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

April 18, 2022

Regulatory Division
SAS-2016-00798

PUBLIC NOTICE
ISSUANCE OF REGIONAL PERMIT 99
FOR MAINTENANCE DREDGING (EXCAVATION)
IN BLUE RIDGE, NOTTELY AND CHATUGE RESERVOIRS
WITHIN THE STATE OF GEORGIA

The Savannah District, U.S. Army Corps of Engineers has issued Regional Permit 99 (RP 99) for a period of five (5) years, to authorize maintenance dredging of accumulated sediment from previously authorized facilities located in waters of the United States. RP 99 authorizes maintenance dredging in Blue Ridge Reservoir, located on the Toccoa River in Fannin County, Georgia (Latitude 34.8825, Longitude -84.2790); in Nottely Reservoir, located on the Nottely River in Union County, Georgia (Latitude 34.9614, Longitude -84.0960); and in 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 Corps under Section 10 of the Rivers and Harbors Act of 1899 (Section 10), and Section 404 of the Clean Water Act (Section 404). Nottely and Chatuge Reservoirs are regulated by the Corps under Section 404 only. The Tennessee Valley Authority (TVA) manages reservoir shoreline construction under Section 26.a of the TVA Act (U.S. Congress, 1933 as amended).

Excavation of up to 5,000 cubic yards of accumulated sediment is authorized, to the original bottom contour of the reservoir, or to the bottom contour of a constructed boat slip, marina basin, access channel, or other area where deepening was previously authorized by TVA. 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. Excavation of accumulated sediment shall only be performed in the area between the reservoir pool 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; and shall be properly confined to prevent re-entry of excavated material into the reservoir or interference with drainage. The discharge of effluent from a confined upland disposal facility is not authorized by RP 99.

Enclosure – Regional Permit 99

Regional Permit No. 99

Effective Date: April 18, 2022
Expiration Date: April 18, 2027

DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS, SAVANNAH DISTRICT
REGIONAL PERMIT 99
FOR EXCAVATION OF ACCUMULATED SEDIMENT IN
TENESSEE 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 l0 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 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 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, or CESAS Form 19) 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 in 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 April 1, 2022, 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.

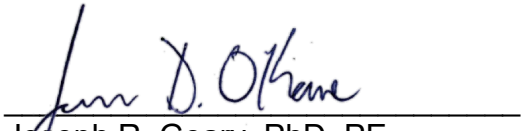
b. The information provided by the permittee in support of his permit application proves to have been false, incomplete, or inaccurate.

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:



April 18, 2022

for Joseph R. Geary, PhD, PE. (Date)
Colonel, US Army
Commanding

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

GEORGIA
DEPARTMENT OF NATURAL RESOURCES
ENVIRONMENTAL PROTECTION DIVISION

Richard E. Dunn, Director

EPD Director's Office
2 Martin Luther King, Jr. Drive
Suite 1456, East Tower
Atlanta, Georgia 30334
404-656-4713

April 1, 2022

Mr. Jason O'Kane, Chief
Regulatory Division-Savannah District
U.S. Army Corps of Engineers
100 West Oglethorpe Avenue
Savannah, Georgia 31402-0889

Re: Water Quality Certification
Joint Public Notice SAS-2012-00944
Joint Public Notice SAS-2016-00798
Reissuance of PGP 98 and RP 99
Blue Ridge, Nottely and Chatuge Reservoirs
Fannin, Union and Towns Counties

Dear Mr. O'Kane:

In accordance with Section 401 of the Federal Clean Water Act, 33 U.S.C. § 1341, the State of Georgia has evaluated the Reissuance of PGP 98 and RP 99 submitted by the U.S. Army Corps of Engineers, an applicant for a federal permit or license related to proposed activity in, on, or adjacent to the waters of the State of Georgia.

The State has examined the information regarding the Reissuance of PGP 98 and RP 99 provided to it by Corps Savannah District Regulatory Program. In accordance with that information, the State of Georgia issues this Section 401 certification to U.S. Army Corps of Engineers. This Section 401 water quality certification is subject to the following terms and conditions:

1. To assure compliance with State water quality standards, the applicant shall conduct all activities in a manner that will assure water quality adequate or necessary to protect and maintain designated uses. 33 U.S.C. § 1313(a)-(d); O.C.G.A. § 12-5-23(c)(2),(6),(9),(15); Ga. Comp. R. and Regs. 391-3-6-.03(2)(i), (ii).

    a. To prevent or avoid degradation of water quality downstream, the applicant shall install in-water Best Management Practices (BMPs) to the extent practical and feasible, to minimize total suspended solids (TSS) and sedimentation for any work conducted within a state water or within the delineated boundaries of wetlands. 33 U.S.C. § 1313(a)-(d); O.C.G.A. § 12-5-23(c)(2), (6), (9), (15); O.C.G.A. § 12-5-29(a); O.C.G.A. §§ 12-7-6 to 7; Ga. Comp. R. and Regs. 391-3-6-.03(5).

    b. In order to prevent or avoid violations of state water quality standards, the applicant must ensure that any fill placed in state waters must be clean fill that is free of solid waste, toxic, or hazardous contaminants. 33 U.S.C. §§ 1311; 1313(a)-(d); O.C.G.A. § 12-5-23(c)(2), (6), (9), (15); O.C.G.A. § 12-5-29(a); Ga. Comp. R. and Regs. 391-3-6-.03(5), (6), (11), (14)-(16).

2. To ensure that other pertinent and appropriate State permissions are obtained, particularly those activities that involve work in state buffers, applicants should consult Georgia EPD's Streambank and Shoreline Stabilization Guidance, available at https://epd.georgia.gov/watershed-protection-branch/erosion-and-sedimentation and, as necessary, apply for and abide by the terms of any applicable Georgia stream buffer variance. 33 U.S.C. §§ 1311; 1313(a)-(d); O.C.G.A. § 12-7-6; Ga. Comp. R. and Regs. 391-3-7-.05.

This certification does not waive any other permit or other legal requirement applicable to this project or relieve the applicant of any obligation or responsibility for complying with the provisions of any other federal, state, or local laws, ordinances, or regulations.

It is your responsibility to submit this certification to the appropriate federal agency. If you have any questions regarding this certification, please contact Stephen Wiedl at Stephen.Wiedl@dnr.ga.gov/404-651-8459.

Sincerely,

Richard E. Dunn, Director
Environmental Protection Division

cc: Mr. Adam White, Corps
Mr. Eric Somerville, EPA
Mr. Peter Maholland, FWS