

PUBLIC NOTICE

**CHARLESTON DISTRICT, CORPS OF ENGINEERS
69A Hagood Avenue
Charleston, South Carolina 29403-5107**

REGULATORY DIVISION
Refer to: General Permit # 2002-14-004

20 December 2002

NOTICE

is hereby given that the District Engineer, Charleston District proposes to reissue General Permit #98-14-001 with minor revisions. This permit is issued to the General Public and authorizes, where such authorizations are required, the construction, repair and maintenance of private non-commercial piers, docks, boat lifts, moorings, boat houses, boat ramps, marine railways for dry storage, bulkheads, retainer walls, riprap for erosion control, heat exchange coils for heat pumps, minor intake pipes for residential irrigation, and minor excavation by the adjacent shoreline property owners in the following lakes:

<u>Lake</u>	<u>County</u>	<u>License</u>	<u>Project Boundary</u>
Wylie (SC)	York	2232	569.4
Fishing Creek	Chester/Lancaster	2232	417.2
Great Falls	Chester/Lancaster	2232	355.8
Rocky Creek	Chester/Lancaster/Fairfield	2232	284.4
Wateree	Kershaw/Lancaster/Fairfield	2232	225.5
Keowee	Oconee/Pickens	2503	varies 800.0 – 810.0
Ninety-Nine Island	Cherokee/York	2331	511.1
Gaston Shoals (SC)	Cherokee	2332	605.2

The purpose of this notice is to give all interested parties an opportunity to express their views on the proposed reissuance of the above referenced General Permit before action is taken. The General Permit, if reissued will be effective for a period of five (5) years.

Written statements regarding the reissuance of the General Permit will be received at this office until,

12 O'CLOCK NOON, TUESDAY, 21 JANUARY 2003

from those interested in the activity and whose interests may be affected by this General Permit.

A copy of the General Permit is available and will be provided, upon receipt of a written request, to anyone that is interested in obtaining a copy. Please identify the public notice number and enclose a self-addressed stamped envelope for mailing this General Permit to you. Your request should be addressed to the

**U.S. ARMY CORPS OF ENGINEERS
ATTN: REGULATORY DIVISION
69A HAGOOD AVENUE
CHARLESTON, SOUTH CAROLINA 29403-5107**

20 December 2002

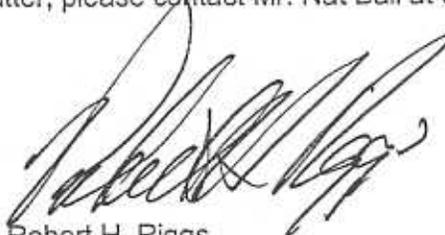
The District Engineer has concluded that the discharges associated with this project, both direct and indirect, should be reviewed by the South Carolina Department of Health and Environmental Control in accordance with provisions of Section 401 of the Clean Water Act. As such, this notice constitutes a request, on behalf of the applicant, for certification that this project will comply with applicable effluent limitations and water quality standards. The District Engineer will not process this application to a conclusion until such certifications are received. This activity may also require evaluation for compliance with the S.C. Construction in Navigable Waters Permit Program. State review, permitting and certification is conducted by the S.C. Department of Health and Environmental Control. The applicant is hereby advised that supplemental information may be required by the State to facilitate the review. Persons wishing to comment or object to State certification or the navigable waters permit must submit all comments in writing to the S.C. Department of Health and Environmental Control at the following address within thirty (30) days of the date of this notice.

**THE S.C. DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL
OFFICE OF ENVIRONMENTAL QUALITY CONTROL
WATER QUALITY CERTIFICATION AND WETLANDS PROGRAMS SECTION
2600 BULL STREET
COLUMBIA, SOUTH CAROLINA 29201**

This notice also initiates the Essential Fish Habitat (EFH) consultation requirements of the Magnuson-Stevens Fishery Conservation and Management Act. Implementation of the proposed project would impact waters of the United States upstream of estuarine substrates and emergent wetlands utilized by various life stages of species comprising the red drum, shrimp, and snapper-grouper management complexes. Our initial determination is that the proposed action would not have a substantial individual or cumulative adverse impact on EFH or fisheries managed by the South Atlantic Fishery Management Council and the National Marine Fisheries Service (NMFS). Our final determination relative to project impacts and the need for mitigation measures is subject to review by and coordination with the NMFS.

Pursuant to Section 7(c) of the Endangered Species Act of 1973 (as amended), the District Engineer has consulted the most recently available information and has determined that the bald eagle (*Haliaeetus leucocephalus*), a Federally threatened species, and Schweinitz's Sunflower (*Helianthus schweinitzii*) and smooth coneflower (*Echinacea laevigata*), Federally endangered species, are present in the vicinity of the project area. However, it has been determined that the activities authorized by the General Permit are not likely to have an effect on any of these species and will not result in the destruction or adverse modification of designated or proposed critical habitat. This public notice serves as a request for written concurrence from the U.S. Fish and Wildlife Service and/or the National Marine Fisheries Service on this determination.

If you have any questions concerning this matter, please contact Mr. Nat Ball at 843-329-8044 or toll free at 1-866-329-8187.



Robert H. Riggs
Chief, Regulatory Division

General Permit No. 2002-14-004

Name of Applicant: DUKE POWER AND LAKE FRONT PROPERTY OWNERS

Effective Date: _____

Expiration Date: _____

DEPARTMENT OF THE ARMY

GENERAL PERMIT

A General Permit to perform work in or affecting waters of the United States, both navigable and non-navigable, upon the recommendation of the Chief of Engineers, pursuant to Section 10 of the River and Harbor Act of 1899 (33 U.S.C. 403), and Section 404 of the Clean Water Act (PL 92-500, 33 U.S.C. 1344), is hereby issued by the authority of the Secretary of the Army by the

District Engineer
 U. S. Army Corps of Engineers
 Charleston District
 69A Hagood Avenue
 Charleston, South Carolina 29403

to authorize, where such authorizations are required, the construction, repair and maintenance of private non-commercial piers, docks, boat lifts, moorings, boat houses, boat ramps, marine railways for dry storage, bulkheads, retainer walls, riprap for erosion control, heat exchange coils for heat pumps, minor intake pipes for residential irrigation, and minor excavation by the adjacent shoreline property owners in the following lakes:

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Gaston Shoals (SC)	Cherokee	2332	605.2

subject to the following conditions:

I. GENERAL CONDITIONS:

a. This General Permit authorizes only those structures specifically addressed below. The permittee must obtain Department of the Army authorization, such as the issuance of an individual permit, for all other activities that are regulated pursuant to Section 10 of the River and Harbors Act or Section 404 of the Clean Water Act within the waters of the above referenced lakes.

b. All activities identified and authorized herein shall be consistent with the terms and conditions of this General Permit; any variance not specifically identified and authorized herein shall constitute a violation of the terms and conditions of this permit which may result in the modification, suspension, or revocation of the authorization, as set forth more specifically in General Condition h, below and in the institution of such legal proceedings as the United States Government may consider appropriate.

c. All structures authorized by this General Permit shall be designed, located, and/or operated to allow the full and free use by the public of all navigable waters.

d. Activities or structures authorized by this General Permit shall not encroach across any adjacent property line or the imaginary lakeward extension of any adjacent property line without the written permission of the affected property owner.

e. The permittee must make every reasonable effort to conduct the work authorized herein in a manner so as to minimize any adverse impact to fish, wildlife, and other environmental resources.

f. The permittee must make every reasonable effort to conduct the work authorized herein in a manner so as to minimize any degradation of water quality.

g. The permittee shall allow the District Engineer or his authorized representative(s) 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.

h. Authorization of a specific work or structure authorized herein may be summarily suspended in whole or in part upon a finding by the District Engineer that immediate suspension would be in the general public interest or there has been a violation of any terms and conditions of this permit. Such suspension shall be effective upon receipt by the permittee of a written notice thereof which shall indicate (1) the extent of the suspension, (2) the reasons for this action, and (3) any corrective or preventative measures to be taken by a permittee which are deemed necessary by the District Engineer to abate imminent hazards to the general public interest. A permittee shall take immediate action to comply with the provisions of this notice. Within ten (10) days following the receipt of this notice of suspension, the permittee may request a meeting with the District Engineer or a public hearing to present information relevant to a decision whether his permit should be reinstated, modified, or revoked. If a public hearing is requested it shall be conducted pursuant to procedures prescribed by the Chief of Engineers. After completion of the public hearing or within a reasonable time after issuance of the suspension notice to the permittee if no hearing is requested, the authorization of the specific work or structure will be reinstated, modified, or revoked. Any modification, suspension, or revocation of authorization under this General Permit shall not be the basis for any claim for damages against the United States.

i. Upon receipt of a notice from the District Engineer for failure to comply with the terms, conditions, or standards of this General Permit shall, the structure owner must within 60 days without expense to the United States and in such manner as directed by the District Engineer or his authorized representative(s), effect compliance with the terms, conditions, and standards or remove the previously authorized structure.

j. This General Permit does not convey any property rights, either in real estate or material, or any exclusive privileges; and it does not authorize any injury to property or invasion of rights or any infringement of Federal, State, or local laws or regulations or Federal Energy Regulatory Commission

regulations, nor does it obviate the requirement to obtain other Federal, State, local or Duke Power assent or to comply with any applicable standards required by ordinance for the activities authorized herein. Other Federal, State, or local agencies and/or Duke Power are not limited by this document and may impose more stringent requirements than those stated herein as they see fit.

k. This General Permit does not authorize work or structures within areas that are mapped as Environmental in the Duke Power Shoreline Management Plan.

l. Works or structures authorized herein may be subject to damage by wave wash from passing vessels and wind-driven waves. The issuance of this General Permit does not relieve the permittee from taking all proper steps to ensure the integrity of works 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 any such damage.

m. The permittee shall maintain the work or structure authorized herein in good condition. If and when a permittee desires to abandon an authorized structure, unless such abandonment is part of a transfer procedure by which the individual is transferring ownership of the structure, the permittee may be required to remove the structure.

n. If the display of lights and signals on any structure authorized herein is not otherwise provided for by law, such lights and signals as may be prescribed by the United States Coast Guard shall be installed and maintained by and at the expense of the permittee.

o. The term "permittee" means the individual authorized by the District Engineer to accomplish work under this General Permit. The activities authorized under this permit are for private, non-commercial use. Work will not be considered private if its planned or ultimate purpose is commercial or industrial in nature, it is in support of operations that charge for the production, distribution, or sale of goods or service, or it will be for the use of the general public.

p. The prospective permittee must notify the District Engineer if the activity authorized by this General Permit may affect any federally listed threatened or endangered species, a species proposed for listing, or designated critical habitat. The activity is not authorized until the District Engineer determines that the requirements of the Endangered Species Act have been satisfied.

q. The prospective permittee must notify the District Engineer if the activity authorized by this General Permit may affect any historic properties listed, or which may be eligible for listing on the National Register of Historic Places. The activity is not authorized until the procedures for the protection of cultural resources (Appendix C to 33 CFR 325) have been completed on the eligible property or structure.

r. If the permittee, prior to or during the performance of the work authorized herein, encounters previously unidentified archeological remains or cultural resources within the area subject to Department of the Army authorization, the applicant agrees to cease work and contact the District Engineer, so that further coordination with the South Carolina Institute of Archaeology and Anthropology and the South Carolina Department of Archives and History may be conducted.

s. This general permit relates only to activities authorized herein and does not convey the right to place any structures for any nonwater-related commercial use on or adjacent to any pier, dock, moorings, boat houses, boat ramps, marine railways for dry storage, bulkheads, retainer walls, and/or riprap without the prior approval of the District Engineer.

t. 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.

II. SPECIAL CONDITIONS:

a. Docks and Boat Lifts

(1) Private docks, whether permanent, floating or a combination of both may not exceed 1,000 square feet in overall size (surface area) and 120 feet in length or 1/3 the width of the waterbody whichever is lesser provided that they do not interfere with navigation, or ingress or egress to any adjoining property. In some locations, such as narrow coves, the maximum size may not be permitted or structures may not be permitted at all.

(2) Common use structures between adjacent property owners are encouraged. A copy of the agreement between participating property owners must be furnished to Duke Power.

(3) All permanent docks must be built at least one vertical foot above the referenced project boundary elevation (full pond) of each lake.

(4) Handrailings are permissible provided that the sides of docks are not enclosed so as to obscure cross-vision.

(5) No sinks, toilets, showers, spigots, etc., or any type of equipment or construction which will create or cause any liquid or solid waste to be discharged into the waters of the lakes will be permitted.

(6) Floatation devices on floating docks shall be encased or encapsulated, and should consist of materials manufactured for marine use. Styrofoam billets, barrels, or similar devices are not permitted.

(7) Docks, boat houses, and boat shelters must be single-story structures. The roof of an approved dock or structure may be used as an open deck. However, a roof or cover may not be constructed above this elevated deck.

(8) Houseboats used for habitation may not be permanently moored at a private dock. Permanent moorings must be at marinas with permitted waste handling systems.

(9) Boat lifts and lifts for personal watercraft are permissible provided that they do not block cross-vision. No more than two (2) jet ski lifts per project-front lot will be allowed.

b. Mooring Structures

(1) Mooring structures, i.e., dolphins, pilings, or buoys and all vessels secured to the structure must not interfere with navigation, or ingress or egress to any adjoining property.

(2) Mooring structures may not be located more than 120 feet from the normal lake shoreline/project boundary (see Lake listing above), nor may they extend more than 1/3 the distance across the waterway, whichever is less. Mooring structures that are associated with a pier or dock may not be located in front of the structure, nor may they be located more than 30-feet laterally from the structure.

c. Boat Houses and Boat Shelters

(1) Floating boat houses are permitted. Boat houses must be single-story structures. Enclosed boat houses are not permitted.

(2) Floatation devices for all boat houses shall be of materials manufactured for marine use that resist puncture, penetration, and damage by animals. All flotation devices shall be encased or encapsulated. Reuse of uncoated, beaded polystyrene, plastic barrels, metal barrels, or similar devices will not be permitted.

(3) No sinks, toilets, showers, spigots, etc., or any type of equipment or construction which will create or cause any liquid or solid waste to be discarded into the waters of the lake will be permitted.

(4) Boat shelters (pilings with an attached roof) are permitted. Boat shelters must be single-story structures. Enclosed boat shelters are not permitted.

d. Boat Ramps

(1) Boat ramps will be constructed of reinforced concrete with a minimum thickness of four (4) inches. Use of asphalt compounds or petroleum products are not authorized under this General Permit.

(2) Boat ramps may be up to twelve (12) feet wide and the minimum length required to be functional. Boat ramps should conform to the existing topography to the extent practicable. Excessive cut and/or fill to achieve a desired slope is not authorized.

(3) Common use boat ramps between adjacent property owners are encouraged. A copy of the agreement between participating property owners must be furnished to Duke Power.

(4) Boat ramp construction shall not occur during the months of March, April, May, and June because of potential impacts to spawning fishes.

e. Marine Railways

(1) Marine railways extending from on-shore boat houses must not interfere with navigation, or ingress or egress to any adjoining property.

f. Bulkheads or Retainer Walls

(1) Bulkheads or retainer walls for erosion control will be permitted provided they are constructed at or above the project boundary (see Lake listing above). Earthen fills below the project boundary are prohibited.

(2) Bulkheads or retainer walls must be constructed against the existing erosional scarp and landward of any wetland vegetation to prevent the loss of wetlands in areas compatible with the Duke Power Shoreline Management Plan. The recapturing of land by earthen fill will not be permitted.

(3) Bulkheads or retainer walls for erosion control must be constructed of pressure treated wood, concrete, vinyl or fiberglass sheeting, or some other suitable material that has received prior approval by Duke Power.

(4) Only clean earthen fill free of all potential sources of pollution may be used as backfill material. The backfilled area must be stabilized with vegetative cover after construction to minimize the potential for erosion.

g. Riprap

(1) Riprap for erosion control will be permitted at the project boundary and below provided it is placed against the existing erosional scarp and landward of any wetland vegetation to prevent the loss of wetlands in areas compatible with the Duke Power Shoreline Management Plan.

(2) Riprap for erosion control must consist of clean stone free of all potential sources of pollution. Riprap materials must be aesthetically acceptable and must receive prior approval by Duke Power.

(3) Riprap is limited to only those areas where it is necessary to adequately control erosion.

h. Heat Exchange Coils and Intake Pipes

(1) The heating/coolant medium used within heat exchange coils must be water.

(2) All supply and return piping for heat exchange coils must be buried a minimum of two (2) feet below the lake bed from the project boundary to a depth of five feet below maximum drawdown.

(3) Exposed portions of heat exchange coils and intake pipes must be anchored to prevent them from floating to the surface.

(4) Material excavated to install heat exchange coils or irrigation pipes that is not used as backfill material within the excavated trench must be disposed properly in uplands.

(5) Clean stone free of all potential sources of pollution may be used as backfill within the excavated trench provided there is no change in preconstruction contours.

i. Minor Excavation Not Affecting the Project Boundary

(1) The quantity of material to be excavated shall not exceed 150 cubic yards for each single and complete project as required for the construction of boat ramps or for removing accumulated sediments in order to maintain deep water access.

(2) All excavation work and equipment setup must be conducted directly in front of the individual's lot and within the nearest one-third of the cove area and/or within the middle third of the cove area that is controlled by Duke Power, unless specific written authorization is given by the affected property owner(s). Access channels must run perpendicular to the shoreline/project boundary within the one-third of the cove nearest the applicant's property.

(3) All excavated soil must be placed in uplands located above the project boundary (see Lake listing above) and must be stabilized to prevent erosion and re-entry into the lake.

(4) Excavation is not authorized in areas identified as Environmental, Natural, and Impact Minimization Zones in the Duke Power Shoreline Management Plan.

(5) Access channels must be limited to a maximum bottom width of 10 feet. Side slopes should be excavated to a slope of 3 to 1, except where safety requirements may dictate a more gradual slope.

(6) The proposed excavation may not alter the project boundary or the full pond contour of the lake, and may not be for the purpose of creating additional shoreline. This General Permit does not authorize the connection of canals or basins located above the project boundary (see Lake listing above) with the main body of the lake.

(7) Excavation activities must not occur during the months of March, April, May, or June because of potential impacts to spawning fishes.

III. Prohibited Activities:

All work that exceeds the terms and conditions specified herein is prohibited unless an Individual or Nationwide Department of the Army Permit has been obtained from the Corps of Engineers. All work for purposes other than those specified herein is expressly not authorized by this document.

IV. Required Authorizations:

(a) Prior to performing the work authorized herein within the prescribed geographical limits of this General Permit, the permittee must obtain written authorization from Duke Power's Lake Management Office. Applicants should contact Lake Management at 1-800-443-5193.

(b) All lakes within the Catawba-Wateree basin are also subject to the Shoreline Management Plan that has been developed by Duke Power and approved by the Federal Energy Regulatory Commission. The Shoreline Management Plan is administered by Duke Power.

(c) Prior to performing any of the work authorized herein that entails discharges of dredged or fill material into navigable waters, the permittee will either confirm that the proposed project complies with South Carolina General Permit #S.C. GP 87-14-001 (Revised) or obtain a Permit to Construct in Navigable Waters from the South Carolina Department of Health and Environmental Control pursuant to R. 19-450. et. seq., 1976 S.C. Code of Laws, as amended.

V. Penalties for Violations:

Authorization obtained under this General Permit limits the size, length and use of structures. Any deviation from the specifications, or other terms or conditions of the General Permit shall constitute a violation of the Section 10 of the River and Harbors Act of 1899 and/or Section 404 of the Clean Water Act, and may result in the District Engineer seeking judicial relief to have the permittee remove the structure or work and/or restore the project area to its former condition, as well as the imposition of penalties as provided by law.

VI. Revocation of the General Permit:

This permit may be revoked by issuance of a public notice at any time the District Engineer determines that the cumulative effects of the activities authorized herein have an adverse effect on the public interest. Following such revocation, any future activities in areas covered by this General Permit will be processed as Individual or Nationwide Permits.

VII. Reporting of Activities Authorized by the General Permit

Duke Power Company has agreed to furnish the Corps of Engineers with a monthly tabulation and pertinent information on all work or activities authorized under this General Permit, including the location and type of construction. The report is due by the 25th day of the following month.

VII. Duration of the General Permit.

This General Permit will cover activities started within five (5) years and completed within six (6) years after the date of issuance unless this permit is revoked in the interim. Revoking the General Permit will not affect work performed in accordance with the conditions stated herein. At the end of the first year and every succeeding year, the Corps of Engineers and the Federal and State regulatory and resource agencies will jointly review activities authorized by this General Permit to determine if significant cumulative impacts have resulted. If the District Engineer determines revocation of this permit, in whole or in part, may be in order due to cumulative impacts, a public notice of the intention will be issued and after a review of all additional data submitted, action will be taken to amend, modify or revoke this permit as appropriate. Revocation of the General Permit will not affect the work that had been authorized when the General Permit was in effect if such work is in accordance with the provisions contained herein.

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

This permit shall become effective on the date of the District Engineer's signature.

BY AUTHORITY OF THE SECRETARY OF THE ARMY:

Peter W. Mueller
LTC, Corps of Engineers
District Engineer

Date

or his Designee

Robert H. Riggs
Chief, Regulatory Division