

APPENDIX A

Part 102 Checklist

Part 102 Checklist
Five Mile/Homer Hill Line 169/170 Reconductoring Project

Triggers	Yes	No
Are additional rights-of-way required?	X	
Are any additional structures to be added to the line?		X
Will the resulting structure carry more than two circuits?		X
Will there be any additional vegetative rights or trimming required?	X	
Will the height of the tower increase by 10' or more?	X	

102.3 Classes of Areas

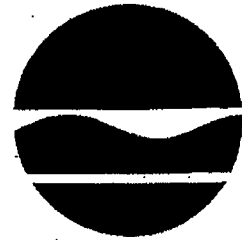
(a) For transmission lines in the following areas, the analysis required by Section 102.4 of this Part must be included in the report of the proposed construction:	Will	Will Not
1. National and state parks, preserves, reservations, landmarks and monuments formally so designated and acquired for their natural, scenic or cultural value by appropriate state and federal agencies. (Included would be historic landmarks, national landmarks, national monuments and trails, and wild and scenic rivers).		X
2. Historic sites formally so designated by national or state agencies but without acquisition of rights or ownership sufficient for the purpose of preservation.		X
3. Central business districts in cities and villages.		X
4. Developed and partly developed residential areas with an existing density of one or more dwelling units per acre, as shown on approved subdivision maps, occupying a minimum contiguous area of 20 acres, all or a portion of which would be traversed by the proposed transmission facility right-of-way		X
(b) Other Areas for which reports, but without the analysis required by Section 102.4 of this Part, are required:		
1. Areas of outstanding natural or scenic value which are preserved by non-profit private agencies but which have not been formally so designated by national or state agencies		X
2. Areas of outstanding cultural value (e.g. attractive pastoral scenes, locations of noteworthy architectural and/or social import both within and outside specific sites) that have been formally designated by the appropriate governmental authority.		X
3. Existing local (city, town, village and county) parks and open space areas that have been formally established by government or private authorities		X
4. Public and semi-public facilities such as cemeteries, educational, correctional and medical facilities and military installations		X
5. Existing light industrial and commercial areas (e.g., industrial parks, shopping centers, office building complexes).		X
6. Partially developed residential areas where the subdivision will have an eventual population density of one or more dwelling units per acre, as shown on approved subdivision maps, comprising a minimum contiguous area of 20 acres or a portion of which is traversed by the proposed transmission facility right-of-way		X
7. Areas of outstanding cultural value (e.g., attractive pastoral scenes, locations of noteworthy architectural and/or social import both within and outside specific sites that lend attractiveness to a neighborhood or community) that have not been formally designated by a governmental or private authority.		X
8. Residential areas with less population density than those specified in preceding categories	X	
9. Planned and zoned undeveloped light industrial, commercial and residential areas		X
10. Managed woodlands (e.g. commercial and other productive forests)		X
11. Agricultural districts established in accordance with Chapter 25-AA of the Agriculture and Markets Law, and other farmlands.	X	
12. Existing and planned heavy industrial areas.		X
13. Woods and open lands other than those included within areas specified in a priority area above.	X	

APPENDIX B

Agency Correspondence

NYSDEC
Natural Heritage Program

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION
Division of Fish, Wildlife & Marine Resources
New York Natural Heritage Program
625 Broadway, 5th Floor, Albany, New York 12233-4757
Phone: (518) 402-8935 • **Fax:** (518) 402-8925
Website: www.dec.ny.gov



Joe Martens
Commissioner

July 17, 2013

Randy Pekarski
Fisher Associates
325 Delaware Avenue, Suite 200

Buffalo, NY 14202

Re National Grid Five Mile-Homer Hill Refurbishment Project
Town/City: ALLEGANY, CITY OF County: CATTARAUGUS.
 OLEAN, HINSDALE,
 HUMPHREY, OLEAN.

Dear Randy Pekarski :

In response to your recent request, we have reviewed the New York Natural Heritage Program database with respect to the above project.

We have no records of rare or state-listed animals or plants, or significant natural communities, at your site or in its immediate vicinity.

The absence of data does not necessarily mean that rare or state-listed species, natural communities or other significant habitats do not exist on or adjacent to the proposed site. Rather, our files currently do not contain information which indicates their presence. For most sites, comprehensive field surveys have not been conducted. We cannot provide a definitive statement on the presence or absence of all rare or state-listed species or significant natural communities. This information should not be substituted for on-site surveys that may be required for environmental assessment.

This response applies only to known occurrences of rare or state-listed animals and plants, significant natural communities and other significant habitats maintained in the Natural Heritage Data bases. Your project may require additional review or permits; for information regarding other permits that may be required under state law for regulated areas or activities (e.g., regulated wetlands), please contact the appropriate NYS DEC Regional Office, Division of Environmental Permits, as listed at www.dec.ny.gov/about/39381.html.

Sincerely,

Nicholas Conrad
New York Natural Heritage Program

USFWS
IPaC Species List



U.S. Fish and Wildlife Service

Trust Resources List

This resource list is to be used for planning purposes only — it is not an official species list.

Endangered Species Act species list information for your project is available online and listed below for the following FWS Field Offices:

New York Ecological Services Field Office
3817 LUKER ROAD
CORTLAND, NY 13045
(607) 753-9334
<http://www.fws.gov/northeast/nyfo/es/section7.htm>

Project Name:

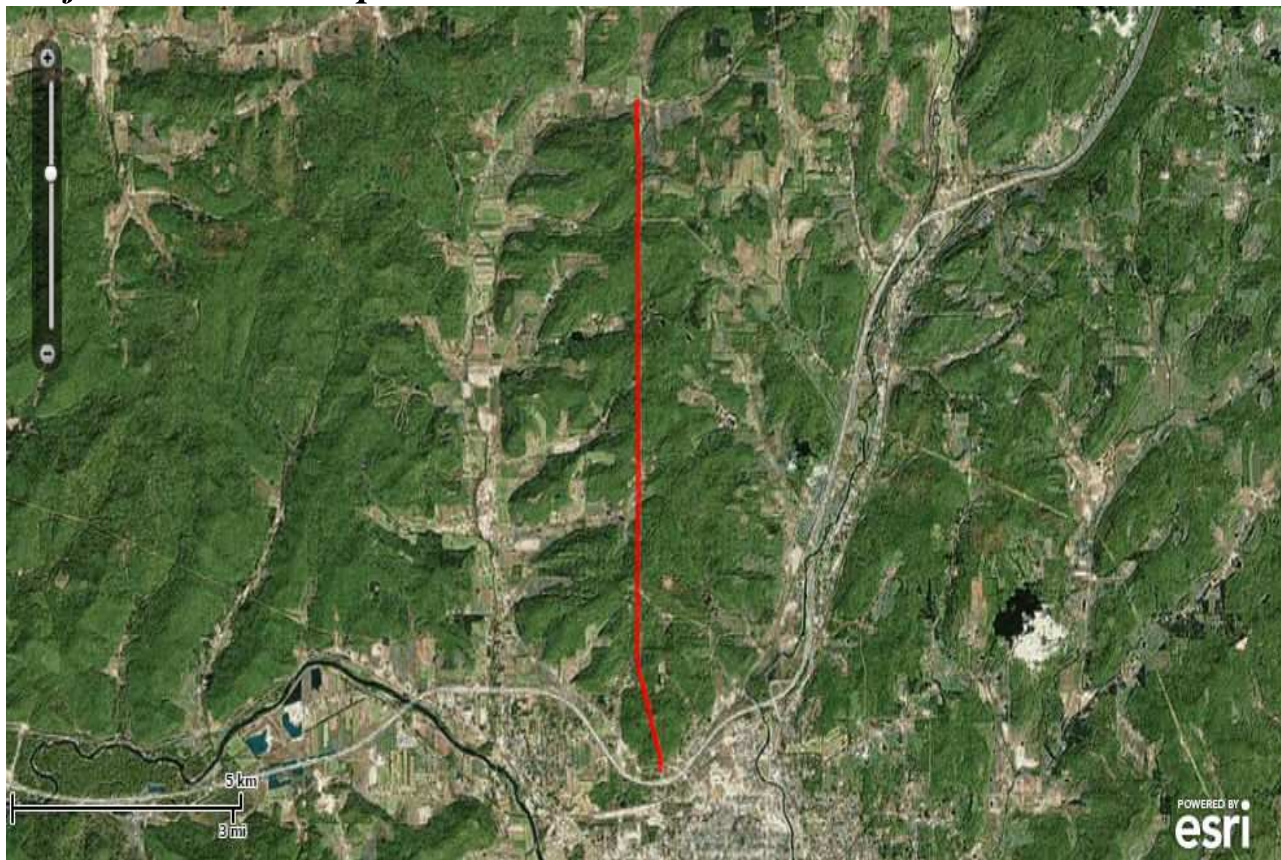
five mile - HH



U.S. Fish and Wildlife Service

Trust Resources List

Project Location Map:



Project Counties:

Cattaraugus, NY



Trust Resources List

Geographic coordinates (Open Geospatial Consortium Well-Known Text, NAD83):

MULTIPOLYGON (((-78.4634945 42.1883262, -78.4630482 42.1854994, -78.463048 42.1854974, -78.4628448 42.1819663, -78.4628448 42.1819645, -78.4629418 42.1791019, -78.4629097 42.1756589, -78.4629098 42.1756571, -78.4631569 42.1725874, -78.4631569 42.1690814, -78.4630703 42.1662664, -78.4630703 42.166266, -78.4630172 42.1605782, -78.4630172 42.160578, -78.4630378 42.1498853, -78.4630378 42.1498847, -78.4631336 42.146767, -78.4629611 42.1431717, -78.4629611 42.1431702, -78.4631117 42.1369322, -78.4629398 42.1338526, -78.4629398 42.1338522, -78.462854 42.131322, -78.4628541 42.1313197, -78.4631216 42.128073, -78.4631413 42.1172798, -78.4631413 42.1172796, -78.463247 42.1070815, -78.4631286 42.1056921, -78.4580033 42.0934569, -78.4569842 42.0910919, -78.4569826 42.0910832, -78.4570507 42.0893675, -78.4570525 42.0893599, -78.4570571 42.0893536, -78.4570638 42.0893495, -78.4570715 42.0893483, -78.4570791 42.0893501, -78.4570854 42.0893547, -78.4570895 42.0893614, -78.4570907 42.0893691, -78.4570228 42.0910803, -78.4580401 42.0934412, -78.4580401 42.0934414, -78.4631667 42.1056796, -78.4631682 42.1056856, -78.4632869 42.1070791, -78.463287 42.107081, -78.4631813 42.1172799, -78.4631616 42.1280738, -78.4631615 42.1280754, -78.462894 42.1313218, -78.4629798 42.1338506, -78.4631517 42.1369308, -78.4631517 42.1369324, -78.4630011 42.1431705, -78.4631736 42.1467658, -78.4631736 42.1467674, -78.4630778 42.1498856, -78.4630572 42.1605779, -78.4631103 42.1662654, -78.4631969 42.1690805, -78.4631969 42.1690811, -78.4631969 42.1725882, -78.4631968 42.1725898, -78.4629497 42.1756594, -78.4629818 42.1791019, -78.4629818 42.1791028, -78.4628848 42.181965, -78.4630879 42.1854942, -78.4635344 42.1883219, -78.4635346 42.1883258, -78.4634059 42.191744, -78.4634041 42.1917515, -78.4633995 42.1917579, -78.4633929 42.191762, -78.4633851 42.1917632, -78.4633776 42.1917614, -78.4633712 42.1917568, -78.4633671 42.1917502, -78.4633659 42.1917424, -78.4634945 42.1883262))))))

Project Type:

Transmission Line

Endangered Species Act Species List ([USFWS Endangered Species Program](#))

There are a total of 3 threatened or endangered species on your species list. Species on this list should be considered in an effects analysis for your project and could include species that exist in another geographic area. For example, certain fishes may appear on the species list because a project could cause downstream effects on the species. Critical habitats listed under the **Has Critical Habitat** column may or may not lie within your project area. See the **Critical habitats within your project area** section below for critical habitat that lies within your project area. Please contact the designated FWS office if you have questions.

Species that should be considered in an effects analysis for your project:

Clams	Status		Has Critical Habitat	Contact
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Trust Resources List

clubshell (<i>Pleurobema clava</i>) Population: Entire Range; Except where listed as Experimental Populations	Endangered	species info		New York Ecological Services Field Office
Rayed Bean (<i>Villosa fabalis</i>)	Endangered	species info		New York Ecological Services Field Office
Mammals				
northern long-eared Bat (<i>Myotis septentrionalis</i>) Population:	Proposed Endangered	species info		New York Ecological Services Field Office

Critical habitats within your project area:

There are no critical habitats within your project area.

FWS National Wildlife Refuges ([USFWS National Wildlife Refuges Program](#)).

There are no refuges found within the vicinity of your project.

FWS Migratory Birds ([USFWS Migratory Bird Program](#)).

The protection of birds is regulated by the Migratory Bird Treaty Act (MBTA) and the Bald and Golden Eagle Protection Act (BGEPA). Any activity, intentional or unintentional, resulting in take of migratory birds, including eagles, is prohibited unless otherwise permitted by the U.S. Fish and Wildlife Service (50 C.F.R. Sec. 10.12 and 16 U.S.C. Sec. 668(a)). The MBTA has no provision for allowing take of migratory birds that may be unintentionally killed or injured by otherwise lawful activities. For more information regarding these Acts see <http://www.fws.gov/migratorybirds/RegulationsandPolicies.html>.

All project proponents are responsible for complying with the appropriate regulations protecting birds when planning and developing a project. To meet these conservation obligations, proponents should identify potential or existing project-related impacts to migratory birds and their habitat and develop and implement conservation measures that avoid, minimize, or compensate for these impacts. The Service's Birds of Conservation Concern (2008) report identifies species, subspecies, and populations of all migratory nongame birds that, without additional conservation actions, are likely to become listed under the Endangered Species Act as amended (16 U.S.C 1531 et seq.).



Trust Resources List

For information about Birds of Conservation Concern, go to
<http://www.fws.gov/migratorybirds/CurrentBirdIssues/Management/BCC.html>.

Migratory birds of concern that may be affected by your project:

There are 11 birds on your Migratory birds of concern list. The Division of Migratory Bird Management is in the process of populating migratory bird data with an estimated completion time of Fall 2014; therefore, the list below may not include all the migratory birds of concern in your project area at this time. While this information is being populated, please contact the Field Office for information about migratory birds in your project area.

Species Name	Bird of Conservation Concern (BCC)	Species Profile	Seasonal Occurrence in Project Area
American bittern (<i>Botaurus lentiginosus</i>)	Yes	species info	Breeding
Bald eagle (<i>Haliaeetus leucocephalus</i>)	Yes	species info	Year-round
Black-billed Cuckoo (<i>Coccyzus erythrophthalmus</i>)	Yes	species info	Breeding
Blue-winged Warbler (<i>Vermivora pinus</i>)	Yes	species info	Breeding
Canada Warbler (<i>Wilsonia canadensis</i>)	Yes	species info	Breeding
cerulean warbler (<i>Dendroica cerulea</i>)	Yes	species info	Breeding
Golden-Winged Warbler (<i>Vermivora chrysoptera</i>)	Yes	species info	Breeding
Least Bittern (<i>Ixobrychus exilis</i>)	Yes	species info	Breeding
Louisiana Waterthrush (<i>Parkesia motacilla</i>)	Yes	species info	Breeding
Pied-billed Grebe (<i>Podilymbus podiceps</i>)	Yes	species info	Breeding
Wood Thrush (<i>Hylocichla mustelina</i>)	Yes	species info	Breeding



Trust Resources List

NWI Wetlands ([USFWS National Wetlands Inventory](#)).

The U.S. Fish and Wildlife Service is the principal Federal agency that provides information on the extent and status of wetlands in the U.S., via the National Wetlands Inventory Program (NWI). In addition to impacts to wetlands within your immediate project area, wetlands outside of your project area may need to be considered in any evaluation of project impacts, due to the hydrologic nature of wetlands (for example, project activities may affect local hydrology within, and outside of, your immediate project area). It may be helpful to refer to the USFWS National Wetland Inventory website. The designated FWS office can also assist you. Impacts to wetlands and other aquatic habitats from your project may be subject to regulation under Section 404 of the Clean Water Act, or other State/Federal Statutes. Project Proponents should discuss the relationship of these requirements to their project with the Regulatory Program of the appropriate [U.S. Army Corps of Engineers District](#).

Data Limitations, Exclusions and Precautions

The Service's objective of mapping wetlands and deepwater habitats is to produce reconnaissance level information on the location, type and size of these resources. The maps are prepared from the analysis of high altitude imagery. Wetlands are identified based on vegetation, visible hydrology and geography. A margin of error is inherent in the use of imagery; thus, detailed on-the-ground inspection of any particular site may result in revision of the wetland boundaries or classification established through image analysis.

The accuracy of image interpretation depends on the quality of the imagery, the experience of the image analysts, the amount and quality of the collateral data and the amount of ground truth verification work conducted. Metadata should be consulted to determine the date of the source imagery used and any mapping problems.

Wetlands or other mapped features may have changed since the date of the imagery and/or field work. There may be occasional differences in polygon boundaries or classifications between the information depicted on the map and the actual conditions on site.

Exclusions - Certain wetland habitats are excluded from the National mapping program because of the limitations of aerial imagery as the primary data source used to detect wetlands. These habitats include seagrasses or submerged aquatic vegetation that are found in the intertidal and subtidal zones of estuaries and nearshore coastal waters. Some deepwater reef communities (coral or tubercid worm reefs) have also been excluded from the inventory. These habitats, because of their depth, go undetected by aerial imagery.

Precautions - Federal, state, and local regulatory agencies with jurisdiction over wetlands may define and describe wetlands in a different manner than that used in this inventory. There is no attempt, in either the design or products of this inventory, to define the limits of proprietary jurisdiction of any Federal, state, or local government or to establish the geographical scope of the regulatory programs of government agencies. Persons intending to engage in activities involving modifications within or adjacent to wetland areas should seek the



U.S. Fish and Wildlife Service

Trust Resources List

advice of appropriate federal, state, or local agencies concerning specified agency regulatory programs and proprietary jurisdictions that may affect such activities.

IPaC is unable to display wetland information at this time.

**State Historic Preservation Office
Correspondence**



FISHER ASSOCIATES

325 Delaware Ave., Suite 200
Buffalo, NY 14202
Phone: 716-858-1234
Fax: 716-858-1231
www.fisherassoc.com

November 13, 2013

Ms. Ruth Pierpont, Director
New York State Historic Preservation Office
Peebles Island Resource Center
P.O. Box 189
Waterford, NY 12188-0189

Re: Request for Review of Potential Cultural Resources Impacts
Site Name: National Grid Five Mile Road to Homer Hill 169/170 Line Reconductoring Project
Municipalities/Counties: Towns of Humphrey, Hinsdale, Allegany and Olean, City of Olean, Cattaraugus County
USGS Quadrangle Maps: Hinsdale and Olean

Dear Ms. Pierpont:

On behalf of National Grid and in accordance with Section 14.09 of the New York Parks, Recreation and Historic Preservation Law, Fisher Associates ("Fisher") is requesting a review of potential impacts to cultural resources that may result from the proposed Five Mile Rd to Homer Hill 169/170 Project in the towns of Humphrey, Hinsdale, Allegany and Olean, and city of Olean, Cattaraugus County, New York (the "Project").

The Project involves reconductoring and flex tower and shield wire replacement within National Grid's existing double circuit 115kV transmission line right-of-way that extends from the proposed Five Mile Road Substation in the town of Humphrey to the Homer Hill Substation in the city of Olean, a distance of approximately 7.2 miles. Approximately 44 structures along the right-of-way will be replaced in-kind. Of these, approximately 23 structures will be replaced in-kind with taller double circuit wood 2-pole davit arm suspension replacement structures (i.e., greater than 10 ft. increase in height) due to increased clearance requirements, the use of three additional disc insulators in each suspension string, increased vertical phase spacing and increased spacing between the top phase and shield wire. As such, the Project is subject to review by the New York Public Service Commission pursuant to New York Public Service Commission Rule and Regulations (16 NYCRR Part 102).

In addition to the proposed reconductoring and structure and shield wire replacement, an additional five feet on either side of the existing right-of-way may be acquired to meet the minimum current standards for electric transmission rights-of-way. However, tree clearing activity in these areas will be performed manually (no mechanized land clearing) and no grading will be necessary. Therefore, this minor right-of-way extension will not result in significant ground disturbance or significant impacts to surface or ground surface conditions. It is noted that for safety purposes, selective manual danger tree clearing will be necessary outside of the expanded right-of-way; however, this activity will similarly not involve mechanical land clearing and therefore will not result in significant ground disturbance.

The land use and/or groundcover conditions along the Project corridor consist primarily of mowed utility right-of-way. The Project will necessitate access to portions of the overhead electric line in areas of structure replacements. Within the majority of the Project corridor, access will be from public roadways and along the existing right-of-way, as the transmission line is sited adjacent to several public roadways. Some structures will be accessed from off-right-of-way locations to existing access roads. Minor improvements to existing access may be needed including the addition of

culverts and adding gravel fill or crushed stone to fill depressions and wash-out areas. No new access roads are planned for the Project.

Identification and Evaluation of Cultural Resources

A search of the National Register Information database indicated that there are no National Register of Historic Places-listed sites/districts located within one mile of the Project corridor centerline. According to the New York State Historic Preservation Office (SHPO) GIS-Public Access database, the southern portion of the Project corridor is located within an archaeologically sensitive area. However, no structure replacements or earth disturbance activities are planned in this area which might affect known or unknown subsurface archaeological sites. Photographs were taken to generally characterize the existing right-of-way relative to historic resources in the vicinity Project vicinity and are keyed to the attached Site/Photo Location Map (see attached).

Based on the scope of the Project which involves reconductoring and structure and shield wire replacement, we believe that the proposed Project will have No Effect upon cultural resources and respectfully request your concurrence. Please contact me at (716) 858-1234 ext. 306 if you have any questions or require further information.

Sincerely,

FISHER ASSOCIATES, P.E., L.S., P.C.

A handwritten signature in black ink, appearing to read "Frank J. Armento", with a long horizontal flourish extending to the right.

Frank J. Armento, AICP CEP
Sr. Regulatory Specialist

Enclosures

Cc: Mary Bitka, National Grid
Edward Kostowniak, P.E., Fisher Associates

SHPO PROJECT REVIEW COVER FORM



New York State Office of Parks, Recreation and Historic Preservation Historic Preservation Field Services Bureau

Peebles Island Resource Center, PO Box 189, Waterford, NY 12188-0189 (Mail)
Delaware Avenue, Cohoes 12047 (Delivery)

(518) 237-8643

PROJECT REVIEW COVER FORM

Rev. 5-05

Please complete this form and attach it to the top of **any and all information submitted to this office** for review.
Accurate and complete forms will assist this office in the timely processing and response to your request.

This information relates to a previously submitted project.

PROJECT NUMBER ____ PR ____

COUNTY _____

☐

If you have checked this box and noted the previous Project Review (PR) number assigned by this office you do not need to continue unless any of the required information below has changed.

2. This is a new project.

☒

If you have checked this box you will need to complete ALL of the following information.

Project Name National Grid Five Mile Road to Homer Hill 169/170 Line Reconductoring Project

Location See attached site location map
You MUST include street number, street name and/or County, State or Interstate route number if applicable

City/Town/Village Towns of Humphrey, Allegany and Olean and City of Olean
List the correct municipality in which your project is being undertaken. If in a hamlet you must also provide the name of the town.

County Cattaraugus
If your undertaking* covers multiple communities/counties please attach a list defining all municipalities/counties included.

TYPE OF REVIEW REQUIRED/REQUESTED (Please answer both questions)

A. Does this action involve a permit approval or funding, now or ultimately from any other governmental agency?

☐ No ☒ Yes

If Yes, list agency name(s) and permit(s)/approval(s)

Agency involved	Type of permit/approval	State	Federal
<u>NYS Public Service Commission</u>	<u>Part 102 Filing</u>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<u>NYSDEC</u>	<u>SPDES Stormwater General Permit</u>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<u>USACE</u>	<u>Nationwide Permit</u>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

B. Have you consulted the NYSHPO web site at ****<http://nysparks.state.ny.us>** to determine the preliminary presence or absence of previously identified cultural resources within or adjacent to the project area? If yes:

☒ Yes ☐ No

Was the project site wholly or partially included within an identified archeologically sensitive area?

☒ Yes ☐ No

Does the project site involve or is it substantially contiguous to a property listed or recommended for listing in the NY State or National Registers of Historic Places?

☐ Yes ☒ No

CONTACT PERSON FOR PROJECT

Name Frank Armento, AICP CEP Title Sr. Regulatory Specialist

Firm/Agency Fisher Associates

Address 325 Delaware Avenue, Suite 200 City Buffalo STATE N.Y. Zip 14202

Phone (716) 858-1234 Fax (716) 858-1231 E-Mail farmento@fisherassoc.com

<http://nysparks.state.ny.us> then select **HISTORIC PRESERVATION then select **On Line Resources**

The Historic Preservation Review Process in New York State

In order to insure that historic preservation is carefully considered in publicly-funded or permitted undertakings*, there are laws at each level of government that require projects to be reviewed for their potential impact/effect on historic properties. At the federal level, Section 106 of the National Historic Preservation Act of 1966 (NHPA) directs the review of federally funded, licensed or permitted projects. At the state level, Section 14.09 of the New York State Parks, Recreation and Historic Preservation Law of 1980 performs a comparable function. Local environmental review for municipalities is carried out under the State Environmental Quality Review Act (SEQRA) of 1978.

regulations on line at:

<http://nysparks.state.ny.us> then select **HISTORIC PRESERVATION** then select **Environmental Review**

Project review is conducted in two stages. First, the Field Services Bureau assesses affected properties to determine whether or not they are listed or eligible for listing in the New York State or National Registers of Historic Places. If so, it is deemed "historic" and worthy of protection and the second stage of review is undertaken. The project is reviewed to evaluate its impact on the properties significant materials and character. Where adverse effects are identified, alternatives are explored to avoid, or reduce project impacts; where this is unsuccessful, mitigation measures are developed and formal agreement documents are prepared stipulating these measures.

ALL PROJECTS SUBMITTED FOR REVIEW SHOULD INCLUDE THE FOLLOWING MATERIAL(S).

X

Project Description

Attach a full description of the nature and extent of the work to be undertaken as part of this project. Relevant portions of the project applications or environmental statements may be submitted.

X

Maps Locating Project

Include a map locating the project in the community. The map must clearly show street and road names surrounding the project area as well as the location of all portions of the project. Appropriate maps include tax maps, Sanborn Insurance maps, and/or USGS quadrangle maps.

X

Photographs

Photographs may be black and white prints, color prints, or color laser/photo copies; standard (black and white) photocopies are NOT acceptable.

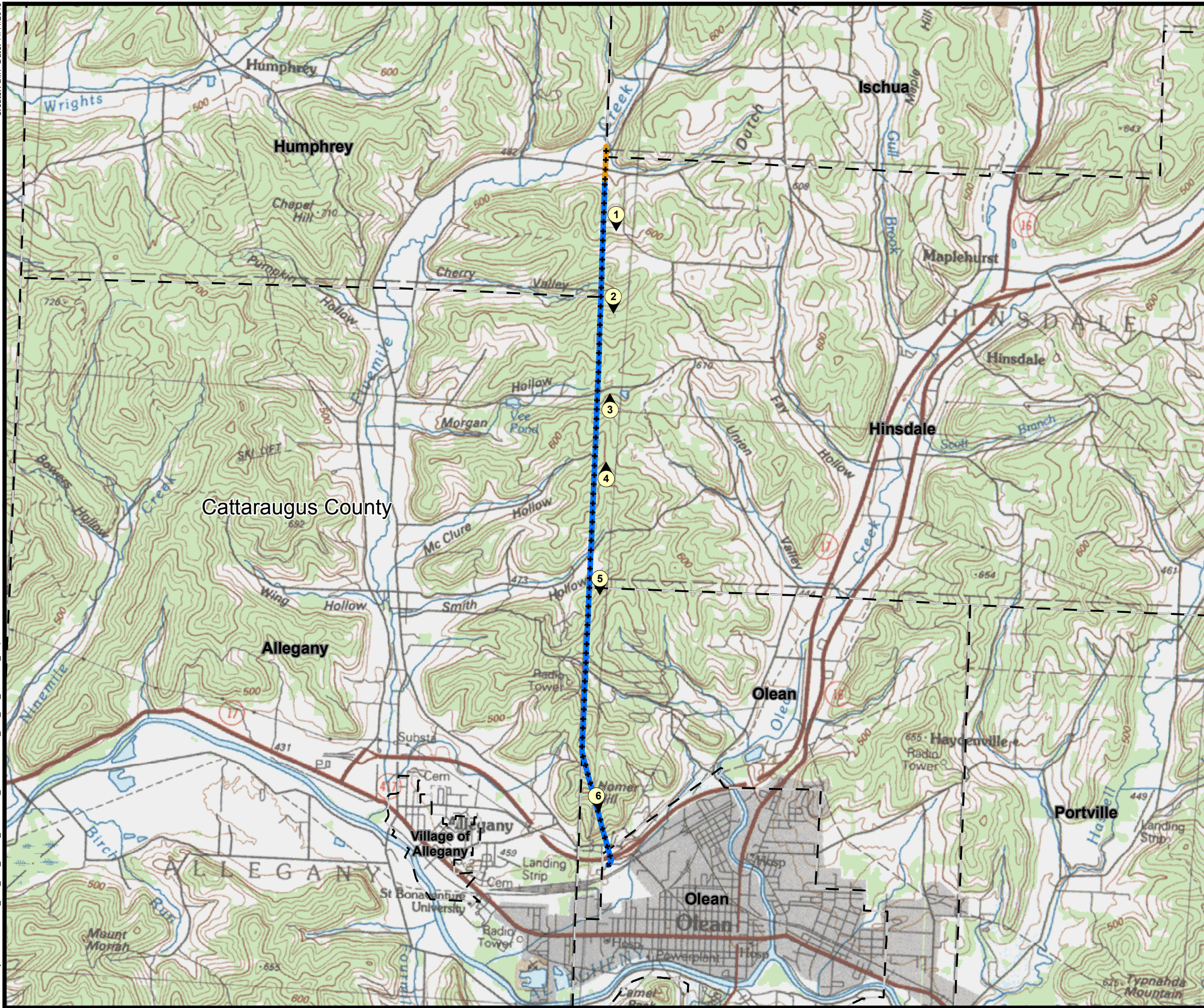
-If the project involves rehabilitation, include photographs of the building(s) involved. Label each exterior view to a site map and label all interior views.

-If the project involves new construction, include photographs of the surrounding area looking out from the project site. Include photographs of any buildings (more than 50 years old) that are located on the project property or on adjoining property.

NOTE: Projects submissions will not be accepted via facsimile or e-mail.






***Undertaking** is defined as an agency's purchase, lease or sale of a property, assistance through grants, loans or guarantees, issuing of licenses, permits or approvals, and work performed pursuant to delegation or mandate.

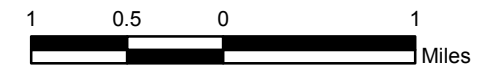
PHOTOGRAPHIC RECORD



FIVE MILE / HOMER HILL: LINE 151/152
RECONDUCTOR PROJECT
PART 102
USGS SITE / PHOTO LOCATION MAP

LEGEND

-  SHPO Photo Location
-  Project Corridor
-  Reconductoring Corridor
-  County Boundary
-  Municipal Boundary



NY INDEX MAP



REGIONAL MAP



nationalgrid





FISHER ASSOCIATES

PHOTOGRAPHIC RECORD

Client Name: National Grid	Site Location: Town of Hinsdale, Cattaraugus Co. N.Y.	Project No. 130019
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Photo No. 1	
Description: View looking south of existing access road along National Grid Five Mile-Homer Hill Line 151 ROW in the Town of Humphrey, N.Y.	

Photo No. 2	
Description: View looking south of existing access road along National Grid Five Mile-Homer Hill Line 151 ROW.	



FISHER ASSOCIATES

PHOTOGRAPHIC RECORD

Client Name: National Grid	Site Location: Town of Hinsdale, Cattaraugus Co. N.Y.	Project No. 130019
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Photo No. 3	 A photograph showing a dirt road or path leading up a grassy hill. In the distance, a power line tower is visible against a cloudy sky. The hill is covered with green trees and shrubs.
Description: View looking south of existing access road along National Grid Five Mile-Homer Hill Line 151 ROW.	

Photo No. 4	 A photograph showing a dirt road or path leading up a grassy hill. In the distance, a power line tower is visible against a cloudy sky. The hill is covered with green trees and shrubs.
Description: View looking south of existing access road along National Grid Five-Mile-Homer Hill Line 151 ROW.	



FISHER ASSOCIATES

PHOTOGRAPHIC RECORD

Client Name: National Grid	Site Location: Town of Hinsdale, Cattaraugus Co. N.Y.	Project No. 130019
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Photo No. 5	
Description: View looking south of existing access road along National Grids Five Mile-Homer Hill Line 151 ROW.	

Photo No. 6	
Description: View looking south along ROW towards Homer Hill substation.	



New York State Office of Parks, Recreation and Historic Preservation

Division for Historic Preservation
P.O. Box 189, Waterford, New York 12188-0189
518-237-8643

Andrew M. Cuomo
Governor

Rose Harvey
Commissioner

November 27, 2013

Frank J. Armento, AICP
Fisher Associates
325 Delaware Avenue
Buffalo, New York 14202

Re: CORPS PERMITS, DEC
National Grid Five Mile Road to Homer Hill
169/170 Line Reconductoring Project
Towns of Humphrey, Allegany, Olean,
City of Olean Cattaraugus County
13PR05339

Dear Mr. Armento, AICP:

Thank you for requesting the comments of the State Historic Preservation Office (SHPO). We have reviewed the project in accordance with Section 106 of the National Historic Preservation Act of 1966. These comments are those of the SHPO and relate only to Historic/Cultural resources. They do not include potential environmental impacts to New York State Parkland that may be involved in or near your project. Such impacts must be considered as part of the environmental review of the project pursuant to the National Environmental Policy Act and/or the State Environmental Quality Review Act (New York Environmental Conservation Law Article 8).

Based upon this review, it is the SHPO's opinion that your project will have **No Effect** upon cultural resources in or eligible for inclusion in the National Register of Historic Places.

If further correspondence is required regarding this project, please be sure to refer to the OPRHP Project Review (PR) number noted above.

Sincerely,

Ruth L. Pierpont
Deputy Commissioner for Historic Preservation

**NYSDEC
SPDES Acknowledgement and
5-Acre Waiver Letter**

New York State Department of Environmental Conservation
Division of Water
Bureau of Water Permits, 4th Floor
625 Broadway, Albany, New York 12233-3505
Phone: (518) 402-8111 • **Fax:** (518) 402-9029
Website: www.dec.ny.gov



3/26/2014

NIAGARA MOHAWK POWER, DBA NATIONAL GRI
MARY BITKA
144 KENSINGTON AVE
BUFFALO NY 14214-

**Re: ACKNOWLEDGMENT of NOTICE of INTENT for
Coverage Under SPDES General Permit for Storm
Water Discharges from CONSTRUCTION
ACTIVITY General Permit No. GP-0-10-001**

Dear Prospective Permittee:

This is to acknowledge that the New York State Department of Environmental Conservation (Department) has received a complete Notice of Intent (NOI) for coverage under General Permit No. GP-0-10-001 for the construction activities located at:

FIVEMILE/HOMER HILL:L169/170 RECONDUCT

N/A

OLEAN/HINDSDALE/HUMPHREY/ALLEGANY NY

County: CATTARAUGUS

Pursuant to Environmental Conservation Law (ECL) Article 17, Titles 7 and 8, ECL Article 70, discharges in accordance with GP-0-10-001 from the above construction site will be authorized **5** business days from **3/24/2014** which is the date we received your final NOI, unless notified differently by the Department.

The permit identification number for this site is: **NYR 10X740** . Be sure to include this permit identification number on any forms or correspondence you send us. When coverage under the permit is no longer needed, you must submit a Notice of Termination to the Department.

This authorization is conditioned upon the following:

1. The information submitted in the NOI received by the Department on **3/24/2014** is accurate and complete.
2. You have developed a Storm Water Pollution Prevention Plan (SWPPP) that complies with GP-0-10-001 which must be implemented as the first element of construction at the above-noted construction site.
3. Activities related to the above construction site comply with all other requirements of GP-0-10-001.

4. Payment of the annual \$100 regulatory fee, which is billed separately by the Department in the late fall. The regulatory fee covers a period of one calendar year. In addition, since September 1, 2004, construction stormwater permittees have been assessed an initial authorization fee which is now \$100 per acre of land disturbed and \$600 per acre of future impervious area. The initial authorization fee covers the duration of the authorized disturbance.

5. When applicable, project review pursuant to the State Environmental Quality Review Act (SEQRA) has been satisfied.


6. You have obtained all necessary Department permits subject to the Uniform Procedures Act (UPA). You should check with your Regional Permit Administrator for further information.

***Note: Construction activities cannot commence until project review pursuant to SEQRA has been satisfied, when SEQRA is applicable; and, where required, all necessary Department permits subject to the UPA have been obtained.**

Please be advised that the Department may request a copy of your SWPPP for review.

Should you have any questions regarding any aspect of the requirements specified in GP-0-10-001, please contact Dave Gasper at (518) 402-8114 or the undersigned at (518) 402-8109.

Sincerely,



Toni Cioffi

Environmental Program Specialist 1

cc: RWE - 9

SWPPP Preparer

FISHER ASSOCIATES
KOSTOWNIAK, EDWARD PE
325 DELAWARE AVE, SUITE 200
BUFFALO NY 14202-



FISHER ASSOCIATES

325 Delaware Ave. , Suite 200
Buffalo, NY 14202
Phone: 716-858-1234
Fax: 716-858-1231
www.fisherassoc.com

June 26, 2014

Mr. William Murray
NYS Department of Environmental Conservation – Region 9
270 Michigan Avenue
Buffalo, NY 14203-2999

**Reference: Request for authorization to disturb greater than five (5) acres
Coverage Under SPDES General Permit for Stormwater
Discharges from Construction Activity (GP-0-10-001)
National Grid Five Mile – Homer Hill Line 169/170 115kV Reconductoring Project
Permit Identification No.: NYR 10X740**

Dear Mr. Murray:

Niagara Mohawk Power Corporation (d/b/a national Grid) is pursuing an Acknowledgement of Notice of Intent from the NYSDEC's Division of Water (see enclosed NOI), authorizing coverage under SPDES General Permit for Stormwater Discharges from Construction Activity (GP 0-10-001) regarding the above-referenced project. A condition of this permit stipulated that if the project involved greater than 5 acres of soil at one time, approval from the NYSDEC's regional office would be required. Due to the need to upgrade the access roads prior to the structure replacement and reconductoring, disturbance of greater than 5 acres of soil at one time will be necessary. As such, this letter respectfully requests your approval and/or waiver from the 5-acre stipulation.

In accordance with GP-0-10-001, when soil disturbance exceeds 5 acres at one time, documented bi-weekly site inspections will be performed by a qualified inspector to ensure all required erosion and sediment control measures are in place, properly positioned and in good condition. Those inspections will be continual for the duration of the construction phase, or until earth-disturbing construction activities have been discontinued and all disturbed areas have been permanently stabilized.

A description of the project work describing the project construction sequencing is enclosed for your review. Therefore, while 5 acres of soil will be disturbed at one time, the project is split into 5 stages, minimizing erosion and sedimentation impacts to approximately 5.0 acres at one time.

Please refer to Table 1.0 – “*Approximate Soil Disturbance / SWPPP Inspection Schedule*” below for more information.

Table 1.0 – Approximate Soil Disturbance / SWPPP Inspection Schedule

Stage Number	Approximate Work Limits / Trench Excavation	Approximate Disturbance ROW this Stage (Acres)	Total Approximate Disturbance / Stage (Acres)	SWPPP Inspections Required
1	Clearing	0.0	2.5	Once a Week
2	Civil Contractor Road Maintenance	5.0	8.5	Twice Per Week
3	Civil Site Restoration	5.0	8.5	Twice Per Week
4	Structure Replacement and Reconductoring	5.0	2.8	Once a Week
5	Final Restoration	0.0	0.0	File NOT with NYSDEC

If you have any questions regarding this submittal, please contact me at 716-858-1234 ext. 313.

Sincerely,

FISHER ASSOCIATES, P.E., L.S., P.C.



Edward Kostowniak, PE
Senior Civil Engineer

Enclosures

CC. Mary Bitka, National Grid
Frank Armento, Fisher Associates

New York State Department of Environmental Conservation

Division of Water, Region 9

270 Michigan Avenue, Buffalo, New York, 14203-2915

Phone: (716) 851-7070 • FAX: (716) 851-7009

Website: www.dec.ny.gov



Joe Martens
Commissioner

August 7, 2014

Edward Kostowniak, P.E.
Fisher Associates
325 Delaware Avenue
Suite 200
Buffalo, New York 14202

Dear Mr. Kostowniak:

Disturbance of more than 5 acres
Five Mile/Homer Hill Line 169/170
Cattaraugus County
SPDES General Permit GP-0-10-001
Permit ID# NYR10X740

This office has received the request and supporting materials that you have submitted on behalf of Niagara Mohawk (d/b/a National Grid) for approval to disturb more than 5 acres at any one time as part of the above-referenced linear utility project in multiple towns in Cattaraugus County.

Your request is hereby granted with the understanding that the construction activities will be performed in compliance with the conditions outlined in Part II.C.3 of SPDES General Permit for Stormwater Discharges (GP-0-10-001), which pertains specifically to disturbances of greater than 5 acres. Compliance with these conditions must be maintained for the duration of the period in which more than 5 acres is disturbed.

This approval does not relieve the project owner/operator of any other requirements listed in the Permit or offer protection from enforcement action initiated by this Department if permit violations are observed during inspections of the site by DEC staff.

If you have any questions, or need additional information, feel free to contact me at the number above.

Sincerely,

Brian V. Hourigan
Engineering Geologist 2

NYSDEC
General Permit Authorization



FISHERASSOCIATES

325 Delaware Ave., Suite 200
Buffalo, NY 14202
Phone: 716-858-1234
Fax: 716-858-1231
www.fisherassoc.com

April 14, 2014

Mr. Paul McKeown
Natural Resources Supervisor
NYSDEC Region 9
270 Michigan Avenue
Buffalo, NY 14203

**Reference: 0-0000-01147/00001; 00002; 00003 – National Grid General Permit
Notification of General Permit Project
National Grid Five Mile-Homer Hill Line 169/170 Reconductor Project**

Dear Mr. McKeown:

On behalf of National Grid, enclosed is a Notification of General Permit Project (Attachment A) and Aerial Corridor Mapping for areas relevant to General Permit Activities (Attachment B) prepared in accordance with National Grid's General Permit (0-0000-01147/00001; 00002; and 00003), which authorizes certain project activities in accordance with Article 15 (Protection of Waters) and Article 24 (Freshwater Wetlands) of the Environmental Conservation Law.

Project Description

The proposed project involves replacing various structures, reconductoring and other routine maintenance activities, along National Grid's Five Mile-Homer Hill Line 169/170 Reconductor Project right-of-way (ROW). The Project is located in the Towns of Hinsdale, Humphrey, Allegany, Olean and the City of Olean in Cattaraugus County, New York. The entire project is located within NYSDEC Region 9 jurisdiction.

Within the majority of the ROW, the existing pole structures can be accessed from town, county and/or state roadways. In other areas not directly adjacent to a public roadway, access will be provided along the existing ROW access roads or existing farm roads from off ROW locations. Minor improvements to the existing off ROW access roads, including adding gravel material or crushed stone to fill depressions and washed-out areas, will be required to improve access during construction. Moreover, temporary matting and mat bridges will be utilized at stream, drainage way and wetland crossings, where appropriate. Brush mowing may be performed as needed in construction areas within the existing National Grid easement agreements in order to improve access to the structures. Brush mowing would typically be limited to an approximately 12 foot wide path and around each of the wood pole structures to be replaced. Mowed vegetation will be spread along the ROW and will remain on site. No permanent fill material will be placed in wetlands for the temporary crossings.

Stream Crossings

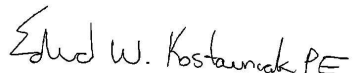
The project will not require a temporary vehicular crossing for the protected stream located on Tile 16 (Trib. To Olean Creek (A, A)). However, near the streambank silt fence (70LF) will be used to protect any runoff from entering the protected stream. No impacts are anticipated. Hardware on STR 598 will be replaced.

Five Mile Homer Hill Line 169/170 Reconductor Project
FA # 130019

If you have any questions, please call Mary Bitka at 716-831-7206 or me at 716-858-1234 Ext 313.

Sincerely,

FISHER ASSOCIATES, P.E., L.S., P.C.

A handwritten signature in black ink that reads "Edward W. Kostowniak PE". The signature is written in a cursive, flowing style.

Edward W. Kostowniak, PE
Senior Project Manager

Enclosure

cc: Mary Bitka, National Grid
FA File: 130019

ATTACHMENT A



**Attachment A National Grid
Notification of General Permit Project**

(This form and information must be submitted to NYSDEC Natural Resources Regional staff no less than 45 days prior to beginning any activity authorized by this Permit. After 45 days, work is authorized to commence, except as otherwise specified by the Natural Resources staff with signature, below.)

1. Is this an emergency action? no
2. Description of Project (Attach plans, drawings, etc., if applicable):

Replacing structures, reconductoring, other routine maintenance (Five Mile Home Hill Line 169/170)

3. Project Location (County, Town, and street address if applicable):

Towns of Hinsdale, Humphrey, Allegany, Olean and the City of Olean

4. NYTM Coordinates: NYTM-E 213689 NYTM-N4 4668533
5. USGS Quadrangle Map Name: Olean (Attach copy of map section with site location identified)

6. Contact Person (Name & Phone Number): Mrs. Mary Bitka (716-831-7206)

7. Proposed Start Date: 05/01/2014 Anticipated Completion Date: 12/31/2015

8. NYSDEC Wetland ID or Watercourse Names:

Trib. to Olean Creek (A,A)

9. Check the appropriate activity category (or categories) below for this project:

Article 15 and 24 Permit Activities

- | | |
|--|--|
| <input type="checkbox"/> Activity A : Vehicular and equipment crossings - stream, wetland and wetland adjacent areas | <input type="checkbox"/> Activity D: Installation of service to individual residence |
| <input checked="" type="checkbox"/> Activity B: Maintenance of in-kind existing facilities - Streams and wetlands | <input checked="" type="checkbox"/> Activity E: Vegetation management |
| <input type="checkbox"/> Activity C: Small excavations and fills streambeds for pipeline protection | Other (describe) |

For DEC only:

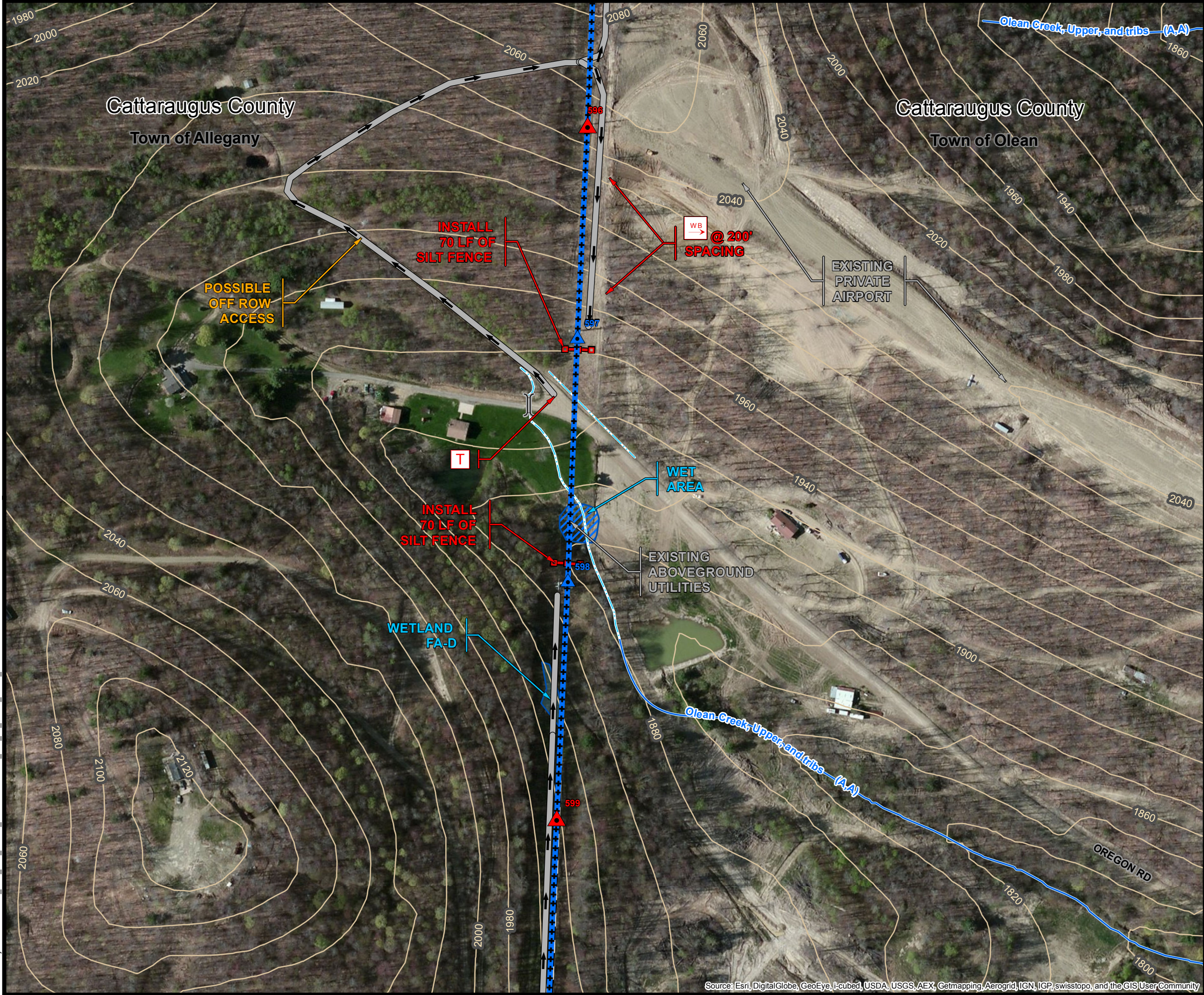
- o Activities/plans submitted above is hereby authorized under this Permit.
o Activities/plans authorized, except as subject to the following additional conditions or requirement as an individual permit:

DEC Natural Resources Signature

Date

ATTACHMENT B

* Includes only Tiles relevant to General Permit Activities.



Source: Esri, DigitalGlobe, GeoEye, i-cubed, USDA, USGS, AEX, Getmapping, Aerogrid, IGN, IGP, swisstopo, and the GIS User Community

FIVE MILE / HOMER HILL: LINE 169/170 RECONDUCTOR PROJECT EROSION AND SEDIMENT CONTROL PLAN

LEGEND

Project Features:

Structures

- Existing Structure
- Replace Hardware
- Structure Replacement

Project Line

- Project Corridor
- Reconductoring
- Matchline

Best Management Practices:

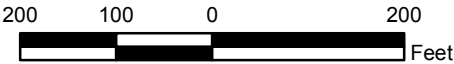
- Silt Fence
- Concrete Wash Out Area
- Mat Bridge
- Water Bar
- Stabilized Construction Entrance

Existing Features:

- Existing Culvert
- Existing Drain Inlet
- Existing Fence / Gate
- Access Road
- Top Of Bank Line
- County Boundary
- Municipal Boundary
- 20 Foot Contours

Environmental Features:

- Delineated Drainage
- Delineated Wet Area
- Wetland Continuation Line
- Delineated Wetland
- Mapped DEC (WQC) Stream (Class, Standard)
- Mapped DEC (DOW - PWL) Stream



REGIONAL INDEX



nationalgrid



FISHER ASSOCIATES



**Attachment A National Grid
Notification of General Permit Project**

(This form and information must be submitted to NYSDEC Natural Resources Regional staff no less than 45 days prior to beginning any activity authorized by this Permit. After 45 days, work is authorized to commence, except as otherwise specified by the Natural Resources staff with signature, below.)

1. Is this an emergency action? no
2. Description of Project (Attach plans, drawings, etc., if applicable):

Replacing structures, reconductoring, other routine maintenance (Five Mile Home Hill Line 169/170)

3. Project Location (County, Town, and street address if applicable):

Towns of Hinsdale, Humphrey, Allegany, Olean and the City of Olean

4. NYTM Coordinates: NYTM-E 213689 NYTM-N4 4668533
5. USGS Quadrangle Map Name: Olean (Attach copy of map section with site location identified)

6. Contact Person (Name & Phone Number): Mrs. Mary Bitka (716-831-7206)

7. Proposed Start Date: 05/01/2014 Anticipated Completion Date: 12/31/2015

8. NYSDEC Wetland ID or Watercourse Names:

Trib. to Olean Creek (A,A)

9. Check the appropriate activity category (or categories) below for this project:

Article 15 and 24 Permit Activities

- | | |
|--|--|
| <input type="checkbox"/> Activity A : Vehicular and equipment crossings - stream, wetland and wetland adjacent areas | <input type="checkbox"/> Activity D: Installation of service to individual residence |
| <input checked="" type="checkbox"/> Activity B: Maintenance of in-kind existing facilities - Streams and wetlands | <input checked="" type="checkbox"/> Activity E: Vegetation management |
| <input type="checkbox"/> Activity C: Small excavations and fills streambeds for pipeline protection | Other (describe) |

For DEC only:

- ☒ Activities/plans submitted above is hereby authorized under this Permit.
☐ Activities/plans authorized, except as subject to the following additional conditions or requirement as an individual permit:


DEC Natural Resources Signature

4/15/14
Date

USACE
Nationwide Permit 3

**ACTIVITIES AUTHORIZED BY 2012 NATIONWIDE PERMIT
WITHIN THE STATE OF NEW YORK
Expiration March 18, 2017**

B. Nationwide Permits

3. Maintenance. (a) The repair, rehabilitation, or replacement of any previously authorized, currently serviceable structure, or fill, or of any currently serviceable structure or fill authorized by 33 CFR 330.3, provided that the structure or fill is not to be put to uses differing from those uses specified or contemplated for it in the original permit or the most recently authorized modification. Minor deviations in the structure's configuration or filled area, including those due to changes in materials, construction techniques, requirements of other regulatory agencies, or current construction codes or safety standards that are necessary to make the repair, rehabilitation, or replacement are authorized. Any stream channel modification is limited to the minimum necessary for the repair, rehabilitation, or replacement of the structure or fill; such modifications, including the removal of material from the stream channel, must be immediately adjacent to the project or within the boundaries of the structure or fill. This NWP also authorizes the repair, rehabilitation, or replacement of those structures or fills destroyed or damaged by storms, floods, fire or other discrete events, provided the repair, rehabilitation, or replacement is commenced, or is under contract to commence, within two years of the date of their destruction or damage. In cases of catastrophic events, such as hurricanes or tornadoes, this two-year limit may be waived by the district engineer, provided the permittee can demonstrate funding, contract, or other similar delays.

(b) This NWP also authorizes the removal of accumulated sediments and debris in the vicinity of existing structures (e.g., bridges, culverted road crossings, water intake structures, etc.) and/or the placement of new or additional riprap to protect the structure. The removal of sediment is limited to the minimum necessary to restore the waterway in the vicinity of the structure to the approximate dimensions that existed when the structure was built, but cannot extend farther than 200 feet in any direction from the structure. This 200 foot limit does not apply to maintenance dredging to remove accumulated sediments blocking or restricting outfall and intake structures or to maintenance dredging to remove accumulated sediments from canals associated with outfall and intake structures. All dredged or excavated materials must be deposited and retained in an area that has no waters of the United States unless otherwise specifically approved by the district engineer under separate authorization. The placement of new or additional riprap must be the minimum necessary to protect the structure or to ensure the safety of the structure. Any bank stabilization measures not directly associated with the structure will require a separate authorization from the district engineer.

(c) This NWP also authorizes temporary structures, fills, and work necessary to conduct the maintenance activity. Appropriate measures must be taken to maintain normal downstream flows and minimize flooding to the maximum extent practicable, when temporary structures, work, and discharges, including cofferdams, are necessary for construction activities, access fills, or dewatering of construction sites. Temporary fills must consist of materials, and be placed in a manner, that will not be eroded by expected high flows. Temporary fills must be removed in their entirety and the affected areas returned to pre-construction elevations. The areas affected by temporary fills must be revegetated, as appropriate.

(d) This NWP does not authorize maintenance dredging for the primary purpose of navigation. This NWP does not authorize beach restoration. This NWP does not authorize new stream channelization or stream relocation projects.

Notification: For activities authorized by paragraph (b) of this NWP, the permittee must submit a pre-construction notification to the district engineer prior to commencing the activity (see general condition 31). The pre-construction notification must include information regarding the original design capacities and configurations of the outfalls, intakes, small impoundments, and canals. (Sections 10 and 404)

Note: This NWP authorizes the repair, rehabilitation, or replacement of any previously authorized structure or fill that does not qualify for the Clean Water Act Section 404(f) exemption for maintenance.

Permit-specific Regional Conditions (Buffalo and New York Districts):

a. The Nationwide General Permit Condition No. 31 – Pre-Construction Notification (PCN) for activities proposed under NWP 3.b. involving the removal of accumulated sediments and debris in the vicinity of existing structures to restore the waterway to previously existing depths, must include evidence of such depths. Such evidence may include but is not limited to: construction drawings of the original structure; or project drawings of past excavation activities in the vicinity. If this information is not available, the PCN must include evidence of the existing depths immediately outside the proposed work area.

b. Every effort should be made to prevent additional encroachment into the beds of New York waterbodies. All repair or rehabilitation activities should focus on using the area immediately landward of the existing structure. Bulkhead replacement shall be completed in-place or landward of the existing structure where practicable. When

that is not practicable, a PCN shall be required for any encroachment proposed within tidal waters of the U.S. or any extensions that exceed 18 inches waterward of the existing bulkhead within non-tidal waters. The PCN must include justification for a waterward extension of the bulkhead (e.g geologic conditions, engineering requirements, etc).

New York District Only Permit-specific Regional Condition:

c. For those activities that require a PCN to the Corps of Engineers, and are located within Essential Fish Habitat waters as defined in Section G-D.8. below, to the maximum extent practicable, no in-water work shall occur between March 1 and June 30.

REMINDER TO APPLICANT: For projects involving culvert maintenance or replacement, please take particular note of the requirements of General Regional Conditions A.11. and A.12., below.

Section 401 Water Quality Certification:

The New York State Department of Environmental Conservation (NYSDEC) has granted blanket Section 401 Water Quality Certification in New York State provided that the project complies with **all** the General Conditions listed below in Section H. Any party conducting the activities authorized by this NWP that cannot comply with **all** these conditions must apply for and obtain an individual Section 401 Water Quality Certification from the NYSDEC.

New York State Department of State Coastal Zone Management Consistency Determination:

Pursuant to 15 CFR Part 930.41, the New York State Department of State (NYSDOS) concurs with the USACE consistency determination for this NWP with which all general and all Buffalo and New York District regional conditions are complied and with the additional condition(s), as follows:

The NYSDOS concurs with the Corps' consistency determination for NWP 3 anywhere in the New York coastal area where the activities to be authorized would:

- involve the repair/replacement in-place or landward, with no seaward expansion or increase in footprint; or
- for those activities proposed within the artificial canals located in Nassau and Suffolk Counties identified in Appendix A.

For activities that do not comply with the above condition, the NYSDOS objects to the Corps' consistency determination and therefore, an individual consistency concurrence determination from NYSDOS is required for this NWP to be valid in the New York coastal area. See Section I below for further information.

C. Nationwide Permit General Conditions

Note: To qualify for NWP authorization, the prospective permittee must comply with the following general conditions, as applicable, in addition to any regional or case-specific conditions imposed by the division engineer or district engineer. Prospective permittees should contact the appropriate Corps district office to determine if regional conditions have been imposed on an NWP. Prospective permittees should also contact the appropriate Corps district office to determine the status of Clean Water Act Section 401 water quality certification and/or Coastal Zone Management Act consistency for an NWP. Every person who may wish to obtain permit authorization under one or more NWPs, or who is currently relying on an existing or prior permit authorization under one or more NWPs, has been and is on notice that all of the provisions of 33 CFR §§ 330.1 through 330.6 apply to every NWP authorization. Note especially 33 CFR § 330.5 relating to the modification, suspension, or revocation of any NWP authorization.

1. Navigation. (a) No activity may cause more than a minimal adverse effect on navigation.

(b) Any safety lights and signals prescribed by the U.S. Coast Guard, through regulations or otherwise, must be installed and maintained at the permittee's expense on authorized facilities in navigable waters of the United States.

(c) 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.

2. Aquatic Life Movements. No activity may substantially disrupt the necessary life cycle movements of those species of aquatic life indigenous to the waterbody, including those species that normally migrate through the area, unless the activity's primary purpose is to impound water. All permanent and temporary crossings of waterbodies shall be suitably

culverted, bridged, or otherwise designed and constructed to maintain low flows to sustain the movement of those aquatic species.

3. Spawning Areas. Activities in spawning areas during spawning seasons must be avoided to the maximum extent practicable. Activities that result in the physical destruction (e.g., through excavation, fill, or downstream smothering by substantial turbidity) of an important spawning area are not authorized.

4. Migratory Bird Breeding Areas. Activities in waters of the United States that serve as breeding areas for migratory birds must be avoided to the maximum extent practicable.

5. Shellfish Beds. No activity may occur in areas of concentrated shellfish populations, unless the activity is directly related to a shellfish harvesting activity authorized by NWP 4 and 48, or is a shellfish seeding or habitat restoration activity authorized by NWP 27.

6. Suitable Material. No activity may use unsuitable material (e.g., trash, debris, car bodies, asphalt, etc.). Material used for construction or discharged must be free from toxic pollutants in toxic amounts (see Section 307 of the Clean Water Act).

7. Water Supply Intakes. No activity may occur in the proximity of a public water supply intake, except where the activity is for the repair or improvement of public water supply intake structures or adjacent bank stabilization.

8. Adverse Effects From Impoundments. If the activity creates an impoundment of water, adverse effects to the aquatic system due to accelerating the passage of water, and/or restricting its flow must be minimized to the maximum extent practicable.

9. Management of Water Flows. To the maximum extent practicable, the pre-construction course, condition, capacity, and location of open waters must be maintained for each activity, including stream channelization and storm water management activities, except as provided below. The activity must be constructed to withstand expected high flows. The activity must not restrict or impede the passage of normal or high flows, unless the primary purpose of the activity is to impound water or manage high flows. The activity may alter the pre-construction course, condition, capacity, and location of open waters if it benefits the aquatic environment (e.g., stream restoration or relocation activities).

10. Fills Within 100-Year Floodplains. The activity must comply with applicable FEMA-approved state or local floodplain management requirements.

11. Equipment. Heavy equipment working in wetlands or mudflats must be placed on mats, or other measures must be taken to minimize soil disturbance.

12. Soil Erosion and Sediment Controls. Appropriate soil erosion and sediment controls must be used and maintained in effective operating condition during construction, and all exposed soil and other fills, as well as any work below the ordinary high water mark or high tide line, must be permanently stabilized at the earliest practicable date. Permittees are encouraged to perform work within waters of the United States during periods of low-flow or no-flow.

13. Removal of Temporary Fills. Temporary fills must be removed in their entirety and the affected areas returned to pre-construction elevations. The affected areas must be revegetated, as appropriate.

14. Proper Maintenance. Any authorized structure or fill shall be properly maintained, including maintenance to ensure public safety and compliance with applicable NWP general conditions, as well as any activity-specific conditions added by the district engineer to an NWP authorization.

15. Single and Complete Project. The activity must be a single and complete project. The same NWP cannot be used more than once for the same single and complete project.

16. Wild and Scenic Rivers. No activity may occur in a component of the National Wild and Scenic River System, or in a river officially designated by Congress as a "study river" for possible inclusion in the system while the river is in an official study status, unless the appropriate Federal agency with direct management responsibility for such river, has determined in writing that the proposed activity will not adversely affect the Wild and Scenic River designation or study status. Information on Wild and Scenic Rivers may be obtained from the appropriate Federal land management agency

responsible for the designated Wild and Scenic River or study river (e.g., National Park Service, U.S. Forest Service, Bureau of Land Management, U.S. Fish and Wildlife Service).

17. Tribal Rights. No activity or its operation may impair reserved tribal rights, including, but not limited to, reserved water rights and treaty fishing and hunting rights.

18. Endangered Species. (a) No activity is authorized under any NWP which is likely to directly or indirectly jeopardize the continued existence of a threatened or endangered species or a species proposed for such designation, as identified under the Federal Endangered Species Act (ESA), or which will directly or indirectly destroy or adversely modify the critical habitat of such species. No activity is authorized under any NWP which “may affect” a listed species or critical habitat, unless Section 7 consultation addressing the effects of the proposed activity has been completed.

(b) Federal agencies should follow their own procedures for complying with the requirements of the ESA. Federal permittees must provide the district engineer with the appropriate documentation to demonstrate compliance with those requirements. The district engineer will review the documentation and determine whether it is sufficient to address ESA compliance for the NWP activity, or whether additional ESA consultation is necessary.

(c) Non-federal permittees must submit a pre-construction notification to the district engineer if any listed species or designated critical habitat might be affected or is in the vicinity of the project, or if the project is located in designated critical habitat, and shall not begin work on the activity until notified by the district engineer that the requirements of the ESA have been satisfied and that the activity is authorized. For activities that might affect Federally-listed endangered or threatened species or designated critical habitat, the pre-construction notification must include the name(s) of the endangered or threatened species that might be affected by the proposed work or that utilize the designated critical habitat that might be affected by the proposed work. The district engineer will determine whether the proposed activity “may affect” or will have “no effect” to listed species and designated critical habitat and will notify the non-Federal applicant of the Corps’ determination within 45 days of receipt of a complete pre-construction notification. In cases where the non-Federal applicant has identified listed species or critical habitat that might be affected or is in the vicinity of the project, and has so notified the Corps, the applicant shall not begin work until the Corps has provided notification the proposed activities will have “no effect” on listed species or critical habitat, or until Section 7 consultation has been completed. If the non-Federal applicant has not heard back from the Corps within 45 days, the applicant must still wait for notification from the Corps.

(d) As a result of formal or informal consultation with the FWS or NMFS the district engineer may add species-specific regional endangered species conditions to the NWPs.

(e) Authorization of an activity by a NWP does not authorize the “take” of a threatened or endangered species as defined under the ESA. In the absence of separate authorization (e.g., an ESA Section 10 Permit, a Biological Opinion with “incidental take” provisions, etc.) from the U.S. FWS or the NMFS, The Endangered Species Act prohibits any person subject to the jurisdiction of the United States to take a listed species, where “take” means to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct. The word “harm” in the definition of “take” means an act which actually kills or injures wildlife. Such an act may include significant habitat modification or degradation where it actually kills or injures wildlife by significantly impairing essential behavioral patterns, including breeding, feeding or sheltering.

(f) Information on the location of threatened and endangered species and their critical habitat can be obtained directly from the offices of the U.S. FWS and NMFS or their world wide web pages at <http://www.fws.gov/> or <http://www.fws.gov/ipac> and <http://www.noaa.gov/fisheries.html> respectively.

19. Migratory Birds and Bald and Golden Eagles. The permittee is responsible for obtaining any “take” permits required under the U.S. Fish and Wildlife Service’s regulations governing compliance with the Migratory Bird Treaty Act or the Bald and Golden Eagle Protection Act. The permittee should contact the appropriate local office of the U.S. Fish and Wildlife Service to determine if such “take” permits are required for a particular activity.

20. Historic Properties. (a) In cases where the district engineer determines that the activity may affect properties listed, or eligible for listing, in the National Register of Historic Places, the activity is not authorized, until the requirements of Section 106 of the National Historic Preservation Act (NHPA) have been satisfied.

(b) Federal permittees should follow their own procedures for complying with the requirements of Section 106 of the National Historic Preservation Act. Federal permittees must provide the district engineer with the appropriate documentation to demonstrate compliance with those requirements. The district engineer will review the documentation and determine whether it is sufficient to address section 106 compliance for the NWP activity, or whether additional section 106 consultation is necessary.

(c) Non-federal permittees must submit a pre-construction notification to the district engineer if the authorized activity may have the potential to cause effects to any historic properties listed on, determined to be eligible for listing on, or potentially eligible for listing on the National Register of Historic Places, including previously unidentified properties. For such activities, the pre-construction notification must state which historic properties may be affected by the proposed work or

include a vicinity map indicating the location of the historic properties or the potential for the presence of historic properties. Assistance regarding information on the location of or potential for the presence of historic resources can be sought from the State Historic Preservation Officer or Tribal Historic Preservation Officer, as appropriate, and the National Register of Historic Places (see 33 CFR 330.4(g)). When reviewing pre-construction notifications, district engineers will comply with the current procedures for addressing the requirements of Section 106 of the National Historic Preservation Act. The district engineer shall make a reasonable and good faith effort to carry out appropriate identification efforts, which may include background research, consultation, oral history interviews, sample field investigation, and field survey. Based on the information submitted and these efforts, the district engineer shall determine whether the proposed activity has the potential to cause an effect on the historic properties. Where the non-Federal applicant has identified historic properties on which the activity may have the potential to cause effects and so notified the Corps, the non-Federal applicant shall not begin the activity until notified by the district engineer either that the activity has no potential to cause effects or that consultation under Section 106 of the NHPA has been completed.

(d) The district engineer will notify the prospective permittee within 45 days of receipt of a complete pre-construction notification whether NHPA Section 106 consultation is required. Section 106 consultation is not required when the Corps determines that the activity does not have the potential to cause effects on historic properties (see 36 CFR §800.3(a)). If NHPA section 106 consultation is required and will occur, the district engineer will notify the non-Federal applicant that he or she cannot begin work until Section 106 consultation is completed. If the non-Federal applicant has not heard back from the Corps within 45 days, the applicant must still wait for notification from the Corps.

(e) Prospective permittees should be aware that section 110k of the NHPA (16 U.S.C. 470h-2(k)) prevents the Corps from granting a permit or other assistance to an applicant who, with intent to avoid the requirements of Section 106 of the NHPA, has intentionally significantly adversely affected a historic property to which the permit would relate, or having legal power to prevent it, allowed such significant adverse effect to occur, unless the Corps, after consultation with the Advisory Council on Historic Preservation (ACHP), determines that circumstances justify granting such assistance despite the adverse effect created or permitted by the applicant. If circumstances justify granting the assistance, the Corps is required to notify the ACHP and provide documentation specifying the circumstances, the degree of damage to the integrity of any historic properties affected, and proposed mitigation. This documentation must include any views obtained from the applicant, SHPO/THPO, appropriate Indian tribes if the undertaking occurs on or affects historic properties on tribal lands or affects properties of interest to those tribes, and other parties known to have a legitimate interest in the impacts to the permitted activity on historic properties.

21. Discovery of Previously Unknown Remains and Artifacts. If you discover any previously unknown historic, cultural or archeological remains and artifacts while accomplishing the activity authorized by this permit, you must immediately notify the district engineer of what you have found, and to the maximum extent practicable, avoid construction activities that may affect the remains and artifacts until the required coordination has been completed. The district engineer will initiate the Federal, Tribal and state coordination required to determine if the items or remains warrant a recovery effort or if the site is eligible for listing in the National Register of Historic Places.

22. Designated Critical Resource Waters. Critical resource waters include, NOAA-managed marine sanctuaries and marine monuments, and National Estuarine Research Reserves. The district engineer may designate, after notice and opportunity for public comment, additional waters officially designated by a state as having particular environmental or ecological significance, such as outstanding national resource waters or state natural heritage sites. The district engineer may also designate additional critical resource waters after notice and opportunity for public comment.

(a) Discharges of dredged or fill material into waters of the United States are not authorized by NWP 7, 12, 14, 16, 17, 21, 29, 31, 35, 39, 40, 42, 43, 44, 49, 50, 51, and 52 for any activity within, or directly affecting, critical resource waters, including wetlands adjacent to such waters.

(b) For NWPs 3, 8, 10, 13, 15, 18, 19, 22, 23, 25, 27, 28, 30, 33, 34, 36, 37, and 38, notification is required in accordance with general condition 31, for any activity proposed in the designated critical resource waters including wetlands adjacent to those waters. The district engineer may authorize activities under these NWPs only after it is determined that the impacts to the critical resource waters will be no more than minimal.

23. Mitigation. The district engineer will consider the following factors when determining appropriate and practicable mitigation necessary to ensure that adverse effects on the aquatic environment are minimal:

(a) The activity must be designed and constructed to avoid and minimize adverse effects, both temporary and permanent, to waters of the United States to the maximum extent practicable at the project site (i.e., on site).

(b) Mitigation in all its forms (avoiding, minimizing, rectifying, reducing, or compensating for resource losses) will be required to the extent necessary to ensure that the adverse effects to the aquatic environment are minimal.

(c) Compensatory mitigation at a minimum one-for-one ratio will be required for all wetland losses that exceed 1/10-acre and require pre-construction notification, unless the district engineer determines in writing that either some other form of mitigation would be more environmentally appropriate or the adverse effects of the proposed activity are minimal,

and provides a project-specific waiver of this requirement. For wetland losses of 1/10-acre or less that require pre-construction notification, the district engineer may determine on a case-by-case basis that compensatory mitigation is required to ensure that the activity results in minimal adverse effects on the aquatic environment. Compensatory mitigation projects provided to offset losses of aquatic resources must comply with the applicable provisions of 33 CFR part 332.

(1) The prospective permittee is responsible for proposing an appropriate compensatory mitigation option if compensatory mitigation is necessary to ensure that the activity results in minimal adverse effects on the aquatic environment.

(2) Since the likelihood of success is greater and the impacts to potentially valuable uplands are reduced, wetland restoration should be the first compensatory mitigation option considered.

(3) If permittee-responsible mitigation is the proposed option, the prospective permittee is responsible for submitting a mitigation plan. A conceptual or detailed mitigation plan may be used by the district engineer to make the decision on the NWP verification request, but a final mitigation plan that addresses the applicable requirements of 33 CFR 332.4(c)(2) – (14) must be approved by the district engineer before the permittee begins work in waters of the United States, unless the district engineer determines that prior approval of the final mitigation plan is not practicable or not necessary to ensure timely completion of the required compensatory mitigation (see 33 CFR 332.3(k)(3)).

(4) If mitigation bank or in-lieu fee program credits are the proposed option, the mitigation plan only needs to address the baseline conditions at the impact site and the number of credits to be provided.

(5) Compensatory mitigation requirements (e.g., resource type and amount to be provided as compensatory mitigation, site protection, ecological performance standards, monitoring requirements) may be addressed through conditions added to the NWP authorization, instead of components of a compensatory mitigation plan.

(d) For losses of streams or other open waters that require pre-construction notification, the district engineer may require compensatory mitigation, such as stream rehabilitation, enhancement, or preservation, to ensure that the activity results in minimal adverse effects on the aquatic environment.

(e) Compensatory mitigation will not be used to increase the acreage losses allowed by the acreage limits of the NWPs. For example, if an NWP has an acreage limit of 1/2-acre, it cannot be used to authorize any project resulting in the loss of greater than 1/2-acre of waters of the United States, even if compensatory mitigation is provided that replaces or restores some of the lost waters. However, compensatory mitigation can and should be used, as necessary, to ensure that a project already meeting the established acreage limits also satisfies the minimal impact requirement associated with the NWPs.

(f) Compensatory mitigation plans for projects in or near streams or other open waters will normally include a requirement for the restoration or establishment, maintenance, and legal protection (e.g., conservation easements) of riparian areas next to open waters. In some cases, riparian areas may be the only compensatory mitigation required. Riparian areas should consist of native species. The width of the required riparian area will address documented water quality or aquatic habitat loss concerns. Normally, the riparian area will be 25 to 50 feet wide on each side of the stream, but the district engineer may require slightly wider riparian areas to address documented water quality or habitat loss concerns. If it is not possible to establish a riparian area on both sides of a stream, or if the waterbody is a lake or coastal waters, then restoring or establishing a riparian area along a single bank or shoreline may be sufficient. Where both wetlands and open waters exist on the project site, the district engineer will determine the appropriate compensatory mitigation (e.g., riparian areas and/or wetlands compensation) based on what is best for the aquatic environment on a watershed basis. In cases where riparian areas are determined to be the most appropriate form of compensatory mitigation, the district engineer may waive or reduce the requirement to provide wetland compensatory mitigation for wetland losses.

(g) Permittees may propose the use of mitigation banks, in-lieu fee programs, or separate permittee-responsible mitigation. For activities resulting in the loss of marine or estuarine resources, permittee-responsible compensatory mitigation may be environmentally preferable if there are no mitigation banks or in-lieu fee programs in the area that have marine or estuarine credits available for sale or transfer to the permittee. For permittee-responsible mitigation, the special conditions of the NWP verification must clearly indicate the party or parties responsible for the implementation and performance of the compensatory mitigation project, and, if required, its long-term management.

(h) Where certain functions and services of waters of the United States are permanently adversely affected, such as the conversion of a forested or scrub-shrub wetland to a herbaceous wetland in a permanently maintained utility line right-of-way, mitigation may be required to reduce the adverse effects of the project to the minimal level.

24. Safety of Impoundment Structures. To ensure that all impoundment structures are safely designed, the district engineer may require non-Federal applicants to demonstrate that the structures comply with established state dam safety criteria or have been designed by qualified persons. The district engineer may also require documentation that the design has been independently reviewed by similarly qualified persons, and appropriate modifications made to ensure safety.

25. Water Quality. Where States and authorized Tribes, or EPA where applicable, have not previously certified compliance of an NWP with CWA Section 401, individual 401 Water Quality Certification must be obtained or waived (see

33 CFR 330.4(c)). The district engineer or State or Tribe may require additional water quality management measures to ensure that the authorized activity does not result in more than minimal degradation of water quality.

26. Coastal Zone Management. In coastal states where an NWP has not previously received a state coastal zone management consistency concurrence, an individual state coastal zone management consistency concurrence must be obtained, or a presumption of concurrence must occur (see 33 CFR 330.4(d)). The district engineer or a State may require additional measures to ensure that the authorized activity is consistent with state coastal zone management requirements.

27. Regional and Case-By-Case Conditions. The activity must comply with any regional conditions that may have been added by the Division Engineer (see 33 CFR 330.4(e)) and with any case specific conditions added by the Corps or by the state, Indian Tribe, or U.S. EPA in its section 401 Water Quality Certification, or by the state in its Coastal Zone Management Act consistency determination.

28. Use of Multiple Nationwide Permits. The use of more than one NWP for a single and complete project is prohibited, except when the acreage loss of waters of the United States authorized by the NWPs does not exceed the acreage limit of the NWP with the highest specified acreage limit. For example, if a road crossing over tidal waters is constructed under NWP 14, with associated bank stabilization authorized by NWP 13, the maximum acreage loss of waters of the United States for the total project cannot exceed 1/3-acre.

29. Transfer of Nationwide Permit Verifications. If the permittee sells the property associated with a nationwide permit verification, the permittee may transfer the nationwide permit verification to the new owner by submitting a letter to the appropriate Corps district office to validate the transfer. A copy of the nationwide permit verification must be attached to the letter, and the letter must contain the following statement and signature:

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

(Transferee)

(Date)

30. Compliance Certification. Each permittee who receives an NWP verification letter from the Corps must provide a signed certification documenting completion of the authorized activity and any required compensatory mitigation. The success of any required permittee-responsible mitigation, including the achievement of ecological performance standards, will be addressed separately by the district engineer. The Corps will provide the permittee the certification document with the NWP verification letter. The certification document will include:

(a) A statement that the authorized work was done in accordance with the NWP authorization, including any general, regional, or activity-specific conditions;

(b) A statement that the implementation of any required compensatory mitigation was completed in accordance with the permit conditions. If credits from a mitigation bank or in-lieu fee program are used to satisfy the compensatory mitigation requirements, the certification must include the documentation required by 33 CFR 332.3(l)(3) to confirm that the permittee secured the appropriate number and resource type of credits; and

(c) The signature of the permittee certifying the completion of the work and mitigation.

31. Pre-Construction Notification. (a) Timing. Where required by the terms of the NWP, the prospective permittee must notify the district engineer by submitting a pre-construction notification (PCN) as early as possible. The district engineer must determine if the PCN is complete within 30 calendar days of the date of receipt and, if the PCN is determined to be incomplete, notify the prospective permittee within that 30 day period to request the additional information necessary to make the PCN complete. The request must specify the information needed to make the PCN complete. As a general rule, district engineers will request additional information necessary to make the PCN complete only once. However, if the prospective permittee does not provide all of the requested information, then the district engineer will notify the prospective permittee that the PCN is still incomplete and the PCN review process will not commence until all of the requested information has been received by the district engineer. The prospective permittee shall not begin the activity until either:

(1) He or she is notified in writing by the district engineer that the activity may proceed under the NWP with any special conditions imposed by the district or division engineer; or

(2) 45 calendar days have passed from the district engineer's receipt of the complete PCN and the prospective permittee has not received written notice from the district or division engineer. However, if the permittee was required to notify the Corps pursuant to general condition 18 that listed species or critical habitat might be affected or in the vicinity of the project, or to notify the Corps pursuant to general condition 20 that the activity may have the potential to cause effects to historic properties, the permittee cannot begin the activity until receiving written notification from the Corps that there is "no effect" on listed species or "no potential to cause effects" on historic properties, or that any consultation required under Section 7 of the Endangered Species Act (see 33 CFR 330.4(f)) and/or Section 106 of the National Historic Preservation (see 33 CFR 330.4(g)) has been completed. Also, work cannot begin under NWPs 21, 49, or 50 until the permittee has received written approval from the Corps. If the proposed activity requires a written waiver to exceed specified limits of an NWP, the permittee may not begin the activity until the district engineer issues the waiver. If the district or division engineer notifies the permittee in writing that an individual permit is required within 45 calendar days of receipt of a complete PCN, the permittee cannot begin the activity until an individual permit has been obtained. Subsequently, the permittee's right to proceed under the NWP may be modified, suspended, or revoked only in accordance with the procedure set forth in 33 CFR 330.5(d)(2).

(b) Contents of Pre-Construction Notification: The PCN must be in writing and include the following information:

(1) Name, address and telephone numbers of the prospective permittee;

(2) Location of the proposed project;

(3) A description of the proposed project; the project's purpose; direct and indirect adverse environmental effects the project would cause, including the anticipated amount of loss of water of the United States expected to result from the NWP activity, in acres, linear feet, or other appropriate unit of measure; any other NWP(s), regional general permit(s), or individual permit(s) used or intended to be used to authorize any part of the proposed project or any related activity. The description should be sufficiently detailed to allow the district engineer to determine that the adverse effects of the project will be minimal and to determine the need for compensatory mitigation. Sketches should be provided when necessary to show that the activity complies with the terms of the NWP. (Sketches usually clarify the project and when provided results in a quicker decision. Sketches should contain sufficient detail to provide an illustrative description of the proposed activity (e.g., a conceptual plan), but do not need to be detailed engineering plans);

(4) The PCN must include a delineation of wetlands, other special aquatic sites, and other waters, such as lakes and ponds, and perennial, intermittent, and ephemeral streams, on the project site. Wetland delineations must be prepared in accordance with the current method required by the Corps. The permittee may ask the Corps to delineate the special aquatic sites and other waters on the project site, but there may be a delay if the Corps does the delineation, especially if the project site is large or contains many waters of the United States. Furthermore, the 45 day period will not start until the delineation has been submitted to or completed by the Corps, as appropriate;

(5) If the proposed activity will result in the loss of greater than 1/10-acre of wetlands and a PCN is required, the prospective permittee must submit a statement describing how the mitigation requirement will be satisfied, or explaining why the adverse effects are minimal and why compensatory mitigation should not be required. As an alternative, the prospective permittee may submit a conceptual or detailed mitigation plan.

(6) If any listed species or designated critical habitat might be affected or is in the vicinity of the project, or if the project is located in designated critical habitat, for non-Federal applicants the PCN must include the name(s) of those endangered or threatened species that might be affected by the proposed work or utilize the designated critical habitat that may be affected by the proposed work. Federal applicants must provide documentation demonstrating compliance with the Endangered Species Act; and

(7) For an activity that may affect a historic property listed on, determined to be eligible for listing on, or potentially eligible for listing on, the National Register of Historic Places, for non-Federal applicants the PCN must state which historic property may be affected by the proposed work or include a vicinity map indicating the location of the historic property. Federal applicants must provide documentation demonstrating compliance with Section 106 of the National Historic Preservation Act.

(c) Form of Pre-Construction Notification: The standard individual permit application form (Form ENG 4345) may be used, but the completed application form must clearly indicate that it is a PCN and must include all of the information required in paragraphs (b)(1) through (7) of this general condition. A letter containing the required information may also be used.

(d) Agency Coordination: (1) The district engineer will consider any comments from Federal and state agencies concerning the proposed activity's compliance with the terms and conditions of the NWPs and the need for mitigation to reduce the project's adverse environmental effects to a minimal level.

(2) For all NWP activities that require pre-construction notification and result in the loss of greater than 1/2-acre of waters of the United States, for NWP 21, 29, 39, 40, 42, 43, 44, 50, 51, and 52 activities that require pre-construction notification and will result in the loss of greater than 300 linear feet of stream bed, and for all NWP 48 activities that require pre-construction notification, the district engineer will immediately provide (e.g., via e-mail, facsimile transmission, overnight mail, or other expeditious manner) a copy of the complete PCN to the appropriate Federal or state offices (U.S. FWS, state natural resource or water quality agency, EPA, State Historic Preservation Officer (SHPO) or Tribal Historic

Preservation Office (THPO), and, if appropriate, the NMFS). With the exception of NWP 37, these agencies will have 10 calendar days from the date the material is transmitted to telephone or fax the district engineer notice that they intend to provide substantive, site-specific comments. The comments must explain why the agency believes the adverse effects will be more than minimal. If so contacted by an agency, the district engineer will wait an additional 15 calendar days before making a decision on the pre-construction notification. The district engineer will fully consider agency comments received within the specified time frame concerning the proposed activity's compliance with the terms and conditions of the NWPs, including the need for mitigation to ensure the net adverse environmental effects to the aquatic environment of the proposed activity are minimal. The district engineer will provide no response to the resource agency, except as provided below. The district engineer will indicate in the administrative record associated with each pre-construction notification that the resource agencies' concerns were considered. For NWP 37, the emergency watershed protection and rehabilitation activity may proceed immediately in cases where there is an unacceptable hazard to life or a significant loss of property or economic hardship will occur. The district engineer will consider any comments received to decide whether the NWP 37 authorization should be modified, suspended, or revoked in accordance with the procedures at 33 CFR 330.5.

(3) In cases of where the prospective permittee is not a Federal agency, the district engineer will provide a response to NMFS within 30 calendar days of receipt of any Essential Fish Habitat conservation recommendations, as required by Section 305(b)(4)(B) of the Magnuson-Stevens Fishery Conservation and Management Act.

(4) Applicants are encouraged to provide the Corps with either electronic files or multiple copies of pre-construction notifications to expedite agency coordination.

D. District Engineer's Decision

1. In reviewing the PCN for the proposed activity, the district engineer will determine whether the activity authorized by the NWP will result in more than minimal individual or cumulative adverse environmental effects or may be contrary to the public interest. For a linear project, this determination will include an evaluation of the individual crossings to determine whether they individually satisfy the terms and conditions of the NWP(s), as well as the cumulative effects caused by all of the crossings authorized by NWP. If an applicant requests a waiver of the 300 linear foot limit on impacts to intermittent or ephemeral streams or of an otherwise applicable limit, as provided for in NWPs 13, 21, 29, 36, 39, 40, 42, 43, 44, 50, 51 or 52, the district engineer will only grant the waiver upon a written determination that the NWP activity will result in minimal adverse effects. When making minimal effects determinations the district engineer will consider the direct and indirect effects caused by the NWP activity. The district engineer will also consider site specific factors, such as the environmental setting in the vicinity of the NWP activity, the type of resource that will be affected by the NWP activity, the functions provided by the aquatic resources that will be affected by the NWP activity, the degree or magnitude to which the aquatic resources perform those functions, the extent that aquatic resource functions will be lost as a result of the NWP activity (e.g., partial or complete loss), the duration of the adverse effects (temporary or permanent), the importance of the aquatic resource functions to the region (e.g., watershed or ecoregion), and mitigation required by the district engineer. If an appropriate functional assessment method is available and practicable to use, that assessment method may be used by the district engineer to assist in the minimal adverse effects determination. The district engineer may add case-specific special conditions to the NWP authorization to address site-specific environmental concerns.

2. If the proposed activity requires a PCN and will result in a loss of greater than 1/10-acre of wetlands, the prospective permittee should submit a mitigation proposal with the PCN. Applicants may also propose compensatory mitigation for projects with smaller impacts. The district engineer will consider any proposed compensatory mitigation the applicant has included in the proposal in determining whether the net adverse environmental effects to the aquatic environment of the proposed activity are minimal. The compensatory mitigation proposal may be either conceptual or detailed. If the district engineer determines that the activity complies with the terms and conditions of the NWP and that the adverse effects on the aquatic environment are minimal, after considering mitigation, the district engineer will notify the permittee and include any activity-specific conditions in the NWP verification the district engineer deems necessary. Conditions for compensatory mitigation requirements must comply with the appropriate provisions at 33 CFR 332.3(k). The district engineer must approve the final mitigation plan before the permittee commences work in waters of the United States, unless the district engineer determines that prior approval of the final mitigation plan is not practicable or not necessary to ensure timely completion of the required compensatory mitigation. If the prospective permittee elects to submit a compensatory mitigation plan with the PCN, the district engineer will expeditiously review the proposed compensatory mitigation plan. The district engineer must review the proposed compensatory mitigation plan within 45 calendar days of receiving a complete PCN and determine whether the proposed mitigation would ensure no more than minimal adverse effects on the aquatic environment. If the net adverse effects of the project on the aquatic environment (after consideration of the compensatory mitigation proposal) are determined by the district engineer to be minimal, the district engineer will provide a timely written response to the applicant. The response will state that the project can proceed under the terms and conditions of the NWP, including any activity-specific conditions added to the NWP authorization by the district engineer.

3. If the district engineer determines that the adverse effects of the proposed work are more than minimal, then the district engineer will notify the applicant either: (a) That the project does not qualify for authorization under the NWP and instruct the applicant on the procedures to seek authorization under an individual permit; (b) that the project is authorized under the NWP subject to the applicant's submission of a mitigation plan that would reduce the adverse effects on the aquatic environment to the minimal level; or (c) that the project is authorized under the NWP with specific modifications or conditions. Where the district engineer determines that mitigation is required to ensure no more than minimal adverse effects occur to the aquatic environment, the activity will be authorized within the 45-day PCN period, with activity-specific conditions that state the mitigation requirements. The authorization will include the necessary conceptual or detailed mitigation or a requirement that the applicant submit a mitigation plan that would reduce the adverse effects on the aquatic environment to the minimal level. When mitigation is required, no work in waters of the United States may occur until the district engineer has approved a specific mitigation plan or has determined that prior approval of a final mitigation plan is not practicable or not necessary to ensure timely completion of the required compensatory mitigation.

E. Further Information

1. District Engineers have authority to determine if an activity complies with the terms and conditions of an NWP.
2. NWPs do not obviate the need to obtain other federal, state, or local permits, approvals, or authorizations required by law.
3. NWPs do not grant any property rights or exclusive privileges.
4. NWPs do not authorize any injury to the property or rights of others.
5. NWPs do not authorize interference with any existing or proposed Federal project.

F. Definitions

Best management practices (BMPs): Policies, practices, procedures, or structures implemented to mitigate the adverse environmental effects on surface water quality resulting from development. BMPs are categorized as structural or non-structural.

Compensatory mitigation: The restoration (re-establishment or rehabilitation), establishment (creation), enhancement, and/or in certain circumstances preservation of aquatic resources for the purposes of offsetting unavoidable adverse impacts which remain after all appropriate and practicable avoidance and minimization has been achieved.

Currently serviceable: Useable as is or with some maintenance, but not so degraded as to essentially require reconstruction.

Direct effects: Effects that are caused by the activity and occur at the same time and place.

Discharge: The term "discharge" means any discharge of dredged or fill material.

Enhancement: The manipulation of the physical, chemical, or biological characteristics of an aquatic resource to heighten, intensify, or improve a specific aquatic resource function(s). Enhancement results in the gain of selected aquatic resource function(s), but may also lead to a decline in other aquatic resource function(s). Enhancement does not result in a gain in aquatic resource area.

Ephemeral stream: An ephemeral stream has flowing water only during, and for a short duration after, precipitation events in a typical year. Ephemeral stream beds are located above the water table year-round. Groundwater is not a source of water for the stream. Runoff from rainfall is the primary source of water for stream flow.

Establishment (creation): The manipulation of the physical, chemical, or biological characteristics present to develop an aquatic resource that did not previously exist at an upland site. Establishment results in a gain in aquatic resource area.

High Tide Line: The line of intersection of the land with the water's surface at the maximum height reached by a rising tide. The high tide line may be determined, in the absence of actual data, by a line of oil or scum along shore objects, a more or less continuous deposit of fine shell or debris on the foreshore or berm, other physical markings or characteristics, vegetation lines, tidal gages, or other suitable means that delineate the general height reached by a rising tide. The line encompasses spring high tides and other high tides that occur with periodic frequency but does not include storm surges in which there is a departure from the normal or predicted reach of the tide due to the piling up of water against a coast by strong winds such as those accompanying a hurricane or other intense storm.

Historic Property: Any prehistoric or historic district, site (including archaeological site), building, structure, or other object included in, or eligible for inclusion in, the National Register of Historic Places maintained by the Secretary of the Interior. This term includes artifacts, records, and remains that are related to and located within such properties. The term includes properties of traditional religious and cultural importance to an Indian tribe or Native Hawaiian organization and that meet the National Register criteria (36 CFR part 60).

Independent utility: A test to determine what constitutes a single and complete non-linear project in the Corps regulatory program. A project is considered to have independent utility if it would be constructed absent the construction of other projects in the project area. Portions of a multi-phase project that depend upon other phases of the project do not have

independent utility. Phases of a project that would be constructed even if the other phases were not built can be considered as separate single and complete projects with independent utility.

Indirect effects: Effects that are caused by the activity and are later in time or farther removed in distance, but are still reasonably foreseeable.

Intermittent stream: An intermittent stream has flowing water during certain times of the year, when groundwater provides water for stream flow. During dry periods, intermittent streams may not have flowing water. Runoff from rainfall is a supplemental source of water for stream flow.

Loss of waters of the United States: Waters of the United States that are permanently adversely affected by filling, flooding, excavation, or drainage because of the regulated activity. Permanent adverse effects include permanent discharges of dredged or fill material that change an aquatic area to dry land, increase the bottom elevation of a waterbody, or change the use of a waterbody. The acreage of loss of waters of the United States is a threshold measurement of the impact to jurisdictional waters for determining whether a project may qualify for an NWP; it is not a net threshold that is calculated after considering compensatory mitigation that may be used to offset losses of aquatic functions and services. The loss of stream bed includes the linear feet of stream bed that is filled or excavated. Waters of the United States temporarily filled, flooded, excavated, or drained, but restored to pre-construction contours and elevations after construction, are not included in the measurement of loss of waters of the United States. Impacts resulting from activities eligible for exemptions under Section 404(f) of the Clean Water Act are not considered when calculating the loss of waters of the United States.

Non-tidal wetland: A non-tidal wetland is a wetland that is not subject to the ebb and flow of tidal waters. The definition of a wetland can be found at 33 CFR 328.3(b). Non-tidal wetlands contiguous to tidal waters are located landward of the high tide line (i.e., spring high tide line).

Open water: For purposes of the NWPs, an open water is any area that in a year with normal patterns of precipitation has water flowing or standing above ground to the extent that an ordinary high water mark can be determined. Aquatic vegetation within the area of standing or flowing water is either non-emergent, sparse, or absent. Vegetated shallows are considered to be open waters. Examples of “open waters” include rivers, streams, lakes, and ponds.

Ordinary High Water Mark: An ordinary high water mark is a line on the shore established by the fluctuations of water and indicated by physical characteristics, or by other appropriate means that consider the characteristics of the surrounding areas (see 33 CFR 328.3(e)).

Perennial stream: A perennial stream has flowing water year-round during a typical year. The water table is located above the stream bed for most of the year. Groundwater is the primary source of water for stream flow. Runoff from rainfall is a supplemental source of water for stream flow.

Practicable: Available and capable of being done after taking into consideration cost, existing technology, and logistics in light of overall project purposes.

Pre-construction notification: A request submitted by the project proponent to the Corps for confirmation that a particular activity is authorized by nationwide permit. The request may be a permit application, letter, or similar document that includes information about the proposed work and its anticipated environmental effects. Pre-construction notification may be required by the terms and conditions of a nationwide permit, or by regional conditions. A pre-construction notification may be voluntarily submitted in cases where pre-construction notification is not required and the project proponent wants confirmation that the activity is authorized by nationwide permit.

Preservation: The removal of a threat to, or preventing the decline of, aquatic resources by an action in or near those aquatic resources. This term includes activities commonly associated with the protection and maintenance of aquatic resources through the implementation of appropriate legal and physical mechanisms. Preservation does not result in a gain of aquatic resource area or functions.

Re-establishment: The manipulation of the physical, chemical, or biological characteristics of a site with the goal of returning natural/historic functions to a former aquatic resource. Re-establishment results in rebuilding a former aquatic resource and results in a gain in aquatic resource area and functions.

Rehabilitation: The manipulation of the physical, chemical, or biological characteristics of a site with the goal of repairing natural/historic functions to a degraded aquatic resource. Rehabilitation results in a gain in aquatic resource function, but does not result in a gain in aquatic resource area.

Restoration: The manipulation of the physical, chemical, or biological characteristics of a site with the goal of returning natural/historic functions to a former or degraded aquatic resource. For the purpose of tracking net gains in aquatic resource area, restoration is divided into two categories: re-establishment and rehabilitation.

Riffle and pool complex: Riffle and pool complexes are special aquatic sites under the 404(b)(1) Guidelines. Riffle and pool complexes sometimes characterize steep gradient sections of streams. Such stream sections are recognizable by their hydraulic characteristics. The rapid movement of water over a coarse substrate in riffles results in a rough flow, a turbulent surface, and high dissolved oxygen levels in the water. Pools are deeper areas associated with riffles. A slower stream velocity, a streaming flow, a smooth surface, and a finer substrate characterize pools.

Riparian areas: Riparian areas are lands adjacent to streams, lakes, and estuarine-marine shorelines. Riparian areas are transitional between terrestrial and aquatic ecosystems, through which surface and subsurface hydrology connects riverine, lacustrine, estuarine, and marine waters with their adjacent wetlands, non-wetland waters, or uplands. Riparian areas

provide a variety of ecological functions and services and help improve or maintain local water quality. (See general condition 23.)

Shellfish seeding: The placement of shellfish seed and/or suitable substrate to increase shellfish production. Shellfish seed consists of immature individual shellfish or individual shellfish attached to shells or shell fragments (i.e., spat on shell). Suitable substrate may consist of shellfish shells, shell fragments, or other appropriate materials placed into waters for shellfish habitat.

Single and complete linear project: A linear project is a project constructed for the purpose of getting people, goods, or services from a point of origin to a terminal point, which often involves multiple crossings of one or more waterbodies at separate and distant locations. The term “single and complete project” is defined as that portion of the total linear project proposed or accomplished by one owner/developer or partnership or other association of owners/developers that includes all crossings of a single water of the United States (i.e., a single waterbody) at a specific location. For linear projects crossing a single or multiple waterbodies several times at separate and distant locations, each crossing is considered a single and complete project for purposes of NWP authorization. However, individual channels in a braided stream or river, or individual arms of a large, irregularly shaped wetland or lake, etc., are not separate waterbodies, and crossings of such features cannot be considered separately.

Single and complete non-linear project: For non-linear projects, the term “single and complete project” is defined at 33 CFR 330.2(i) as the total project proposed or accomplished by one owner/developer or partnership or other association of owners/developers. A single and complete non-linear project must have independent utility (see definition of “independent utility”). Single and complete non-linear projects may not be “piecemealed” to avoid the limits in an NWP authorization.

Stormwater management: Stormwater management is the mechanism for controlling stormwater runoff for the purposes of reducing downstream erosion, water quality degradation, and flooding and mitigating the adverse effects of changes in land use on the aquatic environment.

Stormwater management facilities: Stormwater management facilities are those facilities, including but not limited to, stormwater retention and detention ponds and best management practices, which retain water for a period of time to control runoff and/or improve the quality (i.e., by reducing the concentration of nutrients, sediments, hazardous substances and other pollutants) of stormwater runoff.

Stream bed: The substrate of the stream channel between the ordinary high water marks. The substrate may be bedrock or inorganic particles that range in size from clay to boulders. Wetlands contiguous to the stream bed, but outside of the ordinary high water marks, are not considered part of the stream bed.

Stream channelization: The manipulation of a stream’s course, condition, capacity, or location that causes more than minimal interruption of normal stream processes. A channelized stream remains a water of the United States.

Structure: An object that is arranged in a definite pattern of organization. Examples of structures include, without limitation, any pier, boat dock, boat ramp, wharf, dolphin, weir, boom, breakwater, bulkhead, revetment, riprap, jetty, artificial island, artificial reef, permanent mooring structure, power transmission line, permanently moored floating vessel, piling, aid to navigation, or any other manmade obstacle or obstruction.

Tidal wetland: A tidal wetland is a wetland (i.e., water of the United States) that is inundated by tidal waters. The definitions of a wetland and tidal waters can be found at 33 CFR 328.3(b) and 33 CFR 328.3(f), respectively. Tidal waters rise and fall in a predictable and measurable rhythm or cycle due to the gravitational pulls of the moon and sun. Tidal waters end where the rise and fall of the water surface can no longer be practically measured in a predictable rhythm due to masking by other waters, wind, or other effects. Tidal wetlands are located channelward of the high tide line, which is defined at 33 CFR 328.3(d).

Vegetated shallows: Vegetated shallows are special aquatic sites under the 404(b)(1) Guidelines. They are areas that are permanently inundated and under normal circumstances have rooted aquatic vegetation, such as seagrasses in marine and estuarine systems and a variety of vascular rooted plants in freshwater systems.

Waterbody: For purposes of the NWPs, a waterbody is a jurisdictional water of the United States. If a jurisdictional wetland is adjacent – meaning bordering, contiguous, or neighboring – to a waterbody determined to be a water of the United States under 33 CFR 328.3(a)(1)-(6), that waterbody and its adjacent wetlands are considered together as a single aquatic unit (see 33 CFR 328.4(c)(2)). Examples of “waterbodies” include streams, rivers, lakes, ponds, and wetlands.

G. General Regional Conditions

These conditions apply to ALL Nationwide Permits.

G-A. Construction Best Management Practices (BMP’s): Unless specifically approved otherwise through issuance of a waiver by the District Engineer, the following BMP’s must be implemented to the maximum degree practicable, to minimize erosion, migration of sediments, and adverse environmental impacts. Note that at a minimum, all erosion and sediment control and stormwater management practices must be designed, installed and maintained in accordance with the latest version of the “*New York Standards and Specifications for Erosion and Sediment Control*” and the “*New York State Stormwater Management Design Manual*”. These documents are available at: <http://www.dec.ny.gov/chemical/29066.html> and <http://www.dec.ny.gov/chemical/29072.html>, respectively.

1. All synthetic erosion control features (e.g., silt fencing, netting, mats), which are intended for temporary use during construction, shall be completely removed and properly disposed of after their initial purpose has been served. Only natural fiber materials, which will degrade over time, may be abandoned in place.
2. Materials resulting from trench excavation for utility line installation or ditch reshaping activities which are temporarily sidecast or stockpiled into waters of the United States must be backfilled or removed to an upland area within 30 days of the date of deposition. Note: upland options shall be utilized prior to temporary placement within waters of the U.S., unless it can be demonstrated that it would not be practicable or if the impacts of complying with this upland option requirement would result in more adverse impacts to the aquatic environment.
3. For trenching activities in wetlands the applicant shall install impermeable trench dams or trench breakers at the wetland boundaries and every 100 feet within wetland areas to prevent inadvertent drainage of wetlands or other waters of the United States.
4. Dry stream crossing methods (e.g., diversion, dam and pump, flume, bore) shall be utilized for culvert or other pipe, or utility installations to reduce downstream impacts from turbidity and sedimentation. This may require piping or pumping the stream flow around the work area and the use of cofferdams.
5. No in-stream work shall occur during periods of high flow, except for work that occurs in dewatered areas behind temporary diversions, cofferdams or causeways.
6. Construction access shall be by means that avoid or minimize impacts to aquatic sites (e.g. upland access, floating barges, mats, etc.). Discharges of fill material associated with the construction of temporary access roads and work pads in wetlands shall be placed on filter fabric. All temporary fills shall be removed upon completion of the work and the disturbed area restored to pre-construction contours, elevations and wetland conditions.
7. All return flow from dredge material disposal areas shall not result in an increase in turbidity in the receiving water body that will cause a substantial visible contrast to natural conditions. (See NWP #16)
8. For activities involving the placement of concrete into waters of the U.S., the permittee must employ watertight forms. The forms shall be dewatered prior to the placement of the concrete. The use of tremie concrete is allowed, provided that it complies with New York State water quality standards.
9. New stormwater management facilities shall be located outside of waters of the U.S. A waiver of this requirement may be requested with the submission of a PCN. The PCN must include justification which demonstrates that avoidance and minimization efforts have been met.
10. To the maximum extent practicable, the placement of fill in wetlands must be designed to maintain pre-construction surface water flows/conditions between remaining on or off-site waters. This may require the use of culverts and/or other measures. Furthermore, the activity must not restrict or impede the passage of normal or expected high flows (unless the primary purpose of the fill is to impound waters). The activity may alter the pre-construction flows/conditions if it can be shown that it benefits the aquatic environment (i.e. wetland restoration and/or enhancement).
11. In order to ensure compliance with NWP General Condition #2 – Aquatic Life Movement and #9 Management of Water Flows, all new or replacement culverts shall be constructed/installed in accordance with the following:

General Information:

- a. Use of the following requirements and recommendations alone will not satisfy the need for proper engineering and design. In particular, appropriate engineering is required to ensure structures are sized and designed to provide adequate capacity (to pass various flood flows) and stability (bed, bed forms, footings and abutments).
- b. Site specific information (i.e. stream bed slope, type and size of stream bed material, stream type, existing natural or manmade barriers, etc.) should be assessed to determine appropriate culvert design and to ensure management of water flows and aquatic life movement.
- c. Before replacing a culvert or other crossing structure with a larger structure it is essential that the replacement be evaluated for its impacts on: downstream flooding, upstream and downstream habitat (in-stream habitat, wetlands), potential for erosion and headcutting, and stream stability.

- d. Measures should be included in all culvert designs that will promote the safe passage of fish and other indigenous aquatic organisms.
- e. The dimension, pattern, and profile of the stream above and below the stream crossing should not be permanently modified by changing the width or depth of the stream channel.

Preconstruction Notification (PCN)/Waiver Requirements:

- A. A PCN is not required for projects that are designed to meet Requirements B and C, below, unless a PCN is otherwise required by the NWP regulations.
- B. In order to comply with General Condition #2 Aquatic Life Movement, either a bottomless culvert or bridge must be used where practicable. If the stream cannot be spanned, the culvert must be installed with its bottom buried (embedded) below the grade of the stream bed where practicable. (Note: When not practicable to do so due to small culvert size, it is suitable to allow natural deposition to cover the interior of the culvert bed.)
 - i. A minimum of three stream channel cross sections shall be taken at proximal locations to the crossing location to determine the average of the lowest points in elevation of the stream bed. This average low point shall be used to ensure low flow is maintained through the culvert and from which all embedment depths are measured.
 - ii. To ensure low flow and aquatic life movement is maintained, an embedment depth of a minimum of 20 percent of the culvert vertical rise throughout the length of the culvert is recommended. Additionally, it is recommended that the culvert bed slope remain consistent with the slope of the adjacent stream channel.
- C. In order to comply with General Condition #9 Management of Water Flows, bank-full flows shall be accommodated through maintenance of the existing bank-full channel cross sectional dimensions within the culvert. Bank-full width is generally considered to be the top width at the stage where a stream begins to overtop its banks and spread into the floodplain.
 - i. An average of three measurements (project location and straight sections of the stream upstream and downstream) shall be used to determine appropriate opening width. If the project is a replacement of an existing structure then only upstream and downstream locations shall be used to compute the average.
 - ii. To ensure bank-full flow is accommodated by the culvert, it is recommended that minimum culvert widths include a minimum of 1.25 times width of the stream channel at the ordinary high water or a 2 year design storm.
- D. In summary, a PCN is required, requesting a waiver of the above requirements for projects where:
 - i. both spanning the waterway and embedding are found to be not practicable;
 - ii. embedding is practicable but the recommendations for embedment depth cannot be met;
 - iii. bank-full flow will not be accommodated within the culvert;
 - iv. less than the recommended minimum culvert width is proposed
- E. In addition to the PCN requirements of General Condition #31, the PCN must include the following information:
 - i. a note indicating which of the above requirements will not be met by the proposed project;
 - ii. information as to why the use of such structures or measures would not be practicable;
 - iii. a brief description of the stream discussing the items outlined in the above General Information section;
 - iv. the cross sections of the stream used to calculate the stream bed low point and bank-full width;
 - v. an evaluation of the effects the crossing would have on aquatic life movement and/or water flows; and
 - vi. mitigation measures that will be employed to minimize these effects.

A waiver of the requirement(s) will be issued if it can be demonstrated that the proposal would result in the least environmentally damaging practicable alternative (e.g. compliance with any of the requirement(s) would result in detrimental impacts to the aquatic system).

12. Culvert Rehabilitation Projects, not including culvert replacement projects:
 - a. A PCN is required for culvert rehabilitation projects which will involve pipe slip lining or other activities, including concrete invert paving and concrete lining, that raise the existing invert elevation such that it causes an impediment to the passage of low flow or aquatic life movement. A PCN is not required for projects that utilize cured-in-place pipe lining. Slip lining is defined as the insertion of a smaller diameter pipe into an existing pipe by pulling pushing, or spiral winding.
 - b. Culvert rehabilitation projects shall assess the existing culvert, prior to the proposed repair, for compliance with Nationwide Permit General Conditions (GC) #2 (Aquatic Life Movements) and #9 (Management of Water Flows). If an impediment is found to exist, a PCN is required for any rehabilitation project.
 - c. For all projects requiring PCN, the applicant must provide an evaluation of the existing culvert and proposed rehabilitation project and their effects upon aquatic life movements and low/ high flow conditions in order to show compliance with GC #2 & #9. For those culverts that will impede the movement of aquatic life and water flows, the applicant must provide information as to how they will mitigate for those deficiencies. Mitigation measures may include, but are not limited to baffles, weirs, roughened channels, and grade control structures.

G-B. No regulated activity authorized by a Nationwide Permit can cause the loss of areas classified as a bog or fen in the State of New York, as determined by the Buffalo or the New York District Corps of Engineers, due to the scarcity of this habitat in New York State and the difficulty with in-kind mitigation. The Districts will utilize the following document in the classification:

Reschke, C. 1990. *Ecological Communities of New York State*. New York Natural Heritage Program. New York State Department of Environmental Conservation. Latham, N.Y. 96p. This document is available at the following location:
<http://www.dec.ny.gov/animals/29389.html>

G-C. National Wild and Scenic Rivers (NWSR): The Upper Delaware River has been designated as a National Wild and Scenic River from the confluence of the East and West Branches below Hancock, New York, to the existing railroad bridge immediately downstream of Cherry Island in the vicinity of Sparrow Bush, New York. Also, the portion of the Genesee River located within Letchworth Gorge State Park, beginning at the southern boundary of the park and extending downstream to the Mt. Morris Dam, was designated by Congress as a permanent Study River in the Genesee River Protection Act of 1989. In accordance with General Condition #16, no activity may occur within a NWSR, including Study Rivers, unless the National Park Service (NPS) has determined in writing that the proposed work will not adversely affect the NWSR designation or study status. Therefore, a PCN is required for any NWP which would impact the designated portions of the Genesee River or the Upper Delaware River. (Note: the applicant may not commence work under any NWP until the NPS determines in writing that the project will not adversely affect the NWSR even if 45-days have passed since receipt of the PCN package.) Information regarding NWSR may be found at: <http://www.rivers.gov/wildriverslist.html>

G-D. For all proposals requiring a pre-construction notification (PCN), in addition to the requirements in General Condition 31, the applicant shall also include: (Note: the application will not be considered complete until all of the applicable information is received).

1. **New York State/USACE Joint Application Form:** The application form shall be completed and signed and shall clearly indicate that the submission is a PCN.
2. **Drawings:** The PCN must include legible, black and white project drawings on 8.5" x 11" paper. Full size drawings may be submitted in addition to the 8.5" x 11" plans to aid in the application review. Three types of illustrations are needed to properly depict the work to be undertaken. These illustrations or drawings are a Vicinity Map (i.e. a location map such as a USGS topographical map), a Plan View and a Cross-Section Map. Each illustration should identify the project, the applicant, and the type of illustration (vicinity map, plan view or cross section). The Vicinity Map shall provide the location of the entire project site. In addition, each illustration should be identified with a figure or attachment number. The location map shall include the Latitude and Longitude or UTM coordinates of the project. For linear projects, the PCN shall include a map of the entire project including a

delineation of all waters of the U.S. within the corridor. Aquatic resource information shall be submitted using the Cowardin Classification System mapping conventions (e.g. PFO, PEM, etc.)

3. Color photographs: The photos should be sufficient to accurately portray the project site, keyed to a location map and not taken when snow cover is present.

4. Avoidance and Minimization: The PCN must include a written narrative explaining how avoidance and minimization of temporary impacts and permanent losses of waters of the U.S. were achieved on the project site (i.e. site redesign, reduction in scope, alternate methods, etc). It should include a description of the proposed construction practices that would be implemented to perform the proposed work and a description of the reasonably foreseeable direct and indirect effects to waters of the U.S. from the proposed construction practices.

5. Mitigation(See General Conditions 23 & 31(b)(5)):The PCN must include at least a conceptual compensatory mitigation plan for all projects resulting in the loss of greater than 1/10th of an acre of waters of the United States; or for which a waiver of the 300 linear foot limit on intermittent and ephemeral streams is being requested. Mitigation conceptual plans submitted with the PCN must include the following information at a minimum: proposed compensation type (bank or in-lieu fee credit, restoration, creation, preservation, etc.), location and brief discussion on factors considered for site selection (i.e. soils, water source, potential for invasive species, etc.), amount proposed per resource type and a discussion of how the proposal will compensate for aquatic resource functions and services lost as a result of the project.

Note 1: All mitigation projects must comply with the Federal Regulations on compensatory mitigation (33 CFR 332) entitled "Compensatory Mitigation for Losses of Aquatic Resources: Final Rule", dated April 10, 2008, which is available at: http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?c=ecfr&tpl=/ecfrbrowse/Title33/33cfr332_main_02.tpl, and any applicable District Guidelines.

Note 2: Although a conceptual mitigation plan may be sufficient for the purposes of a PCN submission, a detailed mitigation plan must be approved by the Corps before any jurisdictional work may occur on the project site.

6. Nationwide Rivers Inventory: The PCN shall indicate if a river segment listed within the National Park Service Nationwide Rivers Inventory (NRI) is located within the proposed project area. For project areas containing a listed NRI segment, the PCN shall also include a statement as to how adverse effects to the river have been avoided or mitigated. The list is available at: <http://www.nps.gov/ncrc/programs/rta/nri/states/ny.html>.

7. Historic or Cultural Resources: In accordance with General Condition 20, a PCN is required for any non-federal activity which may have the potential to cause effects to any historic properties listed, determined to be eligible for listing on, or potentially eligible for listing on the National Register of Historic Places. Please refer to General Condition 20 for submission requirements. In addition, all PCNs must include a written statement indicating if any such properties may be affected by the proposed project. A copy of any completed survey reports shall be provided with the PCN. If a survey has not been performed, the statement shall include a list of resources checked in the determination. Copies of any available correspondence from the New York State Office of Parks, Recreation, and Historic Preservation State Historic Preservation Officer (SHPO) regarding historic properties shall be provided with the PCN. Information regarding cultural resources may be found at: <http://nysparks.state.ny.us/shpo/>. In addition, assistance regarding the determination of the presence of historic or cultural resources at or near the project site should be directed to SHPO. NOTE: as stated in General Condition 20, if any listed, eligible or potentially eligible properties are present, the applicant shall not begin the activity until notified by the district engineer in writing either that the activity has no potential to cause effects or that consultation under Section 106 of the NHPA has been completed.

8. Endangered Species (See General Condition 18) **and Essential Fish Habitat:** The PCN must include a written statement and documentation concerning any Essential Fish Habitat (EFH) and any federally listed Threatened and Endangered (T&E) species or designated critical habitat that might be affected or is in the vicinity of the project, or if the project is located in designated critical habitat. The PCN must include a copy of any correspondence from the U.S. Fish and Wildlife Service (USFWS) and/or National Oceanic and Atmospheric Administration Fisheries Service (NOAA-Fisheries) formerly National Marine Fisheries Service (NMFS), regarding the presence of T&E species or evidence that the applicant has utilized the USFWS T&E website:

<http://www.fws.gov/northeast/nyfo/es/section7.htm>. Information on NOAA-Fisheries (NMFS) species (both T&E and EFH) can be found at: <http://www.nero.noaa.gov/nero>.

Website evidence shall include a County list of T&E species. For projects located in counties containing T&E species, the PCN shall also include a discussion of potential T&E habitat within the project site. If there is potential habitat for any Federally listed species within the project site the following should be submitted:

- a. The results of any habitat surveys and presence/absence surveys. Note: all surveys should be coordinated with the USFWS and/or NOAA-Fisheries(NMFS) prior to initiation.
- b. A detailed description of the proposed project, including secondary impacts and approximate proposed project construction schedule of project activities (e.g. land clearing, utilities, stormwater management).
- c. A description of the natural characteristics of the property and surrounding area (e.g. forested areas, freshwater wetlands, open waters, and soils). Additionally, please include a description of surrounding land use (residential, agricultural, or commercial).
- d. A description of the area to be impacted by the proposed project, including the species and number or acres of trees to be removed.
- e. The location of the above referenced property and extent of any project related activities or discharges clearly indicated on a copy of a USGS 7.5 minute topographic quadrangle (quad) with the name of the quad(s) and latitude/longitude clearly labeled.
- f. A description of conservation measures to avoid or minimize impacts to listed species.

Please note that there are no known threatened or endangered (T&E) species or EFH species under the jurisdiction of the NOAA-Fisheries (NMFS) within the Buffalo District. Therefore, all Buffalo District requests for information regarding the presence of T&E species should be directed to the USFWS.

General Condition #18 is emphasized, ...”In cases where the non-Federal applicant has identified listed species or critical habitat that might be affected or is in the vicinity of the project, and has so notified the Corps, the applicant shall not begin work until the Corps has provided notification the proposed work will have “no effect” on listed species or critical habitat, or until Section 7 consultation has been completed.”

9. **100 Year Floodplain:** For permanent fills within waters of the United States within the 100 year floodplain, documentation of compliance with FEMA-approved state or local floodplain management requirements.

10. **Submission of Multiple Copies of PCN:**

- a) One (1) additional copy of the PCN package shall be provided to USACE for coordination with National Oceanic and Atmospheric Administration (NOAA) for utility lines to be constructed or installed in navigable waters of the U.S. proposed under NWP #12, (See Note 1 of NWP #12)
- b) One (1) additional copy of the PCN package shall be provided to USACE for coordination with Department of Defense Siting Clearinghouse (See NWP #12, 39, 51 & 52 Notes) for:
 - i. overhead utility lines proposed under NWP #12 and
 - ii. any activity that involves the construction of a wind energy generating structure, solar tower, or overhead transmission lines proposed under NWP #39, 51 or 52
- c) Two (2) additional copies of the PCN package shall be provided to USACE when the project is located within the New York City Watershed, for coordination with the New York City Department of Environmental Protection.
- d) Five (5) additional copies of the PCN package shall be submitted to USACE for agency coordination in accordance with General Condition # 31(d)(2) for:
 - i. All NWP activities that result in the loss of greater than 1/2-acre of waters of the United States,
 - ii. NWP 21, 29, 39, 40, 42, 43, 44, 50, 51, and 52 activities that will result in the loss of greater than 300 linear feet of intermittent and ephemeral stream bed,
 - iii. All NWP 48 activities requiring pre-construction notification.

G- E. CRITICAL RESOURCE WATERS

In accordance with NWP General Condition (GC) #22, certain activities in Critical Resource Waters cannot be authorized under the NWP program or would require a PCN (see GC #22 for a list of the NWP activities that are either excluded or require a PCN).

Critical Resource Waters in New York State include the following:

1. **East-of-Hudson portion of the New York City Water Supply:** This area includes portions of Dutchess,

Putnam and Westchester Counties as delineated on Enclosure 2.

2. **Hudson River National Estuarine Research Reserves (NERR):** The Hudson River NERR consists of four components: Piermont Marsh, Iona Island, Tivoli Bay, and Stockport Flats.

H. NYSDEC General Water Quality Certification (WQC) Conditions applicable to all NWP's for which WQC has been provided are as follows:

1. Non-contamination of Waters:

- All necessary precautions shall be taken to preclude contamination of any wetland or waterway by suspended solids, resins, sediments, fuels, solvents, lubricants, epoxy coatings, paints, concrete, leachate or any other environmentally deleterious materials associated with the project.

2. Installation and Maintenance of Culverts:

- This certification does not authorize the installation of any culverts that are not embedded beneath the existing grade of the stream channel.
- This certification does not authorize culvert rehabilitation projects that involve slip lining, invert paving, or similar treatments that can result in an impediment to the passage of aquatic life movement through the culvert.
- This certification does authorize the rehabilitation of culverts utilizing Cure in Place Pipe Lining (CIPP) or concrete spray lining for culverts which currently meet Nationwide Permit General Condition # 2 - Aquatic Life Movements.

3. Discharges and Disturbances:

- Except for Nationwide Permit # 3, 4, 20, 22, 27, 30, 33, 37, 41 and maintenance activities under Nationwide Permit 43, this certification does not authorize discharges greater than 1/4 acre in size or more than 300 feet of stream disturbance.

4. Maintenance of Water Levels:

- Except for Nationwide Permit 27, this certification does not authorize any activity that results in a permanent water level alteration in waters of the United States, such as draining or impounding.

5. Dewatering:

- Authorized dewatering is limited to immediate work areas that are cofferdammed or otherwise isolated from the larger water body or waters of the United States. Dewatering must be localized and not drain extensive areas of a water body or reduce the water level such that fish and other aquatic vertebrates are killed, or their eggs and nests are exposed to desiccation, freezing or depredation in areas outside of the immediate work site.
- Cofferdams or diversions shall not be constructed in a manner that causes or exacerbates erosion of the bed or banks of a watercourse.
- All dewatering structures must be permanently removed when construction is completed.

6. Endangered or Threatened Species:

- Applicants must certify that the proposed activity will not jeopardize the existence of an endangered species or threatened species listed in 6 NYCRR Part 182, or likely to destroy or adversely modify the habitat of such species. Information on New York State endangered or threatened species may be obtained from the NYS Department of Environmental regional offices, the New York Natural Heritage Program in Albany, New York or on the NYSDEC website at <http://www.dec.ny.gov/animals/29338.html>. If it is determined that there is a species of concern that may be impacted by the proposed activity, this blanket water quality certification is not applicable, and the applicant will need an individual water quality certification from the Department.

7. Prohibition Period/or In-stream Work:

Unless approved in writing by the Regional Natural Resources Supervisor or their designee, in-stream work is prohibited during the following time periods:

- in cold water trout fisheries (waters classified under Article 15 of New York's Environmental Conservation Law with a "t" or "ts" designation), beginning October 1 and ending May 31
- in perennial warm water fisheries, (non- trout waters classified under Article 15 of New York's Environmental Conservation Law as "A, B or C"), beginning March 1 and ending July 15.

To determine which prohibition period is in effect for a particular water, contact the Regional Natural Resources Supervisor in the appropriate NYSDEC regional office.

8. Significant Coastal Fish and Wildlife Habitat:

- This certification does not authorize any discharge occurring in a designated Significant Coastal Fish and Wildlife Habitat area pursuant to 19 NYCRR Part 602 ; Title 19 Chapter 13, Waterfront Revitalization and Coastal Resources.

9. Coastal Erosion Hazard Areas:

- This certification does not authorize projects in Coastal Erosion Hazard Areas, as identified in NYS Environmental Conservation Law (ECL) Article 34, and its implementing regulations, 6 NYCRR Part 505.

10. State-owned Underwater Lands:

- Prior to undertaking any Nationwide Permit activity that will involve or occupy state owned lands now or formerly under the waters of New York State, the party proposing the activity must first obtain all necessary approvals from:

NYS Office of General Services
Division of Real Estate Development
Corning Tower Building, 26th Floor
Empire State Plaza
Albany, NY 12242
Tel. (518) 474-2195

11. Tidal Wetlands:

- This authorization does not authorize any activities in tidal wetlands as defined in Article 25 of NYS ECL, with the exception of NWP # 4, 20 and 48.

12. Wild, Scenic and Recreational Rivers:

- This certification does not authorize activities in any Wild, Scenic or Recreational River or state designated WSR corridors.

13. Floodplains:

- Authorized projects must be in compliance with State and Local Floodplain Regulations.

14. Combined use of permits:

- This authorization does not allow the stacking of NWPs so that in combination they exceed 1/4 of an acre of fill or 300 linear feet of stream disturbance. When used in combination, the most restrictive conditions apply.

15. Public Service Commission:

- This certification does not authorize activities regulated pursuant to Article VII of the New York State Public Service Law. For such projects, Section 401 Water Quality Certification is obtained from the New York State Public Service Commission.

16. Utility Projects:

- This certification does not authorize maintenance or other activities associated with hydropower projects.
- This certification does not authorize the construction of substation facilities or permanent access roads in wetlands or within the FEMA mapped 100 year floodplain.
- Excess materials resulting from trench excavation must be moved out of the wetland and contained so that they do not re-enter any waters of the United States.

I. New York State Department of State (NYSDOS) Coastal Zone Management Consistency Determination applicable to all NWPs located within or affecting the NYS Coastal Zone:

To ensure that the NWPs and activities authorized by USACE would be consistent with the NYS Coastal Management Program and approved LWRPs, the following conditions will apply to NWPs where NYSDOS has objected to the USACE consistency determination or where the project will not comply with the NYSDOS NWP specific condition(s):

The applicant will submit a request for an individual consistency determination to NYSDOS. Within thirty (30) days of receipt by NYSDOS of an applicant's submission, which should include a complete joint New York State Department of Environmental Conservation and U.S. Army Corps of Engineers Permit Application, completed Federal Consistency Assessment Form, and all information and data necessary to assess the effects of the proposed

activity on and its consistency with the CMP, including location maps and photographs of the site where the activity is proposed, NYSDOS will inform the applicant and the Corps whether:

- 1) Necessary data and information is missing from the applicant's submission. If so, the NYSDOS will notify the applicant and the Corps of the missing necessary data and information, and state that the NYSDOS review will not commence until the date the necessary data and information is provided;
- 2) The activity meets the General Concurrence criteria set forth in the CMP and therefore, further review of the proposed activity by the NYSDOS, and the NYSDOS concurrence with an individual consistency certification for the proposed activity, are not required; or
- 3) NYSDOS review of the proposed activity and NYSDOS concurrence with the applicant's consistency certification is necessary. If NYSDOS indicates review of the activity and a consistency certification for it is necessary, the activity shall not be authorized by NWP or other form of Corps authorization unless NYSDOS concurs with an applicant's consistency certification, in accordance with 15 CFR Part 930, Subpart D, or unless NYSDOS indicates the activity meets CMP General Concurrence criteria (see item 2 above).

NYSDOS concurrence with an applicant's consistency certification shall not be presumed unless NYSDOS fails to concur with or object to an applicant's consistency certification within six (6) months of commencement of NYSDOS review of an applicant's consistency certification and all necessary data and information in accordance with 15 CFR Parts 930.62 or 930.63.

Notes:

- Unless NYSDOS issues consistency concurrence or USACE has determined that NYSDOS concurrence is presumed, NWPs are not valid within the Coastal Zone.
- Limits of the coastal zone, including the CMP special management area designations of Significant Coastal Fish and Wildlife Habitats (SCFWH), can be viewed at: <http://www.dos.ny.gov/communitieswaterfronts/atlas/index.html>
Local Waterfront Revitalization Program information can be viewed at:
http://www.dos.ny.gov/communitieswaterfronts/WFRevitalization/LWRP_status.html
- All consistency concurrence determination requests must be submitted directly to NYSDOS.
- Details regarding NYSDOS submission requirements can be obtained at:
<http://www.dos.ny.gov/communitieswaterfronts/consistency/federal.html>

J. INFORMATION ON NATIONWIDE PERMIT VERIFICATION

Verification of the applicability of these Nationwide Permits is valid until March 19, 2017 unless the Nationwide Permit is modified, suspended revoked, or the activity complies with any subsequent permit modification.

It is the applicant's responsibility to remain informed of changes to the Nationwide Permit program. A public notice announcing any changes will be issued when they occur and will be available for viewing at our website: <http://www.lrb.usace.army.mil/Missions/Regulatory.aspx>.

Please note in accordance with 33 CFR part 330.6(b), that if you commence or are under contract to commence an activity in reliance of the permit prior to the date this Nationwide permit expires, is suspended or revoked, or is modified such that the activity no longer complies with the terms and conditions, you have twelve months from the date of permit modification, expiration, or revocation to complete the activity under the present terms and conditions of the permit, unless the permit has been subject to the provisions of discretionary authority.

Possession of this permit does not obviate you of the need to contact all appropriate state and/or local governmental officials to insure that the project complies with their requirements.

NOTE: This document is an excerpt of the May 30, 2012 Public Notice by USACE Buffalo & New York Districts. The above referenced Enclosures 2-4 and Appendix A are not included in this Buffalo District document as they are only applicable within the geographic boundaries of the New York District. The Public Notice is available at the USACE websites or by contacting the Districts at the addresses provided below in Section K.

K. AGENCY CONTACT INFORMATION

NYS Department of Environmental Conservation

www.dec.ny.gov

NYS DEC REGION 1

Regional Permit Administrator
SUNY @ Stony Brook
50 Circle Road
Stony Brook, NY 11790-3409
(631) 444-0365

NYS DEC REGION 2

Regional Permit Administrator
1 Hunter's Point Plaza
47-40 21st Street
Long Island City, NY 11101-5407
(718) 482-4997

NYS DEC REGION 3

Regional Permit Administrator
21 South Putt Corners Road
New Paltz, NY 12561-1620
(845) 256-3054

NYS DEC REGION 4

Regional Permit Administrator
1130 North Westcott Road
Schenectady, NY 12306-2014
(518) 357-2069

NYS DEC REGION 4 Sub-Office

Deputy Regional Permit Administrator
65561 State Hwy 10
Stamford, NY 12167-9503
(607) 652-7741

NYS DEC REGION 5

Regional Permit Administrator
PO Box 296
1115 Route 86
Ray Brook, NY 12977-0296
(518) 897-1234

NYS DEC REGION 5 Sub-Office

Deputy Regional Permit Administrator
PO Box 220
232 Golf Course Rd
Warrensburg, NY 12885-0220
(518) 623-1281

NYS DEC REGION 6

Regional Permit Administrator
317 Washington Street
Watertown, NY 13601-3787
(315) 785-2245

NYS DEC REGION 6 Sub-Office

Deputy Regional Permit Administrator
207 Genesee Street
Utica, NY 13501-2885
(315) 793-2555

NYS DEC REGION 7

Regional Permit Administrator
615 Erie Blvd. West
Syracuse, NY 13204-2400
(315) 426-7438

NYS DEC REGION 7 Sub-Office

Deputy Regional Permit Administrator
1285 Fisher Avenue
Cortland, NY 13045-1090
(607) 753-3095

NYS DEC REGION 8

Regional Permit Administrator
6274 E. Avon - Lima Road
Avon, NY 14414-9519
(585) 226-2466

NYS DEC REGION 9

Regional Permit Administrator
270 Michigan Avenue
Buffalo, NY 14203-2915
(716) 851-7165

NYS DEC REGION 9 Sub-Office

Deputy Regional Permit Administrator
182 East Union Street
Allegany, NY 14706-1328
(716) 372-0645

NYS Department of State

Division of Coastal Resources
Consistency Review Unit
One Commerce Plaza
99 Washington Avenue, Suite 1010
Albany, NY 12231-00001
(518) 474-6000
www.nyswaterfronts.com
PO Box 296
1115 Route 86
Ray Brook, NY 12977-0296
(518) 897-1234

US Army Corps of Engineers

www.usace.army.mil

For DEC Regions 1, 2 and 3

US Army Corps of Engineers NY District

ATTN: Regulatory Branch
26 Federal Plaza, Room 1937
New York, NY 10278-0090
Email: CENAN.PublicNotice@usace.army.mil

For DEC Regions 1, 2, Westchester County and Rockland County (917) 790-8511

For the other counties of DEC Region 3 -
(917) 790-8411

For DEC Regions 4, 5

Department of the Army

ATTN: CENAN-OP-R

NY District, Corps of Engineers

1 Buffington Street
Building 10, 3rd Floor
Watervliet, NY 12189-4000
(518) 266-6350 - Permits team
(518) 266-6360 - Compliance Team

Email: cenan.rfo@usace.army.mil

For DEC Regions 6, 7, 8, 9

US Army Corps of Engineers

Buffalo District

ATTN: Regulatory Branch
1776 Niagara Street
Buffalo, NY 14207-3199
(716) 879-4330
Email: LRB.Regulatory@usace.army.mil
www.lrb.usace.army.mil

U.S. Army Corps of Engineers Regulatory Districts in New York State

