, the permittee must restore the area to the original condition or a condition satisfactory to the Corps. Other state or federal permitting agencies may have additional restoration requirements.
4. The Permittee hereby recognizes the possibility that the structure permitted herein may be subject to damage by waves from passing vessels. The issuance of this PGP does not relieve the Permittee from taking all proper steps to ensure that the integrity of the structure permitted herein and the safety of boats moored thereto from damage by wave wash and the Permittee shall not hold the United States liable for such damage.
5. Activities not specified in this PGP or which exceed the limitations of this PGP require prior authorization under a Department of the Army Nationwide Permit, Letter of Permission, or Individual Permit from the Corps. The District Commander may also require Individual Permit authorization on a case-by-case basis if he determines authorization under this PGP for a project might be contrary to the public interest.
6. The District Commander may, by following the procedures outlined in the Corps Regulatory Programs (33 Code of Federal Regulation § 325.7) modify, suspend, or revoke this PGP for an individual activity, a category of activities, or a geographic area

if he feels it would be in the public interest. The general public would be notified of such action by public notice.

7. If the Secretary of the Army or his authorized representative determines there has been a violation of the terms and conditions of this PGP, he may suspend or revoke the authorization for an individual project under one or more of the PGPs. In addition, failure to comply with the terms and conditions of the PGPs may result in removal of the structures, restoration of the waterway, and/or imposition of penalties as provided by law.

8. The Permittee must maintain the activity authorized by this PGP in good condition and in conformance with the terms and conditions of the PGP.

SPECIAL CONDITIONS:

1. No work shall be performed under authority of PGP 98 until the permittee has received a TVA issued Section 26a Permit for authorized activities. The TVA Section 26a Permit application and permit processing instructions are available on the TVA website, <https://www.tva.gov/Environment/Shoreline-Construction/26a-How-to-Apply>.

2. Authorized work must be completed by the expiration date of the PGP. Work that is authorized by PGP 98, but that is not completed prior to the expiration date of the PGP, may be authorized by subsequent re-issuance of the PGP, if and when the PGP is re-authorized by the Corps. Other state and federal permitting agencies may have different expiration dates.

3. No work or activity is authorized by PGP 98 that would impact, affect, or otherwise degrade any cultural resources which are listed in or nominated for listing in the National Register of Historic Places. This includes any future sites that become listed or nominated.

4. Reporting to the Corps of PGP use is the responsibility of TVA. Following the issuance of a Section 26a Permit, TVA will separately transmit each TVA Approval package to the Corps via email to: steven.b.brannon@usace.army.mil, with Subject Line to include: Reservoir Name, TVA Project ID number, Applicant's last name, and Primary Activity.

5. If the Permittee or the Permittee's contractors discover any previously unknown historic or archaeological remains while accomplishing the activity authorized by the PGP, the Corps shall be immediately notified. The permittee is also responsible for compliance with applicable terms and conditions of the TVA issued 26.a Permit regarding cultural resources.

6. The activities authorized by PGP will not jeopardize a threatened or endangered species as identified under the Endangered Species Act or destroy or adversely modify the critical habitat of such species.

7. If the Permittee or the Permittee's contractors discover any federally listed

threatened or endangered species and/or their habitat while accomplishing work or activities authorized by PGP 98, the Corps shall be immediately notified. The permittee is also responsible for compliance with applicable terms and conditions of the TVA issued 26.a Permit regarding federally listed endangered species.

8. The Permittee agrees to make every reasonable effort to execute the work authorized by PGP 98 in a manner so as to minimize any adverse impact on fish, wildlife, and natural environmental values.

9. All work conducted under PGP 98 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.

10. The Permittee shall obtain and comply with all appropriate federal, state, and local authorizations required for the type of activity authorized by PGP 98.

11. Projects authorized by PGP 98 that also entail work on dry land adjacent to the lake may require a buffer variance. If applicable, a variance must be obtained from the Georgia Environmental Protection Division (Georgia EPD) prior to conducting land disturbing activities or placement of materials within the State-mandated buffer, per O.C.G.A. § 12-7-6(b)(15) of The Erosion and Sedimentation Act (E&S Act) of 1975. Please visit Georgia EPD's website, <https://epd.georgia.gov/>, or contact the Non-Point Source Program at (404) 651-8554, for further guidance on buffer determinations and variances. Construction of a shoreline stabilization project within the buffer and without a buffer variance, except for minor land disturbing activities, is in violation of O.C.G.A. 12-7-6(b)(15) or (16) in the E&S Act. Failure to maintain a stream buffer may require the issuance of a stop work order (O.C.G.A. 12-7-12(d)). For additional information on the E&S Act, what constitutes a minor land disturbing activity, and the process of obtaining a buffer variance from Georgia EPD, please call or visit Georgia EPD's website. Applicants may also refer to the "Streambank and Shoreline Stabilization Guidance", available on the website, for further information on the preferred, acceptable and discouraged methods of shoreline stabilization in Georgia.

12. No work shall be conducted under authority of PGP 98 that requires 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.

13. The discharge of dredged or fill material into waters of the United States shall consist of suitable material free from toxic pollutants in toxic amounts. All fill material, not excavated at project locations, shall be obtained from non-contaminated high ground sources which have little or no organic content. All dredged or borrowed material used as fill on this project will be from clean, uncontaminated sources and

free from cultural resources.

14. PGP 98 does not authorize the discharge of dredged or fill material into streams, wetlands, or other special aquatic sites.

15. The Permittee shall ensure that contractors, subcontractors, and other personnel performing permitted work are aware of the terms and conditions of PGP 98.

16. The permittee shall comply with all conditions included in the attached Section 401 Water Quality Certification, issued XXXX, by the Georgia EPD.

FURTHER INFORMATION:

1. Congressional Authorities: Authorization to undertake the activities described above are issued pursuant to Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. § 403), and/or Section 404 of the CWA (33 U.S.C. § 1344).

2. Limits of this authorization.

a. This PGP does not obviate the need to obtain other Federal, State, or local authorizations required by law.

b. This PGP does not grant any property rights or exclusive privileges.

c. This PGP does not authorize any injury to the property or rights of others.

d. This PGP does not authorize interference with any existing or proposed Federal project.

3. Limits of Federal Liability. In issuing this PGP, 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, 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 U.S. in the public interest.

c. Damages to persons, property, to other permitted or unpermitted activities, or structures caused by the activity authorized by this PGP.

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 Corps may re-evaluate its decision on an activity authorized by a PGP at any time the circumstances warrant. Circumstances that could 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 PGP.
- b. The information provided by the permittee in support of his permit application proves to have been false, incomplete, or inaccurate.
- c. Significant new information surfaces which the Corps did not consider in reaching the original public interest decision.

5. Such a re-evaluation may result in a determination that it is appropriate to use the suspension, modification, and revocation procedures contained in 33 C.F.R. § 325.7 or enforcement procedures such as those contained in 33 C.F.R. § 326.4 and 326.5. The referenced enforcement procedures provide for the issuance of an administrative order requiring the permittee to comply with the terms and conditions of his permit authorization and for the initiation of legal action where appropriate. The permittee will be required to pay for any corrective measures ordered by the Corps, and if the permittee fails to comply with such directive, the Corps may in certain situations (such as those specified in 33 C.F.R. § 209.170) accomplish the corrective measures by contract or otherwise and bill the permittee for the cost.

This PGP 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 _____
Joseph R. Geary, PhD, PE
Colonel, US Army
Commanding

Date

Regional Permit No. 99

Effective Date: XXXX

Expiration Date: XXXX

DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS, SAVANNAH DISTRICT
REGIONAL PERMIT 99
FOR EXCAVATION OF ACCUMULATED SEDIMENT IN
TENNESSEE VALLEY AUTHORITY RESERVOIRS
BLUE RIDGE, NOTTELY AND CHATUGE
WITHIN THE STATE OF GEORGIA

1. On the recommendation of the Chief of Engineers, pursuant to Section 10 of the Rivers and Harbors Act of 1899 (33 United States Code (U.S.C.) 403) (Section 10) and Section 404 of the Clean Water Act (CWA, 33 U.S.C. 1344) (Section 404), authority is hereby given under Regional Permit 99 (RP 99) for maintenance excavation of accumulated sediment in Blue Ridge Reservoir located on the Toccoa River in Fannin County, Georgia (Lat 34.8825, Lon -84.2790); Nottely Reservoir located on the Nottely River in Union County, Georgia (Lat 34.9614; Lon -84.0960); and the southern portion of Chatuge Reservoir located on the Hiwassee River in Towns County, Georgia (34.9851, Lon -83.7944). Blue Ridge Reservoir is regulated by the U.S. Army Corps of Engineers under Section 10 and Section 404. Nottely and Hiwassee Reservoirs are regulated under Section 404 of the Clean Water Act.

2. This RP authorizes maintenance work considered to be minor in nature that would cause only minimal individual and cumulative environmental impacts. All proposals must be in accordance with the guidelines and limitations set forth in the general and special conditions of RP 99. Activities not authorized by RP 99, and activities that exceed the limitations of the RP would require review and project specific authorization by the Corps. The District Commander may also require individual authorization of a project on a case-by-case basis if it is determined that authorization by RP 99 is not in the public interest.

3. Excavation of accumulated sediment is authorized to the original depth of the bottom contour of the reservoir, or to the bottom contour of a boat slip, marina basin, access channel or other areas where deepening was previously authorized by the Tennessee Valley Authority (TVA) and/or the Corps. The volume of accumulated sediment to be excavated is limited to that necessary to achieve the original reservoir bottom depth or the depth of the authorized facility, not to exceed 5,000 cubic yards. Excavation only be performed between the reservoir shoreline and surface of the lake, when the lake is below full pool elevation; referred to as excavation in the dry. Excavated material shall be deposited in a confined upland disposal site located above the 100-year floodplain. Excavated material shall be properly confined to prevent re-entry into the reservoir or interference with natural drainage.

GENERAL CONDITIONS:

1. For the purpose of RP 99, the Applicant is any agent, individual, or government who submits an application to the Corps for use of the RP, at least 45 days prior to the planned start date for proposed maintenance excavation.
2. For the purpose of RP 99, the Permittee is an Applicant with written verification from the Corps that proposed maintenance excavation is authorized by the RP.
3. Maintenance activities not specified in RP 99 or which exceed the limitations of the RP would require prior authorization under a Department of the Army Letter of Permission or Individual Permit. The District Commander may also require submission of an Individual Permit application if he determines that authorization under RP 99 for a specific project needs individual public review. Additional information is available at <http://www.sas.usace.army.mil/Missions/Regulatory.aspx>.
4. Maintenance activities identified and authorized herein shall be consistent with the terms and conditions of RP 99. Activities not specifically identified and authorized herein shall constitute a violation of the terms and conditions of the RP which may result in the modification, suspension, or revocation of RP 99, in whole or in part, as set forth more specifically in the following General Conditions 5 and 6, and in the institution of such legal proceedings as the United States Government may consider appropriate, whether or not the RP has been previously modified, suspended, or revoked in whole or in part.
5. RP 99 may be summarily suspended, in whole or in part, upon a finding by the District Commander that immediate suspension of the activity authorized herein would be in the general public interest. Such suspension shall be effective upon receipt by a Permittee of a written notice thereof which shall indicate: the extent of the suspension; the reasons for this action; and any corrective or preventative measures to be taken by a Permittee which are deemed necessary by the District Commander to abate imminent hazards to the general public interest. A Permittee shall take immediate action to comply with the provisions of this notice. Within 10 days following receipt of a notice of suspension, the Permittee may request a hearing to present information relevant to a decision as to whether his permit should be reinstated, modified, or revoked. If a hearing is requested, it shall be conducted pursuant to procedures prescribed by the Chief of Engineers. After completion of the hearing, or within a reasonable time after issuance of the suspension notice to the Permittee, if no hearing is requested, the permit will either be reinstated, modified or revoked.
6. RP 99, or an individual activity authorized under RP 99, may be either modified, suspended, or revoked, in whole or in part, pursuant to the procedures under 33 CFR 325.7. In issuing authorizations under RP 99, the Government has relied on

the information and data which the Permittee has provided in connection with his permit application. If, subsequent to the issuance of a project-specific authorization under RP 99, such information and data prove to have been false, incomplete, or inaccurate, the authorization may be modified, suspended, or revoked, in whole or in part, and/or the Government may, in addition, institute appropriate legal proceedings.

7. Any modification, suspension, or revocation of RP 99 shall not be the basis for any claim for damages against the United States.

8. The Permittee, upon receipt of a notice of revocation of this permit or upon its expiration before completion of the work will, without expense to the United States and in such time and manner as the Secretary of the Army or his authorized representative may direct, restore the affected water of the United States to its former condition.

9. The Permittee shall make every reasonable effort to prosecute the work authorized herein in a manner so as to minimize any adverse impact of the work on fish, wildlife, and natural environmental values.

10. RP 99 does not convey any property rights, either in real estate or material, or any exclusive privileges; and that they do not authorize any injury to property or invasion of rights or any infringement of Federal, State, or local laws or regulations.

11. RP 99 does not authorize the interference with any existing or proposed Federal project and the Permittee shall not be entitled to compensation for damage or injury to the structures or works authorized herein which may be caused by or results from existing or future operations undertaken by the United States in the public interest.

12. The Permittee will allow the District Commander or his representative to inspect the project site at any time deemed necessary to assure that work is being performed in accordance with Special and General Conditions of RP 99.

13. The work authorized by RP 99 must not interfere with the public's right to free navigation on all navigable waters of the U.S. No attempt will be made by the Permittee to prevent the full and free use by the public of all navigable waters at or adjacent to the authorized project site for a reason other than safety.

14. RP 99 does not obviate the requirement for the Permittee to obtain State or local assent required by law for any activity authorized by the RP.

15. In issuing RP 99, the Federal Government does not assume liability for: damages to persons, property, or to other permitted or unpermitted activities or structures caused by the work authorized by RP 99; and/or damage claims associated with any

future modification, suspension, or revocation of RP 99.

SPECIAL CONDITIONS:

1. No work shall be performed under authority of RP 99 until after a complete Department of the Army (DOA) application is submitted to the Corps; and the Permittee receives written verification from the Corps that the maintenance excavation work is authorized. At a minimum, a complete DOA application (ENG Form 4345) must include the following information: project description; vicinity map; site location map showing the area to be dredged and the upland disposal facility; plans and drawings; and "Adjacent Property Owner Notifications" (Appendix A) that have been completed and signed by the property owners located immediately upstream and downstream of the project site.
2. The completed DOA application package shall be submitted via email to the following address: cesas-rd-p@usace.army.mil.
3. RP 99 does not authorize the discharge of dredged or fill material into wetlands or other special aquatic sites.
4. An application submitted on behalf of an individual Applicant for a single and complete maintenance excavation project is limited to a one-time maximum of 5,000 cubic yards of material. Piecemeal excavation projects by a single Permittee that exceed the 5,000 cubic yards are not authorized by RP 99.
5. An application submitted on behalf of multiple Applicants for a project involving excavation at two or more adjacent properties shall not to exceed 5,000 cubic yards per Applicant, or 20,000 cubic yards for all Applicants. The Corps will determine the maximum volume of material that can be excavated for a multiple applicant project, on a case-by-case basis. For multiple applicant excavation projects, access to the reservoir shall be gained from a single entry point, thereby limiting potential adverse impacts to vegetation and public property. Multiple applicant maintenance excavation projects exceeding 20,000 cubic yards are not authorized by RP 99.
6. Verifications for use of RP 99 issued by the Corps for maintenance excavation are for one-time events. Any subsequent excavation in the same project area, not specifically authorized by the Corps, would require issuance of a separate authorization under RP 99, or other Department of the Army authorization.
7. Maintenance excavation is not authorized during the annual fish spawn. The dates of the fish spawn are between approximately 15 March and 15 June of each year.
8. Maintenance excavation to deepen below the original reservoir bottom is not

authorized by RP 99. No Maintenance excavation shall extend into the original, hard pan, hard clay bottom or natural bottom contour of the lake.

9. Dredged material shall be permanently disposed of in an appropriate confined upland disposal area, to be approved by the Corps. The confined upland disposal area cannot be located within the 100-year floodplain. The discharge of effluent from the confined upland disposal area is not authorized by RP 99. Excavated material shall be stabilized or contained to prevent its re-entry into the reservoir, surface waters, wetlands, vegetated shallows, streams, or other waters of the United States.

10. Beneficial use of excavated material as backfill for bulkhead or retaining wall projects may be approved by the Corps, on a case-by-case basis.

11. The short-term, temporary placement or stockpiling of excavated material for the purpose of dewatering, prior to removal may be approved by the Corps, on a case-by-case basis. No excavated material shall be temporarily stock-piled in locations near the shoreline of the reservoir.

12. Excavation of accumulated sediment shall only be performed between the reservoir shoreline and surface of the lake, when the lake is below full pool elevation; referred to as excavation in the dry. Maintenance excavation is not authorized by RP 99 in open-waters, when the area to be maintained is under water; referred to as dredging in the wet.

13. Excavation projects shall be designed and completed in such a manner to prevent erosion of the adjacent lake bottom and shoreline.

14. After an excavation project has been completed, the final lake bottom contours shall not create or allow areas of standing water during times of low water levels.

15. All work performed under authority of RP 99 is subject to the conditions contained in the attached Water Quality Certification, issued by the Georgia Department of Natural Resources, Environmental Protection Division, on XXXX, pursuant to Section 401 of the Clean Water Act.

16. No work or activity is authorized by RP 99 that would impact, affect, or otherwise degrade any cultural resources which are listed in or nominated for listing in the National Register of Historic Places. This includes any future sites that become listed or nominated.

17. If the Permittee or the Permittee's contractors discover any previously unknown historic or archaeological remains while accomplishing the activity authorized by RP, the Corps shall be immediately notified.

18. The activities authorized by RP 99 will not jeopardize a threatened or endangered species as identified under the Endangered Species Act, or destroy or adversely modify the critical habitat of such species.

19. If the Permittee or the Permittee's contractor shall immediately cease work if any federally listed threatened or endangered species and/or their habitat are discovered while accomplishing work authorized by RP 99, and immediately notify the Corps.

20. All work conducted under the 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.

21. The Permittee shall obtain and comply with all appropriate Federal, state, and local authorizations required for the type of activity authorized by RP 99.

22. Projects authorized by PGP 98 that also entail work on dry land adjacent to the lake may require a buffer variance. If applicable, a variance must be obtained from the Georgia Environmental Protection Division (Georgia EPD) prior to conducting land disturbing activities or placement of materials within the State-mandated buffer, per O.C.G.A. § 12-7-6(b)(15) of The Erosion and Sedimentation Act (E&S Act) of 1975. Please visit Georgia EPD's website, <https://epd.georgia.gov/>, or contact the Non-Point Source Program at (404) 651-8554, for further guidance on buffer determinations and variances. Construction of a shoreline stabilization project within the buffer and without a buffer variance, except for minor land disturbing activities, is in violation of O.C.G.A. 12-7-6(b)(15) or (16) in the E&S Act. Failure to maintain a stream buffer may require the issuance of a stop work order (O.C.G.A. 12-7-12(d)). For additional information on the E&S Act, what constitutes a minor land disturbing activity, and the process of obtaining a buffer variance from Georgia EPD, please call or visit Georgia EPD's website. Applicants may also refer to the "Streambank and Shoreline Stabilization Guidance", available on the website, for further information on the preferred, acceptable and discouraged methods of shoreline stabilization in Georgia.

23. The Permittee shall ensure that contractors, subcontractors, and other personnel performing permitted work are aware of the terms and conditions of RP 99.

24. Be advised that that authorized work must be completed by the expiration date of RP 99. Work that is authorized by RP 99, but that is not completed prior to the expiration date of the RP, may be authorized by subsequent re-issuance of the RP, if

and when RP 99 is re-authorized by the Corps.

25. On a case-by-case basis, additional site-specific special conditions may be required by the Corps.

FURTHER INFORMATION:

1. Congressional Authorities: Authorization to undertake the activities described above are issued pursuant to Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403), and/or Section 404 of the Clean Water Act (33 U.S.C. 1344).

2. Limits of this authorization.

a. This RP does not obviate the need to obtain other Federal, State, or local authorizations required by law.

b. This RP does not grant any property rights or exclusive privileges.

c. This RP does not authorize any injury to the property or rights of others.

d. This RP does not authorize interference with any existing or proposed Federal project.

2. Limits of Federal Liability. In issuing this RP, 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, 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 interest.

c. Damages to persons, property, to other permitted or unpermitted activities, or structures caused by the activity authorized by this RP.

d. Design or construction deficiencies associated with the permitted work.

e. Damage claims associated with any future modification, suspension, or revocation of this permit.

3. Re-evaluation of Permit Decision. The Corps may re-evaluate its decision on an activity authorized by a RP at any time the circumstances warrant. Circumstances that could 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 RP.
 - b. The information provided by the permittee in support of his permit application proves to have been false, incomplete, or inaccurate.
 - c. Significant new information surfaces which the Corps did not consider in reaching the original public interest decision.
4. Such a 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 such as those contained in 33 CFR 326.4 and 326.5. The referenced enforcement procedures provide for the issuance of an administrative order requiring the permittee to comply with the terms and conditions of his permit authorization and for the initiation of legal action where appropriate. The permittee will be required to pay for any corrective measures ordered by the Corps, and if the permittee fails to comply with such directive, the Corps 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.

RP 99 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 _____
Joseph R. Geary, PhD, PE.
Colonel, US Army
Commanding

_____ (Date)

**ADJACENT PROPERTY OWNER NOTIFICATION
NOTICE OF INTENT TO PERFORM MAINTENANCE EXCAVATION**

This notification is to advise you that _____
has submitted an application to the U.S. Army Corps of Engineers for a permit to
excavate accumulated sediment from _____,
which is located in _____ Lake, on a site that is adjacent to your property.
The Corps requires that you, as an adjacent property owner to the proposed dock
facility, be notified. The applicant has been instructed to provide you with a copy of the
description, maps, plans and drawings for the proposed maintenance excavation work,
along with this notification form.

As an adjacent property owner (upstream or downstream - circle one) to the project site
where the proposed maintenance excavation work would be performed, I have reviewed
the project description, maps, plans and drawings provided to me by the applicant, and:

_____ **Do not object** to the project, as proposed.

_____ **Object** to the project, as proposed, for the following reason(s):

Name _____

Address _____

Phone # _____

Adjacent Property Owner Signature

Date