

Draft Wetlands Protection Plan

**Governor's Office of Storm Recovery
U.S. Department of Housing and Urban Development
Community Development Block Grant – Disaster Recovery**

**Pantherkill Road Bridge Replacement Project
Town of Shandaken, NY**

Town of Shandaken, Ulster County, New York
Effective Date: September 20, 2016

Executive Order 11990 – Protection of Wetlands

**Governor’s Office of Storm Recovery
U.S. Department of Housing and Urban Development
Community Development Block Grant – Disaster Recovery**

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**Ulster County, New York
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This Wetlands Protection Plan meets the requirements of 24 CFR Part 55.20 and Executive Order 11990—Protection of Wetlands—for the Pantherkill Road Bridge Replacement Project (“Proposed Project”) in the Town of Shandaken, Ulster County, NY. The Town of Shandaken is participating in the U.S. Department of Urban Development (HUD) Community Development Block Grant Program as administered by the State of New York Action Plan for Community Development Block Grant Program – Disaster Recovery (CDBG-DR). The Proposed Project will be conducted in compliance with Executive Order 11990.

This Wetlands Protection Plan documents the eight-step decision making for the Project and pertains to activities within wetland areas, as defined by the Clean Water Act and U.S. Army Corps of Engineers.

Description of Proposed Program Activities

The Governor’s Office of Storm Recovery (GOSR) is conducting an evaluation as required by Executive Order 11990 in accordance with HUD regulations under 24 CFR 55.20 Subpart C - Procedures for Making Determinations on Floodplain Management and Protection of Wetlands, to determine the potential effects that Project activity in wetland areas would have on the human environment.

The Town of Shandaken is requesting CDBG-DR funding to replace the bridge on Pantherkill Road and enhance flow capacity and flood water conveyance beneath the bridge structure to mitigate stormwater effects on Pantherkill Road, repair structural damage caused by flooding from Hurricane Irene and Tropical Storm Lee, contribute to more efficient emergency response by eliminating inundation at this location during high water events and increase the Town’s ability to recover quickly from storm events.

The Proposed Project would repair damaged public infrastructure. The Town of Shandaken was particularly impacted by Hurricane Irene and Tropical Storm Lee, with local bridges and other travel infrastructure sustaining heavy damages from severe flooding. The bridge to be addressed by the Proposed Project was temporarily closed to traffic during these storm events, which interrupted access for all residents, both upstream and downstream of the bridge. This created a condition of isolation for those stranded upstream, and a condition requiring emergency sheltering for those suffering from the storms’ affects downstream. Additionally, the Town’s emergency response system was hindered by a reduced capacity to access those residents needing assistance in the affected area.

Implementation of the Proposed Project will enhance flow capacity and flood water conveyance beneath the bridge structure in order to mitigate storm water effects on the roadways served by the bridge, repair structural damage to the bridge caused by flooding from Hurricane Irene and Tropical Storm Lee, and contribute to a more efficient emergency response by eliminating inundation of the bridge during high water events, which will increase the Town's ability to recover more quickly from storm events.

Executive Order 11990 & 24 CFR Part 55

Under 24 CFR Part 55.20, an eight-step decision making process must be completed for proposed actions taking place in a wetland. 24 CFR Part 55.20 implements Executive Order 11990—Protection of Wetlands. The order requires federal agencies (or a state agency implementing a federal funding program) to minimize the destruction, loss, or degradation of wetlands and to preserve and enhance the natural and beneficial values of wetlands. Under this order, federal agencies should first look at avoiding all actions in or adversely affecting wetlands unless no practicable alternatives exist. If no practicable alternatives exist, then federal agencies must evaluate the potential effects of the proposed action. In addition, federal agencies are required to demonstrate that consideration of all practicable alternatives has resulted in the reduction or elimination of the long- and short-term adverse impacts associated with occupancy and modifications of wetlands. This eight-step process includes assessing all practicable alternatives and incorporating public review.

24 CFR Part 55.20 Eight-Step Process

Step One: Determine whether the proposed action is located in a wetland.

The geographic scope for the Pantherkill Road Bridge Replacement Project is located within the Town of Shandaken in Ulster County. The project area is located along Pantherkill Road where it crosses Panther Kill. The project area is located along the Panther Kill which classified by the National Wetlands Inventory as riverine (R3UBH). Approximately 0.09 acres of wetlands would be impacted from the Proposed Project. The majority of wetland impacts would be temporary, resulting from water diversion through a culvert during construction. There would be a permanent loss of wetlands from installation of new abutments, resulting in a loss of up to approximately 0.006 acres of riverine wetlands.

The proposed Project location and action is:
See **EXHIBIT 1** for a Project location and NWI wetlands.

Step Two: Notify the public at the earliest possible time of a proposal to consider an action in a wetland, and involve the affected and interested public in the decision making process.

Because the Project activities would be located in the wetland, GOSR must publish an early notice that allows the public an opportunity to provide input into the decision to provide funding for the Project activities in this area. Once the early public notice and comment period is complete, GOSR will assess, consider, and respond to the comments received individually and collectively for the Project file, then proceed to Step Three.

A 15-day “Early Notice and Public Explanation of a Proposed Activity in a Wetland” was published in the Daily Freeman, on **September 2, 2016**. The 15-day period expired on **September 19, 2016**.

The notice addressed residents who live in adjacent to the project area. The notice was also sent to the following state and federal agencies on **September 2, 2016**: Federal Emergency Management Agency (FEMA), U.S. Environmental Protection Agency (EPA), U.S. Department of Homeland Security (DHS), U.S. Fish and Wildlife Service (FWS); U.S. Army Corps of Engineers (USACE); NYS Department Environmental Conservation; the NYS Office of Parks, Recreation and Historic Preservation; NYS Department of Transportation; NYS Office of Emergency Management. The notice was also sent to the Town of Shandaken and the office of the Ulster County Executive (see **EXHIBIT 2** for the notice).

GOSR received **0** public comments on this notice.

Step Three: Identify and evaluate practicable alternatives to locating the proposed action in a wetland.

Given the scope of the Proposed Project to replace the existing bridge, potential alternatives must be considered in order to try to mitigate potential wetland impacts.

One potential alternative is for the no action to occur, meaning the existing bridge would remain in place. This alternative would mean that access along Pantherkill Road at this bridge crossing may be hindered during storms. This alternative would not support the resiliency of the community and could strand residents to the west of the bridge location on Pantherkill Road during storm events. Under the No Action alternative, the bridge would still be subject to the existing potential for flood-related damage.

A second alternative would be to remove the existing bridge structure and not replace it. This alternative would remove access to the residents to the west of the bridge on Pantherkill Road. A third alternative would be to remove the existing bridge and use the existing abutments, eliminating new permanent impacts to wetlands. This alternative would not raise the height of the bridge deck and would not widen the distance between the abutments, which would not reduce the flood potential for future storm events and could strand residents to the west of the bridge location on Pantherkill Road during storm events.

A fourth alternative would be to remove the bridge and look at alternate bridge locations. There are no alternative bridge location options proposed in the Project Area because the bridge is located on a road that is the sole point for residential access. The purpose of the Proposed Project is to reduce the risk of damage to the Pantherkill Bridge and provide uninterrupted emergency access during future flood events for residents living upstream and downstream of the bridge crossing, including but not limited to, residences located along Woodland Valley Road, Grandview Drive, Baker Road and Pantherkill Road.

After a consideration of all of the alternatives, Ulster County and GOSR have determined the best practicable alternative is the Proposed Action.

Step Four: Identify the potential direct and indirect impacts associated with the occupancy or modification of the wetland.

GOSR has evaluated the alternatives to the proposed Project activities in the wetland, and has determined that the proposed activities must take place in the wetland.

The Project would remove existing abutments and construct new abutments in the streambed. Given that the proposed Project would remove existing structures and replace in-kind, only minor, temporary construction impacts are anticipated as a result of the Project activities, which will be minimized through the use of construction best management practices. The Project seeks to reduce the risk of damage to the Town of Shandaken and prevent damage from flooding during future storm events.

The Proposed Project action would have a beneficial outcome for the residents of the Town of Shandaken, specifically those who live along Pantherkill Road. Implementation of the Project would reduce risk of flooding and increase resiliency by reducing flooding impacts and associated damage to the bridge, which has stranded residents during previous storm events. Public health and safety would also be enhanced from providing greater, more reliable access for emergency operations and vehicles.

Step Five: Where practicable, design or modify the proposed action to minimize the potential adverse impacts within the wetland and to restore and preserve its natural and beneficial values.

As proposed, all of the Project activities will be performed within the right-of-way for the existing bridge. Precautions will be taken to prevent sedimentation of the waterway, including implementation of soil and erosion controls and channeling the existing streamflow through a culvert during construction. No heavy equipment will be placed in the streambed to avoid impacts beyond the footprint of the new abutments.

Step Six: Reevaluate the proposed action to determine: (1) Whether it is still practicable in light of its potential to disrupt wetland values; and (2) Whether alternatives preliminarily rejected at Step Three are practicable in light of the information gained in Steps Four and Five.

GOSR has reevaluated the proposed action and determined that the Pantherkill Road Bridge Replacement Project is still practicable in light of its potential to adversely impact wetland values. The Project will remove abutments from the riverine wetland and replace them in-kind, resulting in no net impact to wetland values. The bridge replacement would reduce the risk of flooding and increase resiliency.

GOSR has also reconsidered the alternatives discussed in Step Three and determined the best practicable alternative is the proposed action. There is no practicable alternative to locating the proposed action in the wetland.

Step Seven: If the reevaluation results in a determination that there is no practicable alternative to locating the proposal in the wetland, publish a final notice.

It is GOSR's determination that the preferred alternative is the proposed Pantherkill Road Bridge Replacement Project. Among the numerous benefits of the Project, these include the mitigation of potential flooding, immediate threat to public health, and safety and welfare of the Town's residents. The proposed bridge replacement is a necessary improvement for the Town of Shandaken

A 7-day “Notice for Final Public Review of a Proposed Activity in a Wetland” was published in The Daily Freeman, on **September 20, 2016**. The 7-day period expires on **September 27, 2016**. The notice targeted local residents, including those along Pantherkill Road. The notice was also sent to the following state and federal agencies on **September 20, 2016**: U.S. Environmental Protection Agency (EPA), U.S. Department of Homeland Security (DHS), U.S Fish and Wildlife Service (FWS); U.S. Army Corps of Engineers (USACE); NYS Department Environmental Conservation; the NYS Office of Parks, Recreation and Historic Preservation; NYS Department of Transportation; and NYS Office of Emergency Management. The notice was also sent to the Town of Shandaken and the office of the Ulster County Executive (see **EXHIBIT 3** for the notice).

GOSR received **X public comments** on this notice. See **EXHIBIT 4** for the list of comments received and the response to those comments, if applicable.

Step Eight: Implement the Action

Step eight is implementation of the proposed action. GOSR will ensure that all mitigation measures prescribed in the steps above will be adhered to. Also, prior to Project implementation, GOSR will conduct a National Environmental Policy Act (NEPA) review in accordance with 24 CFR Part 58 and a New York State Environmental Quality Review Act (SEQR) review in accordance with 6 NYCRR Part 617.

EXHIBITS

EXHIBIT 1: Project Location Wetland Map

EXHIBIT 2: Copy of Notice Transmitting Notice of Early Public Review and Proof of Publication

EXHIBIT 3: Copy of Notice Transmitting Notice of Final Public Review and Proof of Publication

EXHIBIT 4: Public Comments Received and Response, if applicable

EXHIBIT 1 Project Location Wetland Map



**EXHIBIT 2 Copy of Notice Transmitting Notice of Early Public Review
and Proof of Publication**

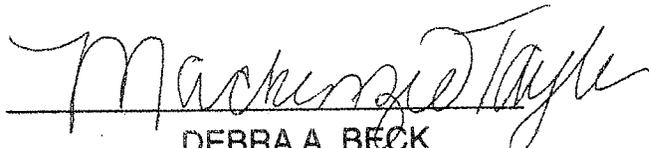
AFFIDAVIT OF PUBLICATION

STATE OF NEW YORK,
Ulster County, ss:
City of Kingston.

Mackenzie Taylor residing in Ballston Spa, New York, being duly sworn, deposes and says that she is the Regional Legal Clerk of 21st Century Media Newspaper, LLC a Corporation duly organized under the laws of the State of New York; that said Corporation is the publisher of The Daily Freeman, a daily newspaper published in the City of Kingston, County of Ulster and State of New York, and that the notice of which the annexed is a printed copy, has been regularly published in The Daily Freeman

ONCE DAILY for ONE DAY

To wit: on the 2nd day of September, 2016



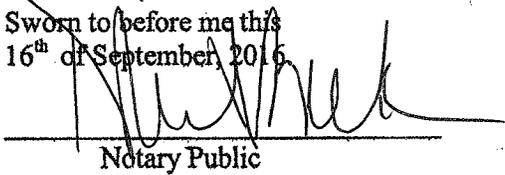
DEBRA A. BECK

Notary Public, State of New York
01BE6072229

Qualified in Rensselaer County 18

Commission Expires April 01, 2018

Sworn to before me this
16th of September, 2016


Notary Public

EARLY NOTICE AND PUBLIC REVIEW OF A PROPOSED ACTIVITY IN A WETLAND - ULSTER COUNTY, NY PANTHERKILL ROAD BRIDGE REPLACEMENT TOWN OF SHANDAKEN ULSTER COUNTY, NEW YORK SEPTEMBER 2, 2016
To: All interested Agencies, Groups, and Individuals
This is to give notice that the Governor's Office of Storm Recovery

(GOSR), an office of the New York State Housing Trust Fund Corporation (HTFC), has received an application from the Town of Shandaken to use Community Development Block Grant - Disaster Recovery (CDBG-DR) funding from the NY Rising Community Reconstruction Program to implement the Pantherkill Road Bridge Replacement project (hereinafter, the "Proposed Activity") and is conducting an evaluation as required by Executive Order 11988 and Executive Order 11990 in accordance with U.S. Department of Housing and Urban Renewal (HUD) regulations (24 CFR Part 55). There are three primary purposes for this notice. First, to provide the public an opportunity to express their concerns and share information about the Proposed Activity, including alternative locations outside of the wetland. Second, adequate public notice is an important public education tool. The dissemination of information about floodplains and wetlands facilitates and enhances governmental efforts to reduce the risks associated with the occupancy and modification of these special areas. Third, as a matter of fairness, when the government determines it will participate in actions taking place in floodplains or wetlands, it must inform those who may be put at greater or continued risk. Funding for the Proposed Activity will be provided by the HUD CDBG-DR program for storm recovery activities in New York State. The Proposed Activity is needed to replace the bridge and enhance flow capacity and flood water conveyance beneath the bridge structure to mitigate stormwater effects on Pantherkill Road, repair structural damage caused by flooding from Hurricane Irene and Tropical Storm Lee, contribute to more efficient emergency response by eliminating inundation at this location during high water events and increase the Town's ability to recover quickly from storm events.

entails replacing the existing bridge (20' long x 18' wide x 6' high) with a longer and higher bridge (34' long x 18' wide x 8' high). The bridge will include a reinforced concrete deck and will widen the distance between the bridge abutments. Construction is anticipated to include temporary stream diversion through two temporary culvert pipes, construction of a temporary single-lane bypass, removal of existing bridge and abutments, excavation of dirt and rock, and laying rip-rap along the stream banks. No land acquisition is anticipated; the bridge is owned by the Town of Shandaken and there is adequate publicly owned right-of-way to complete the proposed improvements. Shandaken is wholly within the New York City Watershed which is under the jurisdiction of the NYC Department of Environmental Protection.

The Proposed Activity is anticipated to result in impacts to approximately half an acre of disturbed land, which includes approximately 0.09 acres classified as riverine wetland (R3UBH). The Proposed Project would disturb up to 0.09 acres within the Panther Kill through removal and replacement of existing bridge abutments. The majority of wetland impacts would be temporary, resulting from water diversion through a culvert during construction. The permanent loss of wetlands from installation of the new bridge abutments would be approximately 0.006 acres. The Proposed Project site does not contain any state listed freshwater wetlands.

Floodplain maps based on the FEMA Flood Insurance Rate Maps and wetlands maps based on the National Wetland Inventory and New York State Department of Environmental Conservation (NYSDEC) data have been prepared and are available for review with additional information at <http://www.stormrecovery.ny.gov/environmental-docs>.

Any individual, group, or agency may submit written comments on the Proposed Activity or request further information by contacting Thomas King, Assistant General Counsel and Certifying Officer, Governor's Office of Storm Recovery, 99 Washington Avenue, Suite 1224, Albany, NY 12260; email: NYSCDBG_DR

ER@nyshcr.org. Standard office hours are 9:00 AM to 5:00 PM Monday through Friday. For more information call 518-473-0015. All comments received by September 19, 2016 will be considered.

#1111957

Affidavit of Mailing

DISTRICT OF COLUMBIA)

:SS.:

CITY OF WASHINGTON)

JULIA EITNER, being duly sworn, deposes and says:

1. I am over the age of 18 years
2. On September 1, 2016, I mailed true and correct copies of the early notice of proposed activity in a wetland dated September 1, 2016 by placing in first class, post-paid envelopes addressed: SEE ATTACHED LIST.
3. On said day, I deposited said envelopes in a mailbox at 1250 23rd St NW, Washington, DC


Julia Eitner

Sworn to before me this

6th Day of Sept, 2016


Notary Public

GWENDOLEN C. INGRAHAM
NOTARY PUBLIC DISTRICT OF COLUMBIA
My Commission Expires September 30, 2019



Jerome Hatfield, Regional Administrator
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Federal Emergency Management Agency,
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New York, NY 10278-0002

Ms. Grace Musumeci
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NEPA Section Chief
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Ms. Patricia Cole
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Officer
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**EXHIBIT 3 Copy of Notice Transmitting Notice of Final Public Review
and Proof of Publication**

[Will be published September 20, 2016]