MONHAGEN BROOK CULVERT PROJECT

CITY OF MIDDLETOWN, ORANGE COUNTY, NEW YORK

Categorically Excluded, Subject to 24 CFR §58.5
Environmental Review Record

New York State Governor’s Office of Storm Recovery
New York State Homes and Community Renewal
U.S. Department of Housing and Urban Development

December 4, 2020
MONHAGEN BROOK CULVERT PROJECT
Categorically Excluded, Subject to 58.5

December 4, 2020

Project Name: Monhagen Brook Culvert Project

Project Location: Intersection of Monhagen Brook and West Main Street; and Grant Street, City of Middletown, Orange County, New York

Federal Agency: US Department of Housing and Urban Development

Responsible Entity: New York State Homes and Community Renewal (HCR)
Governor’s Office of Storm Recovery (GOSR)

Responsible Agency’s Certifying Officer: James McAllister, Certifying Environmental Officer
Governor’s Office of Storm Recovery
500 Bi-County Boulevard, Suite 300
Farmingdale, NY 11735
Phone: (646) 256-9485
E-mail: James.McAllister@stormrecovery.ny.gov

Project Sponsor: City of Middletown
Primary Contact: Joseph DeStefano, Mayor
16 James Street
Middletown, New York 10940
Phone: (845) 346-4100
E-mail: mayordestefano@yahoo.com

Project NEPA Classification: 24 CFR 58.35(a)

Certification: The undersigned hereby certifies that New York State Homes and Community Renewal has conducted an environmental review of the project identified above and prepared the attached environmental review record in compliance with all applicable provisions of the National Environmental Policy Act of 1969, as amended (42 USC Sec. 4321 et seq.) and its implementing regulations at 24 CFR Part 58.

Signature: __________________________________________
James McAllister

Date: December 4, 2020

Environmental Review Prepared By: Tectonic Engineering & Surveying
GOSR
PO Box 37, 70 Pleasant Hill Road
Mountainville, NY 10953
500 Bi-County Blvd.
Farmingdale NY 11735
CERTIFICATION OF NEPA CLASSIFICATION

It is the finding of the New York State Housing Trust Fund Corporation that the activity(ies) proposed in this 2020 CDBG-DR project, Monhagen Brook Culvert Project, are:

Check the applicable classification.

☐ Exempt as defined in 24 CFR 58.34 (a).

☐ Categorically Excluded as defined in 24 CFR 58.35(b).

☐ Categorically Excluded as defined in 24 CFR 58.35(a) and no activities are affected by federal environmental statutes and executive orders [i.e., exempt under 58.34(a)(12)].

☒ Categorically Excluded as defined in 24 CFR 58.35(a) and some activities are affected by federal environmental statutes and executive orders.

☐ "Other" neither exempt (24 CFR 58.34(a)) nor categorically excluded (24 CFR 58.35).

☒ Part or all of the project is located in an area identified as a floodplain or wetland. For projects located in a floodplain or wetland, evidence of compliance with Executive Orders 11988 and/or 11990 is required.

For activities excluding those classified as "Other", attached is the appropriate Classification Checklist that identifies each activity and the corresponding citation.

Signature of Certifying Officer

James McAllister
Print Name

Certifying Officer
Title

December 4, 2020
Date
Acquisition, repair, improvement, reconstruction, or rehabilitation of public facilities and improvements (other than buildings) when the facilities and improvements are in place and will be retained in the same use without change in size or capacity of more than 20 percent (e.g., replacement of water or sewer lines, reconstruction of curbs and sidewalks, repaving of streets).

Special projects directed to the removal of material and architectural barriers that restrict the mobility of and accessibility to elderly and handicapped persons.

Rehabilitation of buildings and improvements when the following conditions are met:
   (i) In the case of a building for residential use (with one to four units), the density is not increased beyond four units, and the land use is not changed;
   (ii) In the case of multifamily residential buildings:
        a. Unit density is not changed more than 20 percent;
        b. The project does not involve changes in land use from residential to non-residential; and
        c. The estimated cost of rehabilitation is less than 75 percent of the total estimated cost of replacement after rehabilitation.
   (iii) In the case of non-residential structures, including commercial, industrial, and public buildings:
        a. The facilities and improvements are in place and will not be changed in size or capacity by more than 20 percent; and
        b. The activity does not involve a change in land use, such as from non-residential to residential, commercial to industrial, or from one industrial use to another.

An individual action on up to four dwelling units where there is a maximum of four units on any one site. The units can be four one-unit buildings or one four-unit building or any combination in between. (This does not apply to rehabilitation of a building for residential use).

An individual action on a project of five or more housing units developed on scattered sites when the sites are more than 2,000 feet apart and there are not more than four housing units on any one site. (This does not apply to rehabilitation of a building for residential use).

Acquisition (including leasing) or disposition of, or equity loans on an existing structure, or acquisition (including leasing) of vacant land provided that the structure or land acquired, financed, or disposed of will be retained for the same use.

Combinations of the above activities.

Signature of Certifying Officer

James McAllister
Print Name

Certifying Officer
Title

Date
December 4, 2020
CERTIFICATION OF SEQRA CLASSIFICATION

It is the finding of the New York State Housing Trust Fund Corporation that the activity(ies) proposed in this 2020 CDBG-DR project, Monhagen Brook Culvert Project, are:

Check the applicable classification:

☐ Type I Action (6NYCRR Section 617.4)
☒ Type II Action (6NYCRR Section 617.5)
☐ Unlisted Action (not Type I or Type II Action)

Check if applicable:

☐ Environmental Impact Statement (EIS) Prepared
☐ Draft EIS
☐ Final EIS

_________________________  December 4, 2020
Signature of Certifying Officer       Date

James McAllister ___________________________ Certifying Officer ______________
Print Name ___________________________ Title ___________________________
Description of the Proposed Project [24 CFR 50.12 & 58.32; 40 CFR 1508.25]:
The Monhagen Brook Culvert Project (Project) involves the replacement of a bridge and culvert over Monhagen Brook on West Main Street and culvert replacements along Grant Street in the City of Middletown, New York. The Project will mitigate localized flooding that occurs during heavy rainfall events such as those experienced during Hurricane Irene and Tropical Storm Lee. Project location maps are included in Attachment 1. Project design plans are included in Attachment 2.

Project activities on West Main Street will involve the removal of the existing culvert and bridge over Monhagen Brook on West Main Street and the installation of a new 28-foot wide and 44-foot long, three-sided bridge and headwalls. Much of the construction area is currently covered with asphalt and concrete. The replacement will not change the function of the floodplain or wetlands. The Project will result in an increase in the size of the bridge opening that conveys water beneath the bridge, which will reduce the volume of flooding that bypasses the bridge and pools at the low point along West Main Street by allowing more flow through the opening. The wider bridge opening will reduce overtopping for the 25, 50, and 100-year storms compared to existing conditions. The existing bridge has the capacity to convey up to the 10-year storm with the 50-year and 100-year storms overtopping the roadway. The proposed bridge has the capacity to convey up to the 25-year storm with the 100-year storm overtopping.

The existing culvert at the Project area that intersects Grant Street is 5 feet wide by 5 feet high up to the existing manhole where the dimensions increase to 7 feet wide by 5 feet high up until the southern property line of the parcel designated as Tax ID: 36-14-3, where it increases to 10 feet wide by 4 feet high. The existing 5-foot wide by 5-foot high and 7-foot wide by 5-foot high culvert sections are in extremely poor condition. There is an existing sink hole at Grant Street, which poses a safety concern for residents. The possibility of increasing the size of the culvert to 10 feet wide by 4 feet high in this area to match the downstream width of the culvert was analyzed, but it was determined that this was not feasible due to the physical constraints of existing houses. The Project will involve replacing the failing sections of culvert and addressing the sink hole that has formed after the last set of major storms.

Statement of Purpose and Need for the Proposal [40 CFR 1508.9(b)]:
The Monhagen Brook Culvert and Drainage Improvements Study, dated July 13, 2018, was completed by NV5 to identify and evaluate alternatives for improvements to the drainage systems of Monhagen Brook and Draper Brook in the City of Middletown. Projects where improvements are needed to reduce flooding were identified through review of previous studies, discussions with the City of Middletown, and iterative modeling. For Monhagen Brook, a number of geographic areas were identified and within each of these areas, one or more alternatives were developed and evaluated. As part of the Monhagen Brook Culvert and Drainage Improvements Study, Thayer Associates performed a man-entry inspection of the Monhagen Brook culvert from Genung Street to Academy Avenue and the Draper Brook culvert from Genung Street to Sterling Street in May 2017. Following the inspection, they prepared a Report on the Inspection of the Draper and Monhagen Brook Culvert(s). In general, the report estimated existing sizes and materials, documented existing condition issues that were observed, and rated the severity of the issues. In general, for the sections inspected, Thayer Associates found that the Draper Brook culvert has minor structural damage with some cracks and floor damage throughout its length. For the Monhagen Brook culvert from Academy Avenue to the beginning of the girder/beam section downstream, general structural conditions were found to be light to moderate. However, from the start of the girder/beam section of the Monhagen Brook culvert to where it meets with the Draper Brook culvert approximately 40-feet from the face of the Genung Street bridge, the general structural conditions were found to be severe with large amounts of spalling and exposed steel in the beams and ceiling and severely deteriorated concrete.

Based on the analysis and modeling performed, a scoring system was established to evaluate each alternative’s benefit in reducing flooding and the alternatives were ranked accordingly. Hydrologic and Hydraulic Modeling was completed using both Autodesk Storm and Sanitary Analysis (SSA) modeling...
software and Hydrologic Engineering Center’s River Analysis System (HEC-RAS). The models were used to provide comparative analyses of existing and proposed conditions. To evaluate the feasibility of potential project alternatives, the following items were considered: total estimated cost, flood reduction ranking, property issues, constructability issues, permitting, and notable advantages/challenges for each of the ranked alternatives. NV5 recommended that the City of Middletown implement the West Main Street bridge replacement and Monhagen culvert replacement along with a couple of other improvements. Based on prioritization the West Main Street bridge replacement and culvert replacement at the Grant Street location were the projects selected for funding.

The Project will protect property and enhance safety to those most at-risk during disaster events. Improvements that will mitigate flooding along the Monhagen Brook will also benefit the greater community in the City of Middletown and surrounding areas, in that portions of the City which have been made inaccessible by flooding caused by Hurricane Irene, Tropical Storm Lee, and other heavy rainfall events will not be isolated from emergency response and general ingress/egress.

**Existing Conditions and Trends** [24 CFR 58.40(a)]:
The Monhagen Brook, which has a natural base flow and also serves as a primary stormwater drainage feature for the City of Middletown, is conveyed through the City along an open channel in some locations, and through concrete box culverts in other locations. During Hurricane Irene, widespread flooding completely inundated residences within this area. Flooding near the intersection of East Main Street, Academy Avenue, and Fulton Street was particularly problematic, as it hampered emergency personnel and vehicles stationed at the Central Firehouse from accessing the south side and other areas of the City. This neighborhood, which is mostly residential with some businesses, remains at severe risk due to the frequency and likelihood of flooding during storm events due to the present culverts that are not designed to current standards. These conditions would continue to worsen, with an increase in the frequency of storms, without the proposed improvements.

**Funding Information**
**Estimated Total Project Cost** (HUD and non-HUD funds) [24 CFR 58.32(d)]: $3,500,000.00

**Estimated Total HUD Funded Amount**: $3,500,000.00
Compliance with 24 CFR 58.5, and 58.6 Laws and Authorities
Record below the compliance or conformance determinations for each statute, executive order, or regulation. Provide credible, traceable, and supportive source documentation for each authority. Where applicable, complete the necessary reviews or consultations and obtain or note applicable permits of approvals. Clearly note citations, dates/names/titles of contacts, and page references. Attach additional documentation as appropriate.

<table>
<thead>
<tr>
<th>Compliance Factors: Statutes, Executive Orders, and Regulations listed at 24 CFR §58.5 and §58.6</th>
<th>Are formal compliance steps or mitigation required?</th>
<th>Compliance determinations</th>
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<tbody>
<tr>
<td><strong>STATUTES, EXECUTIVE ORDERS, AND REGULATIONS LISTED AT 24 CFR 50.4 and 58.6</strong></td>
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<tr>
<td><strong>Airport Hazards</strong></td>
<td>Yes (☑️) No (☐)</td>
<td>Based on guidance provided by HUD via Fact Sheet #D1¹, the National Plan of Integrated Airport Systems (NPIAS) was reviewed for civilian, commercial service and military airports located near the Project area. An Airport Hazards map showing the Project area, airport locations, heliport locations, and their associated buffers is included in Attachment 3.</td>
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<tr>
<td>24 CFR Part 51 Subpart D</td>
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<td>There are no civilian, commercial service airports located within 2,500 feet of the proposed Project Sites. There are no military airports located within 15,000 feet of the Project area. No additional review is required.</td>
</tr>
<tr>
<td><strong>Coastal Barrier Resources</strong></td>
<td>Yes (☑️) No (☐)</td>
<td>Based on the USFWS Coastal Barrier Resources System Map², the Project is not located in, or immediately adjacent to (within 150 feet), a Coastal Barrier Resource System Unit or Otherwise Protected Area. The USFWS Coastal Barrier Resources System Map included in Attachment 3. No additional review is required.</td>
</tr>
<tr>
<td>Coastal Barrier Resources Act, as amended by the Coastal Barrier Improvement Act of 1990 [16 USC 3501]</td>
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<tr>
<td><strong>Flood Insurance</strong></td>
<td>Yes (☑️) No (☐)</td>
<td>Based on the FEMA National Flood Hazard Layer Map included in Appendix I of Attachment 4, the Project is located within a FEMA³ Special Flood Hazard Area (100-year floodplain and regulatory floodway).</td>
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³ FEMA [https://msc.fema.gov/portal](https://msc.fema.gov/portal)
Flood Insurance

Proof of National Flood Insurance Program insurance is not required, as the proposed Project does not involve insurable structures.

No additional review is required.

| STATUTES, EXECUTIVE ORDERS, AND REGULATIONS LISTED AT 24 CFR 50.4 & 58.5 |
| CLEAN AIR |
| Clean Air Act, as amended, particularly section 176(c) & (d); 40 CFR Parts 6, 51, 93 | Yes  No |
| The proposed Project is located in Orange County, which is part of the NY-NJ-CT air quality maintenance area for fine particulate matter (PM$_{2.5}$) and the Poughkeepsie, NY 1997 ozone non-attainment area. Temporary emissions would result from equipment during construction with no increased emissions occurring due to the operation of the proposed Project. Therefore, a conformity and screening analysis was performed according to the requirements of 40 CFR 93, Subpart B (federal general conformity regulations). The screening analysis assumed that the emissions intensity per expenditure (tons per dollar) for the proposed Project would be similar to the average intensity of the construction sector in the county. Projects with a projected construction expenditure substantially lower than the average construction de minimis expenditure would not exceed de minimis emissions levels for general conformity purposes.

Based on the screening analysis, the construction expenditure threshold for Orange County is $440 million before a project may be expected to exceed the de minimis expenditure thresholds requiring further analysis or conformity determination (Attachment 5). The estimated construction cost of the proposed Project is approximately $3,500,000.00, which is less than the $440 million threshold; thus, the proposed Project would not require further analysis for a conformity determination.

Construction of the proposed Project would not generate significant levels of vehicular traffic; therefore, no exceedances of the National Ambient Air Quality Standard (NAAQS) associated with carbon monoxide (CO) or particulate matter (PM) is anticipated occur. The proposed Project will not result in siting any new source of air pollutants. The proposed Project will not adversely affect the State Implementation Plan (SIP). Any air quality impacts would be
**Clean Air**  
Clean Air Act, as amended, particularly section 176(c) & (d); 40 CFR Parts 6, 51, 93

short-term and localized during construction and, therefore, no significant adverse impacts to air quality are anticipated.

Additionally, the following measures will be incorporated into the contract documents and a more detailed conformity analysis will be required to be completed for the bid package using the “General Conformity Worksheet.”

*Idling Restriction.* In addition to adhering to the local law restricting unnecessary idling on roadways, on-site vehicle idle time will also be restricted to five minutes for all equipment and vehicles that are not using their engines to operate a loading, unloading, or processing device (e.g., concrete mixing trucks) or otherwise required for the proper operation of the engine.

*Utilization of Newer Equipment.* EPA’s Tier 1 through 4 standards for non-road engines regulates the emission of criteria pollutants from new engines, including PM, CO, NOx, and hydrocarbons (HC). All non-road construction equipment with a power rating of 50 horsepower (hp) or greater would meet at least the Tier 2 emissions standard to the extent practicable.

*Best Available Tailpipe Reduction Technologies.* Non-road diesel engines with a power rating of 50 hp or greater and controlled truck fleets (i.e., truck fleets under long-term contract with the Project) including but not limited to concrete mixing and pumping trucks would utilize the best available tailpipe (BAT) technology for reducing DPM emissions. Diesel particulate filters (DPFs) have been identified as being the tailpipe technology currently proven to have the highest reduction capability. Construction contracts would specify that all diesel non-road engines rated at 50 hp or greater would utilize DPFs, either installed by the original equipment manufacturer (OEM) or retrofitted. Retrofitted DPFs must be verified by EPA or the California Air Resources Board (CARB). Active DPFs or other technologies proven to achieve an equivalent reduction may also be used. No additional review is required.
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<th><strong>Coastal Zone Management</strong></th>
<th>Yes</th>
<th>No</th>
<th>The Project is not located within the New York State Coastal Boundary(^4); the Project is not located within a Local Waterfront Revitalization Program Community as shown in the NYS Department of State (DOS) Coastal Boundary map, included in <strong>Attachment 3</strong>. No additional review is required.</th>
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<tr>
<td><strong>Contamination and Toxic Substances</strong></td>
<td>Yes</td>
<td>No</td>
<td>Based on a review of available environmental records for the Project area and surrounding area, the Project Sites are unlikely to contain hazardous materials, contamination, toxic chemicals and gases, or radioactive substances, which would constitute a hazard that could affect the health and safety of occupants or conflict with the intended utilization of the Project Area. Therefore, a Phase I Environmental Site Assessment (ESA) or Phase II Investigation is not warranted. Maps, EPA documents, and NYSDEC documents are included in <strong>Attachment 6</strong>. No additional review is required.</td>
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<td><strong>Endangered Species</strong></td>
<td>Yes</td>
<td>No</td>
<td>According to a review of New York Natural Heritage Program (NYNHP) records on the NYSDEC Environmental Resource Mapper, there are no rare animals or plants, in the vicinity of the proposed Project (<strong>Attachment 7</strong>). Therefore, the Project is anticipated to have no effect on any NYSDEC regulated threatened or endangered animals or plants. The U.S. Fish and Wildlife Service (USFWS) lists the Indiana bat (endangered), northern long-eared bat (threatened), bog turtle (threatened), dwarf wedgemussel (endangered), and small whorled pogonia (threatened) as the only federally endangered or threatened species under USFWS jurisdiction that may occur within the boundaries of the proposed Project. According to the NYSDEC Environmental Resource Mapper, the NYNHP has no records of the above federally listed species at or in the vicinity of the Project area. The proposed Project will involve the removal of one (1) tree at the West Main Street project location, which is an approximately 18&quot; diameter</td>
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<tr>
<td>Coastal Zone Management Act, sections 307(c) &amp; (d)</td>
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<tr>
<td>24 CFR Part 50.3(i) &amp; 58.5(i)(2)</td>
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### Endangered Species

Endangered Species Act of 1973, particularly section 7; 50 CFR Part 402

at breast height (dbh) dead green ash tree that does not possess exfoliating bark, cracks, crevices, or hollows. Project activities will not result in the disturbance of potential habitat for threatened or endangered species. The Project is located in an urban setting and will involve limited construction activities at two (2) geographically limited locations.

GOSR determined that the proposed Project would have “no effect” on species under the jurisdiction of the USFWS. The “no effect” determination was sent to the USFWS New York field office on February 15, 2019 and is included in Attachment 7. The USFWS sent a letter to GOSR acknowledging the receipt of the “no effect” determination on April 17, 2019 (Attachment 7).

The Project does not involve any activities that would introduce stressors to listed species or their designated critical habitats under the jurisdiction of National Oceanic and Atmospheric Administration’s (NOAA) National Marine Fisheries Service (NMFS) pursuant to the ESA. Therefore, GOSR has determined that the proposed Project would have “no effect” on species under the jurisdiction of the NMFS.

No additional review is required.

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<th><strong>Explosive and Flammable Hazards</strong></th>
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<tr>
<td>24 CFR Part 51 Subpart C</td>
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<td><strong>Yes</strong></td>
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Not applicable. This criterion is applicable to HUD-assisted projects that involve new residential construction, conversion of non-residential buildings to residential use, rehabilitation of residential properties that increase the number of units, or restoration of abandoned properties to habitable condition. The proposed Project does not involve these activities, nor does it involve the introduction of bulk storage of hazardous materials.

No additional review is required.

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<th><strong>Farmlands Protection</strong></th>
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<tr>
<td>Farmland Protection Policy Act of 1981, particularly sections 1504(b) and 1541; 7 CFR Part 658</td>
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<tr>
<td><strong>Yes</strong></td>
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Not applicable. The Project is not located within an Agricultural District as identified by New York State and the University of Cornell in Attachment 8.

U.S. Department of Agriculture (USDA) Natural Resources Conservation Service (NRCS) maps provide information on soils types and properties
**Farmlands Protection**  
Farmland Protection Policy Act of 1981, particularly sections 1504(b) and 1541; 7 CFR Part 658

That influence development of sites. According to the USDA NRCS soils map data, the Project area is considered “prime farmland if drained.” The USDA NRCS soils report is included as part of Attachment 8.

Project activities will occur in a developed urban area and do not involve the conversion of farmland to non-agricultural use. Therefore, the proposed Project would not violate the Farmland Protection Policy Act.

No additional review is required.

**Floodplain Management**  
Executive Order 11988, particularly section 2(a); 24 CFR Part 55

Yes   No  

Based on the FEMA National Flood Hazard Layer Map included in Appendix I of Attachment 4, the Project area is located within a FEMA Special Flood Hazard Area (100-year floodplain and regulatory floodway).

An 8-step Floodplain Management Determination was completed pursuant to 24 CFR 55.12(a)(4) and it did not meet the substantial improvement definition at 24 CFR 55.2(b)(10). The 8-step decision making process is detailed in Attachment 4. Best management practices, such as the use of silt fence and a turbidity curtain, will be implemented during construction to protect water quality and flora and fauna in Monhagen Brook. All applicable permits will be obtained prior to the commencement of Project activities, and all permit conditions will be followed. It is concluded there is a reasonable basis to proceed with funding for the proposed Project activities within the floodplain.

No additional review is required.

**Historic Preservation**  
National Historic Preservation Act of 1966, particularly sections 106 and 110; 36 CFR Part 800; Tribal notification for new ground disturbance.

Yes   No  

On February 21, 2019, the New York State Historic Preservation Office (SHPO) reviewed the proposed Project and provided a determination that no historic properties will be affected by this undertaking. This determination is included as part of Attachment 9.

Additionally, as the construction work solely involves work in previously disturbed soils, there is no adverse effect on tribal resources; no consultation with the applicable Tribal Historic Preservation Officers is required.
### Historic Preservation
National Historic Preservation Act of 1966, particularly sections 106 and 110; 36 CFR Part 800; Tribal notification for new ground disturbance.

In the event any unanticipated discoveries of human remains and/or cultural resources including, but not limited to, funerary objects, sacred objects, and objects of cultural patrimony are made during execution of the proposed project, work shall be halted immediately and the SHPO and the applicable THPOs shall be consulted before work resumes.

No additional review is required.

### Noise Abatement and Control
Noise Control Act of 1972, as amended by the Quiet Communities Act of 1978; 24 CFR Part 51 Subpart B

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The Project use is not a noise-sensitive use, and the funded scope of work is defined as minor, or non-substantial. The proposed activities are not expected to generate excessive noise during the short-term construction work and will adhere to local noise control standards. The proposed project will be completed in accordance with all applicable federal, state and local permit requirements and conditions. Therefore, the proposed project would not generate any significant adverse noise impacts.

No additional review is required.

### Sole Source Aquifers
Safe Drinking Water Act of 1974, as amended, particularly section 1424(e); 40 CFR Part 149

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<th>Yes</th>
<th>No</th>
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The proposed Project is not located within the surficial bounds of a designated sole source aquifer. A Sole Source Aquifer Map is included in Attachment 3.

No additional review is required.

### Wetlands Protection
Executive Order 11990, particularly sections 2 and 5

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<th>Yes</th>
<th>No</th>
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According to the USFWS National Wetlands Inventory map, included in Appendix II of Attachment 4, the proposed Project activities located on West Main Street occur in riverine wetlands. Due to the proximity of mapped wetlands to the West Main Street project location, a wetland delineation was performed by NV5 on December 18, 2019. The ordinary high water mark (OHWM) of the Monhagen Brook was delineated, but no wetlands were identified in the Project area during the wetland delineation. At the West Main Street project location, the Project will involve the removal of the existing culvert and bridge over Monhagen Brook on West Main Street and the installation of a new culvert and bridge.

The proposed Project is consistent with, and is permitted by the USACE in accordance with Section 404 of the Clean Water Act under Nationwide Permit #3. Based on e-mail
| **Wetlands Protection** | Executive Order 11990, particularly sections 2 and 5 | correspondence with Brian Orzel from the USACE, a pre-construction notification is not required from the USACE (Attachment 10). Additionally, the proposed Project activities are consistent with a Blanket Water Quality Certification under Section 401 of the Clean Water Act from the NYSDEC. USACE and NYSDEC permit documentation, including applicable permit conditions, is included in Attachment 10.

Best management practices, such as the use of silt fence and a turbidity curtain, will be implemented during construction to protect water quality and flora and fauna in Monhagen Brook. All applicable permit conditions will be followed.

The Project activities and the potential impacts to wetlands are discussed in the Floodplain Management & Wetlands Protection Determination, annexed hereto as Attachment 4. No additional review is required. |
| **Wild and Scenic Rivers** | Wild and Scenic Rivers Act of 1968, particularly section 7(b) and (c) | Yes ☑ No ☐ The Project is not located within 0.5 mile of any wild, scenic or recreational rivers, as designated by the U.S. Department of the Interior, Congress or NYSDEC or included in the National Wild and Scenic Rivers System or Nationwide Rivers Inventory (NRI) (Attachment 3). Therefore, the Project is in compliance with this section. No additional review is required. |
| **ENVIRONMENTAL JUSTICE** | Environmental Justice Executive Order 12898 | Yes ☑ No ☐ The Project is located in an area defined by the NYSDEC as a potential environmental justice area⁵, as shown by the map included in Attachment 3. The Project will benefit the greater community in the City of Middletown and surrounding areas by decreasing the frequency and extent of flooding from future storm events. The proposed Project would not create adverse environmental impacts upon a low-income or minority community or contribute to, or promote, environmental injustice.

No additional review is required. |

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Attachments:

- **Attachment 1**: Project Location Maps
  - Street Map
  - Topographic Map
  - Aerial Maps

- **Attachment 2**: Project Design Plans

- **Attachment 3**: Project Reference Maps
  - Airport Hazards Map
  - USFWS Coastal Barrier Resources System Map
  - NYSDEC Coastal Boundary Map
  - NYSDEC & NPS Wild and Scenic Rivers Map
  - NYSDEC Potential Environmental Justice Areas Map

  - Appendix I
    - FEMA National Flood Hazard Layer Map
  - Appendix II
    - USFWS NWI Map
    - NYSDEC Wetlands and Watercourses Map
  - Appendix III
    - Early Notice of a Proposed Activity in a 100-Year Floodplain and Wetland
  - Appendix IV
    - Affidavit for Early Notice of a Proposed Activity in a 100-Year Floodplain and Wetland

- **Attachment 5**: CAA De Minimis Threshold Analysis & General Conformity Worksheet

- **Attachment 6**: HUD Environmental Standards Review
  - HUD Environmental Report Maps and EPA NEPAssist Map
  - NYSDEC Reports for Spills, Environmental Remediation Sites, or Bulk Storage Sites located on, or in close proximity to, the Project Area

- **Attachment 7**: Endangered Species Compliance Documents
  - NYNHP Findings Summary Letter
  - USFWS No Effect Determination Acknowledgement
  - USFWS Consultation Package

- **Attachment 8**: Agricultural and NRCS Soil Resource Documents
  - New York State Agricultural Districts Map
  - USDA NRCS Soil Resource Report
  - USDA NRCS Farmland Classification Report

- **Attachment 9**: SHPO Documentation
  - SHPO Response

- **Attachment 10**: Permit Documentation
  - United States Army Corps of Engineers Nationwide Permit #3 and NYSDEC Blanket Water Quality Certification
  - United States Army Corps of Engineers Confirmation that Project is Consistent with Nationwide Permit #3 and Does Not Require Pre-Construction Notification
List of Sources, Agencies and Persons Consulted [40 CFR 1508.9(b)]:
- Federal Aviation Administration (FAA)
- Federal Emergency Management Agency (FEMA)
- United States Environmental Protection Agency (USEPA)
- United States Fish and Wildlife Service (USFWS)
- United States Department of Agriculture (USDA)
- Natural Resources Conservation Service (NRCS)
- National Parks Service (NPS)
- United States Geological Survey (USGS)
- New York State Department of Environmental Conservation (NYSDEC)
- Natural Heritage Program (NHP)
- New York State Department of State (NYS DOS)
- New York State Historic Preservation Office (SHPO)
- Tribal Historic Preservation Office (THPO)

List of Environmental Permits Obtained or Potentially Required:
- USACE Section 404 of the Clean Water Act Permit – Nationwide Permit #3
- NYSDEC Water Quality Certification Under Section 401 of the Clean Water Act – Blanket Water Quality Certification
- City of Middletown Floodplain Development Permit

Standard Conditions for All Projects

Any change to the approved scope of work will require re-evaluation by the Certifying Officer for compliance with NEPA and other laws and Executive Orders.

This review does not address all federal, state and local requirements. Acceptance of federal funding requires recipient to comply with all federal state and local laws. Failure to obtain all appropriate federal, state and local environmental permits and clearances may jeopardize federal funding.

Preparer Signature: ________________________________ Date: December 4, 2020
Name/Title/Organization: Lori Bart, Tectonic Engineering Consultants, Geologists & Land Surveyors, D.P.C.

Certifying Officer Signature: ________________________________ Date: December 4, 2020
Name/Title: James McAllister – Environmental Certifying Officer

This original, signed document and related supporting material must be retained on file by the Responsible Entity in an Environmental Review Record (ERR) for the activity/project (ref: 24 CFR Part 58.38) and in accordance with recordkeeping requirements for the HUD program(s).
Attachment 1

Project Location Maps

Street Map
Topographic Map
Aerial Maps
Monhagen Brook Culvert Project
West Main Street/ County Route 11 and Grant Street
City of Middletown
Orange County, New York

Legend
- **Culvert and Bridge Replacement**
- **Culvert Replacement**

Service Layer Credits: Sources: Esri, HERE, Garmin, USGS, Intermap, INCREMENT P, NRCan, Esri Japan, METI, Esri China (Hong Kong), Esri Korea, Esri (Thailand), NGCC, (c) OpenStreetMap contributors, and the GIS User Community
Attachment 2

Project Design Plans
ALL WORK CONTemplated Under THIS CONTRACT SHALL BE COVERED BY AND IN CONFORMITY WITH THE CURRENT NYSDOT STANDARD SPECIFICATIONS DATED 09/01/2018 (U.S. CUSTOMARY UNITS), EXCEPT AS MODIFIED ON THIS PLAN AND IN THE ITEMIZED PROPOSAL.

NYS EDUCATION LAW NOTE:
IT IS VIOLATION OF NYS EDUCATION LAW FOR ANY PERSON TO ALTER A DOCUMENT IN ANY WAY, UNLESS ACTING UNDER THE DIRECTION OF A LICENSED PROFESSIONAL ENGINEER. IF A DOCUMENT BEARING THE SEAL OF AN ENGINEER IS ALTERED, THE ALTERING ENGINEER SHALL AFFIX TO THE DOCUMENT THEIR SEAL AND THE NOTATION "ALTERED BY" FOLLOWED BY THEIR SIGNATURE AND THE DATE OF SUCH ALTERATION, AND A SPECIFIC DESCRIPTION OF THE ALTERATION.
1. CONTRACTOR SHALL OBTAIN ORANGE COUNTY PERMIT FOR TEMPORARY DEER CROSSING AT ANY LOCATION WHERE DEER CROSSING TURBIDITY IS PROHIBITED BETWEEN OCTOBER 1 AND MARCH 31.

2. ALL SLOPES ARE TO BE TRIMMED AND GRADED TO MEET EXISTING GROUND CONDITIONS AS DIRECTED BY THE ENGINEER. THE SLOPE LIMITATION SHALL BE ADHERED TO IN THE CONTEXT OF THE SITE. THE CONTRACTOR SHALL SATISFY THEMSELVES AS TO THE EXACT LOCATION OF ALL PROPERTY LINE

3. THE CONTRACTOR SHALL BE AWARE THAT UTILITY SHEETS ARE TO BE REVIEWED AS AN INDICATOR OF LOCATION. THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE ALTERATION OR ADJUSTMENT OF FACILITIES WITHIN THE RIGHT-OF-WAY OF THE CONSTRUCTION. THE CONTRACTOR SHALL SATISFY THEMSELVES AS TO THE EXACT LOCATION OF ALL PROPERTY LINE.

4. THE CONTRACTOR SHALL BE AWARE OF THE EXISTING UTILITY INFORMATION PRIOR TO CONSTRUCTION. THE CONTRACTOR SHALL SATISFY THEMSELVES AS TO THE EXACT LOCATION OF ALL PROPERTY LINE.

5. ANY TREE CALLED FOR BEING REMOVED ON THE PLANS SHALL BE REMOVED EXCEPT FOR THE ALTERATION OR ADJUSTMENT OF FACILITIES WITHIN THE RIGHT-OF-WAY OF THE PROJECT. THE CONTRACTOR SHALL BE AWARE THAT UTILITY SHEETS ARE TO BE REVIEWED AS AN INDICATOR OF LOCATION. THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE ALTERATION OR ADJUSTMENT OF FACILITIES WITHIN THE RIGHT-OF-WAY OF THE CONSTRUCTION. THE CONTRACTOR SHALL SATISFY THEMSELVES AS TO THE EXACT LOCATION OF ALL PROPERTY LINE.

6. ALL PROPOSED ROAD IMPROVEMENTS DETAILED IN THE SITE PLANS MUST BE COMPLETED IN ACCORDANCE WITH OSHA, NYSDOT, ORANGE COUNTY, AND CITY OF MIDDLETOWN REQUIREMENTS.

7. WHENEVER ITEMS IN THE CONTRACT REQUIRE MATERIAL TO BE REMOVED AND DISPOSED OF, THE CONTRACTOR MUST PREPARE A REQUEST FOR MATERIAL TO BE REMOVED AND DISPOSED OF. ANY ACTIVITY THAT MAY INCREASE STREAM TURBIDITY IS PROHIBITED BETWEEN OCTOBER 1 AND MARCH 31. THE CONTRACTOR SHALL SATISFY THEMSELVES AS TO THE EXACT LOCATION OF ALL PROPERTY LINE.

8. RETAIN ALL EXISTING DRAINAGE STRUCTURES AND PIPE, EXCEPT AS SHOWN ON THE PLANS OR AS DIRECTED BY THE ENGINEER. ITEM 

9. THE CONTRACTOR IS ADVISED THAT THE PLANS AND OTHER CONTRACT DOCUMENTS HAVE BEEN PREPARED BASED ON THE BEST CURRENTLY AVAILABLE INFORMATION. HOWEVER, ACTUAL FIELD CONDITIONS MAY VARY REQUIRING ADJUSTMENTS.

10. THE CONTRACTOR SHALL BE AWARE THAT UTILITY SHEETS ARE TO BE REVIEWED AS AN INDICATOR OF LOCATION. THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE ALTERATION OR ADJUSTMENT OF FACILITIES WITHIN THE RIGHT-OF-WAY OF THE CONSTRUCTION. THE CONTRACTOR SHALL SATISFY THEMSELVES AS TO THE EXACT LOCATION OF ALL PROPERTY LINE.

11. ALL WORK SHALL BE COMPLETED IN ACCORDANCE WITH OSHA, NYSDOT, ORANGE COUNTY, AND CITY OF MIDDLETOWN REQUIREMENTS.

12. ALL WORK SHALL BE COMPLETED IN ACCORDANCE WITH OSHA, NYSDOT, ORANGE COUNTY, AND CITY OF MIDDLETOWN REQUIREMENTS.

13. THE CONTRACTOR SHALL BE AWARE THAT UTILITY SHEETS ARE TO BE REVIEWED AS AN INDICATOR OF LOCATION. THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE ALTERATION OR ADJUSTMENT OF FACILITIES WITHIN THE RIGHT-OF-WAY OF THE CONSTRUCTION. THE CONTRACTOR SHALL SATISFY THEMSELVES AS TO THE EXACT LOCATION OF ALL PROPERTY LINE.

14. CLEAN AND GROUNDS AS SHOWN ON PLANS OR AS DIRECTED BY THE ENGINEER. ITEM 

15. PRIOR TO PERFORMING ANY TREE REMOVAL, THE CONTRACTOR SHALL NOTIFY INDIVIDUAL PROPERTY OWNERS PRIOR TO WORK BY CERTIFIED MAIL AND DECIDE ANY COST INCURRED INCLUDING BUT NOT LIMITED TO TREES REMOVAL AND TREE REPLACEMENT.

16. HIGH-VISIBILITY SAFETY APPAREL SHALL BE WORN BY ALL FOOT TRAFFIC WORKERS TO PROVIDE CONSTRUCTION DURING BOTH DAYTIME AND NIGHTTIME USAGE. THIS SAFETY APPAREL MUST MEET PERFORMANCE CLASS 1 OR 2 REQUIREMENTS OF THE ANSI/ISEA STANDARD "AMERICAN NATIONAL STANDARD FOR HIGH VISIBILITY SAFETY APPAREL AND HARDWARE.

17. THE LOCATION, SIZES, AND ELEVATIONS OF EXISTING UTILITIES ARE BASED ON INFORMATION FURNISHED BY THE VARIOUS UTILITIES WITH FIELD CHECKING WHERE NECESSARY AND POSSIBLE. THE ACCURACY OF THIS INFORMATION IS NOT GUARANTEED AS SUCH CASE THAT LACK OF RESPONSE FROM SUCH MAY CAUSE A DELAY WITH COMPLETION OF THE WORK.

18. CONTRACTOR SHALL NOTIFY INDIVIDUAL PROPERTY OWNERS PRIOR TO WORK BY CERTIFIED MAIL AND DECIDE ANY COST INCURRED INCLUDING BUT NOT LIMITED TO TREES REMOVAL AND TREE REPLACEMENT.

19. FIELDS VARY IN DRAINAGE SYSTEMS AND CONDITION USED TO REPORT INFORMATION CONCERNING THE EXISTING UTILITIES. THE CONTRACTOR SHALL SATISFY THEMSELVES AS TO THE EXACT LOCATION OF ALL PROPERTY LINE.

20. THE CONTRACTOR SHALL SATISFY THEMSELVES AS TO THE EXACT LOCATION OF ALL PROPERTY LINE.

21. VERIFY AND LOCATE EXISTING UTILITY INFORMATION PRIOR TO CONSTRUCTION. NO DIRECT PAYMENT WILL BE MADE FOR THIS WORK. ALL EXCAVATIONS SHALL BE CONDUCTED IN COMPLIANCE WITH THE NEW YORK INDUSTRIAL CODE RULE NO. 23-1.33, 2-8, 53 AND OSHA SAFETY AND HEALTH STANDARDS (29 CFR 1926/1910).

22. PROTECT AND, WHERE NECESSARY, SUPPORT EXISTING UTILITY LINES AND MASTS AND OTHER ELEVATED UTILITY DEVICES. NO DIRECT PAYMENT WILL BE MADE FOR THIS WORK. ALL EXCAVATIONS SHALL BE CONDUCTED IN COMPLIANCE WITH THE NEW YORK INDUSTRIAL CODE RULE NO. 23-1.33, 2-8, 53 AND OSHA SAFETY AND HEALTH STANDARDS (29 CFR 1926/1910).

23. THE CONTRACTOR SHALL SATISFY THEMSELVES AS TO THE EXACT LOCATION OF ALL PROPERTY LINE.

24. PROTECT AND, WHERE NECESSARY, SUPPORT EXISTING UTILITY LINES AND MASTS AND OTHER ELEVATED UTILITY DEVICES. NO DIRECT PAYMENT WILL BE MADE FOR THIS WORK. ALL EXCAVATIONS SHALL BE CONDUCTED IN COMPLIANCE WITH THE NEW YORK INDUSTRIAL CODE RULE NO. 23-1.33, 2-8, 53 AND OSHA SAFETY AND HEALTH STANDARDS (29 CFR 1926/1910).

25. PROMPTLY REMOVE AND PROPERLY DISPOSE OFF-SITE OF ALL MATERIALS NOT REQUIRED TO COMPLETE WORK.

26. THE CONTRACTOR SHALL SATISFY THEMSELVES AS TO THE EXACT LOCATION OF ALL PROPERTY LINE.

27. THE CONTRACTOR SHALL SATISFY THEMSELVES AS TO THE EXACT LOCATION OF ALL PROPERTY LINE.

28. THE CONTRACTOR SHALL SATISFY THEMSELVES AS TO THE EXACT LOCATION OF ALL PROPERTY LINE.

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42. THE CONTRACTOR SHALL SATISFY THEMSELVES AS TO THE EXACT LOCATION OF ALL PROPERTY LINE.

43. THE CONTRACTOR SHALL SATISFY THEMSELVES AS TO THE EXACT LOCATION OF ALL PROPERTY LINE.

44. THE CONTRACTOR SHALL SATISFY THEMSELVES AS TO THE EXACT LOCATION OF ALL PROPERTY LINE.

45. THE CONTRACTOR SHALL SATISFY THEMSELVES AS TO THE EXACT LOCATION OF ALL PROPERTY LINE.
1. TACK COAT (ITEM 407.0102) SHALL BE APPLIED TO THE CONTACT SURFACES BETWEEN ALL HOT MIX ASPHALT PAVERS WHEREVER THE SURFACE OF PERMEABLE BASE MATERIAL DOES NOT HAVE PERMEABLE BASE MATERIAL. CONTRACTORS ATTENTION IS DIRECTED TO SUBSECTION 432-3.05 OF THE STANDARD SPECIFICATIONS.


4. DURING THE PAYING OPERATION THE CONTRACTOR SHALL ENSURE THAT THE VERTICAL CHANGE BETWEEN THE FINISHED PAVING AND RAMPS AT ALL THE SIDEWALK CUT-OFF POINTS IS NO GREATER THAN 0.1 INCH ACROSS ENTIRE RAMP WIDTH.


6. CITY COFFERDAM (ITEM 402.0104) SHALL BE CONSTRUCTED OF MATERIAL AS DIRECTED BY THE ENGINEER (A.O.B.E.), TO DRAINAGE PROBLEMS THAT OCCUR BETWEEN ALL HOT MIX ASPHALT PAVEMENT LIFTS REGARDLESS OF TIME PERIOD (STATE POLLUTANT DISCHARGE ELIMINATION SYSTEM) GENERAL PERMIT.

7. ALL TREES SHALL BE STAKED.

8. THE CONTRACTOR SHALL RECORD FOR REVIEW PRIOR TO START OF WORK. CONTRACT PLANS INDICATE THE REQUIREMENTS OF ITEM 610.21 UNDER SUBSECTION 610-3.12(B) OF THE CONTRACT SPECIFICATIONS.


EXISTING ±15'-10" THREE-SIDED CULVERT AND HEADWALLS TO BE REMOVED

EXISTING 8" SEWER MAIN (MATERIAL & SLOPE UNKNOWN)
EXISTING 6" WATER MAIN (MATERIAL & DEPTH UNKNOWN)
EXISTING 6" GAS MAIN (SIZE, MATERIAL & DEPTH UNKNOWN)
EXISTING GUARDRAIL TO BE REMOVED ±40'
EXISTING STONE / MASONRY WING WALLS TO BE REMOVED
EXISTING CONC. WING WALL TO BE REMOVED
EXISTING TREE TO BE REMOVED ±82'
EXISTING FENCE TO BE REMOVED ±18'
EXISTING CB TO BE REMOVED
CONTRACTOR TO REMOVE EXISTING 4' C.L.F. AS REQUIRED FOR STAGING & CONSTRUCTION PURPOSES. CONTRACTOR TO TEMPORARILY STORE 4' C.L.F. TO PREVENT DAMAGE & REINSTALL AFTER SITE WORK IS COMPLETED.

SAW CUT PAVEMENT, ±32'
EXISTING CURB TO BE REMOVED ±91'-0"
EXISTING SIDEWALK TO BE REMOVED ±543 SF

CONTRACTOR TO SUPPORT AND PROTECT LIGHT POLE
CONTRACTOR TO TEMPORARILY REMOVE "MONHAGEN BROOK" SIGN AND REINSTALL AFTER SITE WORK IS COMPLETED.
CONTRACTOR TO TEMPORARILY REMOVE "NO PARKING" SIGN AND REINSTALL AFTER SITE WORK IS COMPLETED.

EXISTING 6" GAS MAIN TO BE REMOVED AND RELOCATED BY GAS COMPANY (COORDINATE)
SECTION OF EXISTING 8" SEWER MAIN TO BE REMOVED, SEE NOTE 5
EXISTING 6" WATER MAIN TO BE REMOVED, SEE NOTE 6

SAW CUT PAVEMENT, ±90'
ITEM 520.09000010
CONTRACTOR TO PROTECT MANHOLE

CONTRACTOR TO PRESERVE EXISTING STREAM BED.
CONTRACTOR TO PRESERVE EXISTING STREAM BED.
CONTRACTOR TO PRESERVE EXISTING STREAM BED.

NOTE: 1. ACQUISITION TO BE PAID FOR UNDER ITEMS 203.32, UNCLASSIFIED EXCAVATION AND 206.0201, TRENCH AND CULVERT EXCAVATION.
2. CONTRACTOR TO PROVIDE EXCAVATION STRONG BACKS AS SHOWN IN CONTRACT PLANS. CONTRACTOR TO PROVIDE DREDGING AND INSTALLATION OF SUBSTITUTE MATERIAL AS SHOWN IN CONTRACT PLANS.
3. INSTALL TEMPORARY POND OR STREAM HEAD DREDGING TO KEEP EXCAVATION FREE FROM WATER DURING CULVERT AND TRENCH INSTALLATION, ITEM 553.020001.
4. CONTRACTOR TO PROVIDE AND INSTALL ALL EROSION AND SEDIMENT CONTROL DEVICES AS SHOWN IN CONTRACT PLANS.
5. CONTRACTOR TO PROVIDE AND INSTALL ALL EROSION AND SEDIMENT CONTROL DEVICES AS SHOWN IN CONTRACT PLANS.
6. CONTRACTOR TO PROVIDE AND INSTALL ALL EROSION AND SEDIMENT CONTROL DEVICES AS SHOWN IN CONTRACT PLANS.
7. NO WORK SHALL COMMENCE UNTIL ALL EROSION AND SEDIMENT CONTROL DEVICES ARE INSTALLED.

PLAN SCALE: 1" = 10'

NOTES:
1. EXCAVATION TO BE PAID FOR UNDER ITEMS 203.32, UNCLASSIFIED EXCAVATION AND 206.0201, TRENCH AND CULVERT EXCAVATION.
2. CONTRACTOR TO PROVIDE EXCAVATION STRONG BACKS AS SHOWN IN CONTRACT PLANS. CONTRACTOR TO PROVIDE DREDGING AND INSTALLATION OF SUBSTITUTE MATERIAL AS SHOWN IN CONTRACT PLANS.
3. INSTALL TEMPORARY POND OR STREAM HEAD DREDGING TO KEEP EXCAVATION FREE FROM WATER DURING CULVERT AND TRENCH INSTALLATION, ITEM 553.020001.
4. CONTRACTOR TO PROVIDE AND INSTALL ALL EROSION AND SEDIMENT CONTROL DEVICES AS SHOWN IN CONTRACT PLANS.
5. CONTRACTOR TO PROVIDE AND INSTALL ALL EROSION AND SEDIMENT CONTROL DEVICES AS SHOWN IN CONTRACT PLANS.
6. CONTRACTOR TO PROVIDE AND INSTALL ALL EROSION AND SEDIMENT CONTROL DEVICES AS SHOWN IN CONTRACT PLANS.
7. NO WORK SHALL COMMENCE UNTIL ALL EROSION AND SEDIMENT CONTROL DEVICES ARE INSTALLED.
Proposed 28'-0" pre-cast three-sided bridge

Item 603.6328YY15

Existing 8" sewer main (material & slope unknown)

Existing 6" water main (material & depth unknown)

Existing 6" gas main (size, material & depth unknown)

17'-5"

15'-0"

 Proposed ±47' of guardrail

Proposed C.I.P. wingwall 3

Proposed C.I.P. wingwall 1

Proposed C.I.P. wingwall 4

Proposed C.I.P. wingwall 2

Proposed ±82 ft guardrail

Proposed 4' chain link fence ±78'

44'-6"

28'-0"

28'-0"

29'-2"

Proposed 6" water main

Proposed 8" sewer main

Contract limit line (TYP.)

Legend

Temp. parking / storage

Turbidity curtain

TPS

Silt fence

Silt dike

N: 951952.3629
E: 509109.9710

N: 951924.6463
E: 509123.6789

Proposed 6" water main

Proposed 8" sewer main

P & D:

32 Old Slip, Suite 401
New York, New York 10005
P: 212.741.8090  WWW.NV5.COM

Notes:

1. All work shown on this drawing, unless labeled with an item number prefix by the plant, shall be considered included in the cost of all other items and separate payment will be made.

Scale: 1" = 10'

CITY OF ROCKWOOD

COUNTY OF ST. JOSEPH

MIV5

COUNTY OF ST. JOSEPH

MIV5
1. **Design Specifications**
   - The 2015 AASHTO LRFD Bridge Design Specifications, with current interims.

2. **Live Load**
   - AASHTO LRFD HL-93 Vehicular Live Loading.

3. **Concrete Design Stresses**
   - Concrete Compressive Strength, $f'c$, shall be a minimum of 4,000 PSI at 28 days.

4. **Reinforcement Steel**
   - ASTM A615 Grade 60

5. **Seismic Design**
   - Seismic Site Class D
     - Horizontal Peak Ground Acceleration Coefficient = 0.074g
     - SDS = 0.238g
     - SD1 = 0.089g

6. **Borings**
   - Indicates approximate location of borings.

7. **Foundation Design Criteria**
   - Steel H-Piles HP 12X74

8. **Datum Elevations**
   - Shown are based on the North America Vertical Datum (NAVD) of 1988.

9. **Tidal Conditions**
   - Contractor shall be aware of daily tidal conditions that will affect reconstruction of this structure at this location.
     - Elevation of Mean Low Tide = X.XX'
     - Elevation of Mean High Tide = X.XX'

10. **Typical Section**
    - The length of each culvert segment shall be determined by the contractor.
    - Cast In Place (C.I.P.) Wingwalls shall be placed on a leveling bed of crushed material meeting the requirements of Material Designation 703-0201, 703-2-2 or 703-0204 with a primary size designation of 2.
    - After placing and leveling the precast units, the areas beneath, in front and behind the units shall be grouted with controlled low-strength material meeting the requirements of Section 204.
    - All exposed edges of concrete shall be chamfered 1".

**General Notes**

- Notes for the plan and section drawings should be reviewed by the contractor and engineer.
- Trench and culvert excavation limits (typ.)
- Typical section
- Soil parameters
- Culvert design data
- Elevation of existing structure to be removed
- Traffic calming
- Land use plan
- Filing
- Sheet number
- Sheet size
- Scale
- Date
- Project number
- Project title
- Project description
- Project location
- Contact information
- Project manager name
- Project manager email
- Project manager phone
- Project manager address

**Wingwall Data**

- **Type**
  - Pre-Cast 2-Sided
  - Pre-Cast 4-Sided
  - Cast-In-Place (C.I.P.)

- **Width**
  - 3'-8"

- **Height**
  - 1'-8"

- **Material**
  - Concrete

- **Description**
  - Typical product

**Material Parameters**

- **Bearing Capacity**
  - 2000 lbs/sq ft

- **Strength**
  - 100 lbs/sq ft

**Culvert Design Data**

- **Length**
  - 60 ft

- **Flow**
  - Monaghan Brook

- **Elevation**
  - A
  - B
  - C
7'-3 5/8" CULVERT SECTION

TOP OF RIGIDFRAME PIPE INVERT EL. XX.XX'

ϕ PIPE

CUT HORIZONTAL AND VERTICAL AT PIPE OPENING

3-#5 BAR @ 6" FF

3-#5 BAR @ 6" RF

1'-0" (TYP.)

1'-8"

GUIDERAIL. SEE DETAIL ON THIS SHEET FOR ANCHORAGE GUTTERLINE TOP OF ROADWAY

3" #5 BAR

#5 BAR

HEADER

1'-0" (TYP.)

2" COV. (TYP.)

#5 BAR WITH MECHANICAL CONNECTORS (TYP.)

1'-2" x 1/4" x 10" BASE PL

1'-2" x 3/8" x 10" ANCHOR PL

SEE NOTE A

CURB DETAIL AT HEADWALL

SWELL SUPPORT DETAIL

HEADWALLS ON SKewed CULVERTS
**NOTES:**
1. SIDEWALK SHALL BE 4" THICK OR AS NOTED ON THE PLANS.
2. CONCRETE SHALL HAVE A MINIMUM COMPRESSIVE STRENGTH OF 4,000 PSI AT 28 DAYS.
3. PROVIDE BITUMINOUS EXPANSION JOINT (1/2" WIDTH PREMOULDED BITUMINOUS FILL) AT CURB LINE AND EVERY 20' AND CONTROL JOINT (1/4" WIDTH X 3/4" DEPTH) EVERY 5'.
4. SIDEWALKS SHALL CONFORM TO CURRENT ADA GUIDELINES.

**NOTES:**
1. COST OF REINFORCEMENT INCLUDED IN BID PRICE FOR ITEM 609.04. NO SEPARATE PAYMENT SHALL BE MADE FOR REINFORCEMENT.

**NOTES:**
Basis of Design

1. Design and manufacture of precast manhole shall be in accordance to NYSDOT standard detail, latest revision.
2. Precast manhole to be designed for HS20 load rating.
3. Detail shown assumes no sump, see profiles for sump depths if applicable.
4. Areas of soft/unsuitable subgrade shall be undercut and replaced with additional aggregate base.
5. Pipe opening to be precast by manufacturer. Contractor to verify inverts prior to ordering.
6. Contractor may provide an approved equivalent.

Notes

1. Areas of soft/unsuitable subgrade shall be undercut and replaced with additional aggregate base.
I. TACK COAT (ITEM 407.0102) SHALL BE APPLIED TO THE CONTACT SURFACES BETWEEN ALL HOT MIX ASPHALT PAVEMENT LIFTS REGARDLESS OF THE PERIOD BETWEEN LIFTS OR CONSTRUCTION VEHICLE USE (EXCLUDING THE SURFACE OF PERMEABLE BASE MATERIAL), CONTRACTOR ATTENTION IS DIRECTED TO SUBSECTION 402.2.6 OF THE STANDARD SPECIFICATIONS.

II. SEASONAL LIMITATIONS FOR TOP-COURSE - REFER TO N.Y.S.C.T. STANDARD SPECIFICATIONS SECTION 402.2.31.

III. IN THE CASE THAT THIS SUB-COURSE TYPE, 1012.2 (ITEM 304.1911) IS UNAVAILABLE, THE CONTRACTOR HAS THE OPTION TO USE ITEM 304.19 - OPTIONAL SUB-COURSE. WITH THE APPROVAL OF THE ENGINEER, PAYMENT WILL BE UNDER ITEM 304.1911.

CURB AND SIDEWALKS

1. AERIAL CURB WHERE CURB IS BEING REMOVED AND NEW CURB IS BEING INSTALLED, PAYMENT FOR THE EXISTING CURB REMOVAL SHALL BE INCLUDED UNDER ITEM 309.1103.4.

2. EXCEPT WHERE THE PLANS INDICATE OTHERWISE:
   A) THE SIDEWALK SHALL BE CONSTRUCTED OF CONCRETE 4 INCHES THICK.
   B) WATER SHOULDN'T BE ALLOWED TO ESCAPE TO ANY WATERS, NOR SHOULD WASHINGS FROM CONCRETE TRUCKS, MIXERS, OR OTHER DEVICES BE ALLOWED TO ENTER ANY WATERS.

3. RECONSTRUCTION OF SIDEWALK SHALL RESULT IN SLOPES EQUAL TO OR LESS THAN 3:1, UNLESS DOCUMENTED IN ACCORDANCE WITH N.Y.S.C.T. HIGHWAY DEPARTMENT GUIDELINES.

4. TO OPTIMIZE THE USE OF CONCRETE, WHERE STRUCTURAL REQUIREMENTS ARE SATISFACTORY TO THE ENGINEER, THE CONCRETE MAY BE ADJUSTED TO INCORPORATE THE MAXIMUM PERMISSIBLE AMOUNT OF SPOIL MATERIAL.

5. THE CONTRACTOR SHALL CERTIFY THAT ALL APPROPRIATE STORMWATER CONSTRUCTION AND CONSTRUCTION METHODS AND ACTUAL FIELD CONDITIONS. THE CONTROL OF SOIL EROSION AND WATER POLLUTION CONTROL DEVICES SHALL BE INCLUDED IN THE COST OF INSTALLING, CLEANING, MAINTAINING AND REMOVING TEMPORARY EROSION CONTROL MEASURES.

6. ANY STREAM OR WATERWAY BY SILT, SEDIMENT, FUELS, SOLVENTS, LUBRICANTS, SUBSTANTIAL STAND OF VEGETATION HAS DEVELOPED AND THE POTENTIAL FOR SEDIMENTATION ON SITE. NO SEPARATE PAYMENT.
EXISTING 8" SEWER MAIN
(MATERIAL & SLOPE UNKNOWN)

EXISTING 6" WATERMAIN
(MATERIAL & DEPTH UNKNOWN)

EXISTING GAS MAIN
(SIZE, MATERIAL AND DEPTH UNKNOWN)

EXISTING 12" SEWER MAIN
(MATERIAL & SLOPE UNKNOWN)

EXISTING 5’WX5’H BOX CULVERT

EXISTING 7’WX5’H BOX CULVERT

EXISTING 7’WX5’H BOX CULVERT

EXISTING 6’ CHAIN LINK FENCE

EXISTING CATCH BASIN, TYP.

EXISTING SEWER MANHOLE
RIM: UNKNOWN
INV: UNKNOWN

EXISTING CONCRETE SIDEWALK

EXISTING WOOD FENCE

EXISTING SURFACE CONTOUR

32 OLD SLIP, SUITE 401
NEW YORK, NEW YORK 10005
P: 212.741.8090  WWW.NV5.COM

PLAN
SCALE: 1" = 10’
MATCHLINE: DWG. R-1

NOTES:
1. EXCAVATION TO BE PAID FOR UNDER ITEMS 203.32, UNCLASSIFIED EXCAVATION AND 206.0201, TRENCH AND CULVERT EXCAVATION.
2. CONTRACTOR TO INSTALL PERMANENT SHEETING ALONG BUILDING STRUCTURES PRIOR TO TRENCH AND CULVERT EXCAVATION.
3. CONTRACTOR TO USE HAND EXCAVATION PRACTICES WHEN SURROUNDING BUILDING STRUCTURES.
4. CONTRACTOR TO REMOVE SECTION OF EXISTING SEWER MAIN AND REINSTALL AS SHOWN IN CONTRACT PLANS. CONTRACTOR TO PROVIDE BYPASS PUMPING.
5. CONTRACTOR TO REMOVE SECTION OF EXISTING WATER MAIN AND INSTALL NEW WATER MAIN BELOW PROPOSED PILE CAP FOR PROPOSED CULVERT AS SHOWN IN CONTRACT PLANS. CONTRACTOR TO COORDINATE TEMPORARY WATER SHUT DOWN WITH CITY OF MIDDLETOWN.

PLAN
SCALE: 1" = 10'

SECTION B-B

MATCHLINE: DWG. R-1

NOTES:
1. CONTRACTOR TO INSTALL PERMANENT SHEETING ALONG BUILDING STRUCTURES PRIOR TO TRENCH AND CULVERT EXCAVATION.
2. CONTRACTOR TO COORDINATE TEMPORARY WATER SHUT DOWN WITH CITY OF MIDDLETOWN.
3. CONTRACTOR TO USE HAND EXCAVATION PRACTICES WHEN SURROUNDING BUILDING STRUCTURES.

SECTION B-B

LIMIT OF EXCAVATION TO EXTEND 1'-0" BELOW THE EXISTING CULVERT OR TO THE ELEVATION OF PROPOSED SUBGRADE, WHICHEVER IS SHALLOWER. ADDITIONAL EXCAVATION BEYOND THESE LIMITS WILL NOT BE COMPENSATED.

EXISTING BARN TO REMAIN AND BE PROTECTED

EXISTING 2-STORY BARN

EXISTING SEWER MAIN TO REMAIN AND BE PROTECTED

EXISTING BUILDING TO REMAIN AND BE PROTECTED

EXISTING WATER MAIN TO REMAIN AND BE PROTECTED

EXISTING GRAVEL SURFACE TO BE REMOVED

EXISTING GRAVEL SURFACE TRENCH AND CULVERT EXCAVATION

EXISTING 84 L.F. WOOD FENCE TO BE REMOVED

EXISTING 10'WX4'H R.C.P CULVERT

EXISTING SHED TO REMAIN AND BE PROTECTED

EXISTING REAR BAYS TO REMAIN AND BE PROTECTED

NOTE: THE CONTRACTOR TO CARRY OUT EXCAVATION AND INFILL WORK TO THE FULL DEPTH OF PROPOSED SUBGRADE.

SCALE: 1" = 10'
PROPOSED POURED IN PLACE CONCRETE TRANSITION SECTION BETWEEN NEW 7'WX5'H AND EXISTING 10'WX4'H CULVERT

PROPOSED GRAVEL DRIVEWAY

ITEM 623.15

PROPOSED 7'WX5'H BOX CULVERT CENTERLINE

EXISTING 10'WX4'H CULVERT TO REMAIN

PROPOSED GRAVEL DRIVEWAY ON PROPOSED CULVERT. GRAVEL NOT SHOWN FOR CLARITY

PROPOSED TOP SOIL SEED

PROPOSED 65'-0" L.F. WOOD FENCE

ITEM 607.0804061

NOTES:

1. ALL WORK SHOWN ON THIS DRAWING, UNLESS LABELED WITH AN ITEM NUMBER, IS INCLUDED IN THE COST OF ALL OTHER ITEMS AND NO SEPARATE PAYMENT WILL BE MADE

SCALE: 1" = 10'
MATERIALS ON BOTH SIDES OF THE VERTICAL LINE SHALL BE PLACED TOGETHER AT THE SAME TIME (TYP.)

PROPOSED BOX CULVERT GEOTEXTILE BEDDING ITEM NO. 207.20

INSTALLED SUBGRADE, ITEM NO. 203.20

SELECT GRANULAR BACKFILL ITEM NO. 203.07

INSTALL 1'-0" RISER, FRAME, AND GRATE GRADE TO MATCH INV. OF GRATE

GEOTEXTILE BEDDING ITEM NO. 207.20

1.5 MAX SLOPE

COMPACTED SUBGRADE

TEMPORARY STEEL SHEETING (TYP.) ITEM NO. 552.13

8'-0" OR AS REQUIRED

7'-0"

5'-0"

OPTIONAL ACCESS OPENING AS REQUIRED

2" DIA. LIFTING HOLES

4" DIA. WEEP HOLES

NOTES:

1. INVERTS OF GRATES TO BE 1'-0"+/- ABOVE TOP OF BOX CULVERTS.

2. OPENINGS IN CULVERTS TO BE LOCATED IN CENTER OF PRECAST SECTIONS. GRATE LOCATIONS ARE APPROXIMATE.

CULVERT NOTES:

1. THE LENGTH OF EACH CULVERT UNIT SHALL BE DETERMINED BY THE CONTRACTOR.

2. ACTUAL CULVERT WALL, TOP SLAB AND BOTTOM SLAB THICKNESSES, REINFORCEMENT SIZE AND SPACINGS TO BE PROVIDED BY THE MANUFACTURER THROUGH THE CONTRACTOR.

3. ALL REINFORCEMENT TO BE USED IN CULVERT WALLS CAN BE LOCATED ON BOTH SIDES OF CULVERT WALLS.

4. TEMPORARY WATERWAY DIVERSION STRUCTURE IS NOT SHOWN IN SECTION VIEWS.

5. CONTRACTOR TO REMOVE AND RESET ONLY THOSE BOULDERS NECESSARY FOR INSTALLATION OF PROPOSED CONCRETE BOX CULVERT.

6. MEDIUM STONE GROUTED RIP RAP APRON NOT SHOWN FOR CLARITY.

7. CONTRACTOR TO REMOVE AND RESET ONLY THOSE BOULDERS NECESSARY FOR INSTALLATION OF PROPOSED CONCRETE BOX CULVERT.
1. **Concrete Collars for Pipe or Culvert Box Extension Front Detail**

   Collaborative plans for the extension of the culvert box, considering the manufacturing recommendations and the contractor's considerations.

2. **Culvert Connection Without Existing Headwall**

   Diagram showing the connection without the existing headwall, indicating the proposed and existing sections.

3. **Section A-A: Northern Culvert Transition Plan View**

   Plan view of the transition section for the northern culvert, showing the existing and proposed details.

4. **Section A-A: Southern Culvert Transition Plan View**

   Plan view of the transition section for the southern culvert, also showing the existing and proposed details.

5. **Section A-A: Southern Culvert Transition Profile View**

   Profile view of the transition section for the southern culvert, detailing the flow and alignment.

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**NOTE:**

1. A revised collar/connection detail for the culvert sections can be submitted by the contractor for consideration that is consistent with manufacturer recommendations.
Attachment 3

Project Reference Maps

Airport Hazards Map
USFWS Coastal Barrier Resources System Map
NYSDOS Coastal Boundary Map
EPA Sole Source Aquifer Map
NYSDEC & NPS Wild and Scenic Rivers Map
NYSDEC Potential Environmental Justice Areas Map
Airport Hazards Map

Legend

- **Culvert and Bridge Replacement**
- **Culvert Replacement**

Airport and Heliport Locations

- North American Airports and Heliports (Location ID)
- Major Commercial Airport Locations (Approximate Boundary)
- Military Airports Locations (Approximate Boundary)
- Heliport Protection Zone (280 ft)
- Civilian Runway Protection Zone (2500 ft)

Created: 11/9/2020
Source data: FAA facility data and Airport Master Records and Reports data.

Note: This map identifies all documented airport and heliport facilities located within the shown area.

Monhagen Brook Culvert Project
West Main Street/ County Route 11
and Grant Street
City of Middletown
Orange County, New York
Monhagen Brook Culvert Project
West Main Street/ County Route 11 and Grant Street
City of Middletown
Orange County, New York

Legend
- Culvert and Bridge Replacement
- Culvert Replacement
- Potential Environmental Justice Areas

Potential Environmental Justice Areas Map

Created: 11/9/2020
Potential Environmental Justice Areas provided by The Office of Environmental Justice and available at https://www.dec.ny.gov/public/333.html
Attachment 4

24 CFR Part 55
8-Step Determination: Floodplain Management & Wetlands Protection Determination
Introduction & Overview
The purpose of Executive Order (EO) 11988, Floodplain Management, is “to avoid to the extent possible the long- and short-term adverse impacts associated with occupancy and modification of floodplains and to avoid direct or indirect support of floodplain development wherever there is a practicable alternative.” The purpose of EO 11990 Protection of Wetlands is “to avoid to the extent possible the long- and short-term adverse impacts associated with the destruction or modification of wetlands and to avoid direct or indirect support of new construction in wetlands wherever there is a practicable alternative.” This report contains the analysis prescribed by 24 CFR Part 55.

This project involves U.S. Department of Housing and Urban Development (HUD) Community Development Block Grant Program – Disaster Recovery (CDBG-DR) funding for the replacement of a bridge and culvert over Monhagen Brook on West Main Street and culvert replacements along Grant Street in the City of Middletown, NY. The analysis that follows focuses on floodplain impacts, as there will be no new construction in wetlands, as defined in Executive Order 11990 and 24 CFR Part 55. Based on the “non-substantial” level of work and other case characteristics, it is concluded that there is a reasonable basis to proceed with funding for this project/activity within the floodplain and floodway.

Description of Proposed Action & Land Use
The Monhagen Brook Culvert Project (Project) involves the replacement of a bridge and culvert over Monhagen Brook on West Main Street and culvert replacements along Grant Street in the City of Middletown, NY. The Project will mitigate localized flooding that occurs during heavy rainfall events such as those experienced during Hurricane Irene and Tropical Storm Lee.

Project activities on West Main Street will involve the removal of the existing culvert and bridge over Monhagen Brook on West Main Street and the installation of a new 28-foot wide and 44-foot long, three-sided bridge and headwalls. Much of the construction area is currently covered with asphalt and concrete. The replacement will not change the function of the floodplain. The Project will result in an increase in the size of the bridge opening that conveys water beneath the bridge, which will reduce the volume of flooding that bypasses the bridge and pools at the low point along West Main Street by allowing more flow through the opening. The wider bridge opening will reduce overtopping for the 25, 50, and 100-year storms compared to existing conditions. The existing bridge has the capacity to convey up to the 10-year storm with the 50-year and 100-year storms overtopping the roadway. The proposed bridge has the capacity to convey up to the 25-year storm with the 100-year storm overtopping.

The existing culvert at the Project area that intersects Grant Street is 5 feet wide by 5 feet high up to the existing manhole where the dimensions increase to 7 feet wide by 5 feet high up until the southern property line of the parcel designated as Tax ID: 36-14-3, where it increases to 10 feet wide by 4 feet high. The existing 5-foot wide by 5-foot high and 7-foot wide by 5-foot high culvert sections are in extremely poor condition. There is an existing sink hole at Grant Street, which poses a safety concern for residents. The possibility of increasing the size of the culvert to 10 feet wide by 4 feet high in this area to match the downstream width of the culvert was analyzed, but it was determined that this was not feasible due to the physical constraints of the existing houses. The Project will involve replacing the failing sections of culvert and addressing the sink hole that has formed after the last set of major storms.

The Project will protect property and enhance safety to those most at-risk during disaster events. Improvements that will mitigate flooding along the Monhagen Brook will also benefit the greater community in the City of Middletown and surrounding areas, in that portions of the City which have been
made inaccessible in flooding caused by Hurricane Irene, Tropical Storm Lee, and other heavy rainfall events will not be isolated from emergency response and general ingress/egress.

Applicable Regulatory Procedure Per EO 11988 and 11990
The proposed action corresponds with a noncritical action not excluded under 24 CFR §55.12(b) or (c). Funding is permissible for the use in the floodplain if the proposed action is processed under §55.20 and the findings of the determination are affirmative to suggest that the Project may proceed.

The activity planned is located in a community that is in the regular program of the National Flood Insurance Program (NFIP) and the community is currently in good standing. Substantial Improvement/Substantial Damage calculations do not apply to the Project. In accordance with definitions set forth in §55.2, the Project involves modification of the 100-year floodplain and floodway; therefore, the decision making steps in §5.20 (b), (c), and (g) apply to the Project. As such, the full eight-step floodplain determination process in §55.20 is required and the following analysis examines each step in the floodplain management and wetlands protection determination process.

Step 1. Determine Whether the Proposed Action is Located in the 100-year Floodplain (500-year for Critical Actions) or results in New Construction in Wetlands.
According to the Federal Emergency Management Agency (FEMA) National Flood Hazard Layer (Appendix I), the proposed culvert replacement on West Main Street is located in the 100-year floodplain and floodway. The activity planned occurs in a community that is in the regular program of the National Flood Insurance Program (NFIP) and the community is currently in good standing. Substantial Improvement/Substantial Damage calculations do not apply to the Project.

According to the U.S. Fish & Wildlife Service (USFWS) National Wetlands Inventory Map (Appendix II), the proposed Project activities located on West Main Street occur in riverine wetlands. Due to the proximity of mapped wetlands to the West Main Street project location, a wetland delineation was performed by NV5 on December 18, 2019. The ordinary high water mark (OHWM) of the Monhagen Brook was delineated, but no wetlands were identified in the Project area during the wetland delineation. At the West Main Street project location, the Project will involve the removal of the existing culvert and bridge over Monhagen Brook on West Main Street and the installation of a new culvert and bridge.

The proposed Project will result in approximately 0.3 acres of temporary impacts to the Monhagen Brook floodplain and floodway. The brook is contained in a small channel. The Project will result in no permanent impacts to the floodplain. Temporary impacts include the construction activities to remove the existing culvert and install the new 28-foot wide and 44-foot long, three-sided bridge and headwalls. The culvert and bridge replacement on West Main Street will increase the width of the opening for the Monhagen Brook beneath the bridge on West Main Street from 15 feet 10-inches to 28 feet. The new bridge and headwalls will extend 60 linear feet over the Monhagen Brook. The replacement will not change the function of the floodplain. The proposed impacts to the floodplain and floodway of Monhagen Brook are solely associated with the replacement of an existing culvert and bridge. The proposed action does not require an individual Section 404 permit under the Clean Water Act (see 55.20(a)(1)).

Because the proposed Project is located in floodplain, the Governor’s Office of Storm Recovery (GOSR) published an early notice that allowed for public and public agency input on the decision to provide funding for reconstruction and development activities. The early public notice and 15-day comment period is complete. No public comments were received.

The early notice was published on October 2, 2020 and the 15-day period ended on October 17, 2020. The notice targeted local residents, including those in the floodplain. The notice was also sent to the relevant
state and federal agencies on October 2, 2020: Federal Emergency Management Agency (FEMA); U.S. Dep. of Housing and Urban Development; New York State Department of Environmental Conservation (NYSDEC); NYS Historic Preservation Office; and New York State Office of Emergency Management. The notice was also sent to the City of Middletown. See Appendixes III and IV of this Wetlands Protection and Floodplain Management Determination for the letter distributed to these agencies and the associated newspaper notice affidavit.

**Step 3. Identify and Evaluate Practicable Alternatives to Locating the Proposed Action in a 100-year Floodplain or Wetland.**

The Monhagen Creek, which has a natural base flow and also serves as a primary stormwater drainage feature for the City of Middletown, is conveyed through the City along an open channel in some locations, and through concrete box culverts in other locations. During Hurricane Irene, widespread flooding completely inundated residences along Smith Street, Wickham Avenue, Sterling Street, and Genung Street. Flooding near the intersection of East Main Street, Academy Avenue, and Fulton Street was particularly problematic, as it hampered emergency personnel and vehicles stationed at the Central Firehouse from accessing the south side and other areas of the City. This neighborhood, which is mostly residential with some businesses, remains at severe risk due to the frequency and likelihood of flooding during storm events due to the present culverts that are not designed to current standards. The no action alternative would not provide improvements to mitigate flooding and would result in the neighborhood being at a continued risk of flooding from future storm events.

The Monhagen Brook Culvert and Drainage Improvements Study, dated July 13, 2018, was completed by NV5 to identify and evaluate alternatives for improvements to the drainage systems of Monhagen Brook and Draper Brook in the City of Middletown. Projects where improvements are needed to reduce flooding were identified through review of previous studies, discussions with the City of Middletown, and iterative modeling. For Monhagen Brook, a number of geographic areas were identified and within each of these areas, one or more alternatives were developed and evaluated. As part of the Monhagen Brook Culvert and Drainage Improvements Study, Thayer Associates performed a man-entry inspection of the Monhagen Brook culvert from Genung Street to Academy Avenue and the Draper Brook culvert from Genung Street to Sterling Street in May 2017. Following the inspection, they prepared a Report on the Inspection of the Draper and Monhagen Brook Culvert(s). In general, the report estimated existing sizes and materials, documented existing condition issues that were observed, and rated the severity of the issues. In general, for the sections inspected, Thayer Associates found that the Draper Brook culvert has minor structural damage with some cracks and floor damage throughout its length. For the Monhagen Brook culvert from Academy Avenue to the beginning of the girder/beam section downstream, general structural conditions were found to be light to moderate. However, from the start of the girder/beam section of the Monhagen Brook culvert to where it meets with the Draper Brook culvert approximately 40-feet from the face of the Genung Street bridge, the general structural conditions were found to be severe with large amounts of spalling and exposed steel in the beams and ceiling and severely deteriorated concrete.

Based on the analysis and modeling performed, a scoring system was established to evaluate each alternative’s benefit in reducing flooding and the alternatives were ranked accordingly. Hydrologic and Hydraulic Modeling was completed using both Autodesk Storm and Sanitary Analysis (SSA) modeling software and Hydrologic Engineering Center’s River Analysis System (HEC-RAS). The models were used to provide comparative analyses of existing and proposed conditions. To evaluate the feasibility of potential project alternatives, the following items were considered: total estimated cost, flood reduction ranking, property issues, constructability issues, permitting, and notable advantages/challenges for each of the ranked alternatives. NV5 recommended that the City of Middletown pursue the West Main Street bridge replacement and Monhagen and Draper Brook spot repairs and rehabilitation. Based on prioritization and other constraints, the West Main Street bridge replacement and culvert replacement at the Grant Street location were the projects selected for funding.
Step 4. Identify & Evaluate Potential Direct & Indirect Impacts Associated with Occupancy or Modification of 100-year Floodplain and Potential Direct & Indirect Support of Floodplain and Wetland Development that Could Result from Proposed Action.

The focus of floodplain evaluation should be on adverse impacts to lives and property, and on natural and beneficial floodplain values. Natural and beneficial values include consideration of potential for adverse impacts on water resources such as natural moderation of floods, water quality maintenance, and groundwater recharge.

According to the FEMA Report - A Unified National Program for Floodplain Management, two definitions commonly used in evaluating actions in a floodplain are “structural” and “non-structural” activities. Per the report, structural activity is usually intended to mean adjustments that modify the behavior of floodwaters through the use of measures such as public works dams, levees and channel work. Non-structural is usually intended to include all other adjustments (e.g., regulations, insurance, etc.) in the way society acts when occupying or modifying a floodplain. These definitions are used in describing impacts that may arise in association with potential advancement of this case.

Natural moderation of floods
The proposed Project will reduce future flooding. The Project will result in an increase in the size of the bridge opening that conveys water beneath the bridge, which will reduce the volume of flooding that bypasses the bridge and pools at the low point along West Main Street by allowing more flow through the opening. The wider bridge opening will reduce overtopping for the 25, 50, and 100-year storms compared to existing conditions. The existing bridge has the capacity to convey up to the 10-year storm with the 50-year and 100-year storms overtopping the roadway. The proposed bridge has the capacity to convey up to the 25-year storm with the 100-year storm overtopping.

Living resources such as flora and fauna
A potential impact that may arise is that during construction there could be disturbance in the waterbody and the associated wetlands during the culvert replacement. However, a qualitative evaluation suggests the potential would be relatively minor, and if such releases do occur, it would likely be part of an area wide impact. Given the nature of the Project, the potential for an acute or chronic level of water quality impact from the proposed Project is low. Best management practices, including the use of a turbidity curtain and silt fence, will be implemented to protect flora and fauna adjacent to the Project area. Disturbed areas will be restored to previously existing conditions.

According to a New York Natural Heritage Program (NYNHP) data, there are no documented rare animals or plants or significant natural communities in the vicinity of the proposed Project area. The U.S. Fish and Wildlife Service (USFWS) lists the Indiana bat (endangered), dwarf wedgemussel (endangered), northern long-eared bat (threatened), bog turtle (threatened), and small whorled pogonia (threatened) as the only federally endangered or threatened species under USFWS jurisdiction that may occur within the boundaries of the proposed Project. A NYNHP records request response indicated that the NYNHP has no records of the above federally listed species at or in the vicinity of the Project area. There is no contiguous forested habitat in the vicinity of the Project area. There is no suitable habitat in the Project area for the USFWS threatened and endangered species listed above. GOSR determined that the proposed Project would have “no effect” on species under the jurisdiction of the USFWS. The “no effect” determination was sent to the USFWS New York field office on February 15, 2019 and received a response from the USFWS on April 17, 2019 that the USFWS acknowledged receipt of the “no effect” determination. The Project does not involve any activities that would introduce stressors to listed species or their designated critical habitats under the jurisdiction of National Oceanic and Atmospheric Administration’s (NOAA) National Marine Fisheries Service (NMFS) pursuant to the ESA. Therefore, GOSR has determined that the proposed Project would have “no effect” on species under the jurisdiction of the NMFS.
**Impacts to Property & Lives**

The highest priority of this review is to prevent the loss of life. The Project involves improvements to an existing roadway and culverts in an existing developed residential and commercial area in the 100-year floodplain and floodway. The Project will protect property and enhance safety to those most at-risk during disaster events. Improvements that will mitigate flooding along the Monhagen Brook will also benefit the greater community in the City of Middletown and surrounding areas, in that portions of the City of Middletown which have been made inaccessible by flooding caused by Hurricane Irene, Tropical Storm Lee, and other heavy rainfall events will not be isolated from emergency response and general ingress/egress.

**Cultural resources such as archaeological, historic & recreational aspects**

The New York State Historic Preservation Office determined on February 21, 2019 that there will be ‘no historic properties, including archaeological and/or historic resources, affected’ by the Project, as documented in Attachment 9 of the Monhagen Brook Culvert Project Environmental Review Record Report.

**Agricultural, aquacultural, & forestry resources**

The Project is located within the boundaries of the City of Middletown and is not located in an area that possesses agricultural, aquacultural, or forestry resources. It is possible that if there is a materials release from the Project, it could contribute to an undefined cumulative influence on degradation of water quality, which in-turn could influence natural resources including agriculture and forestry. It is possible during the short-term construction activities, the disturbance could impact local water quality and this economic sector, although the impact attributable to this use could not be quantitatively derived. However, a qualitative analysis suggests that the impact would be very small as mitigative measures and best management practices, such as the use of silt fence and a turbidity curtain, will be utilized during construction. Project activities will be completed in accordance with all applicable federal, state and local permit requirements and conditions. Therefore, no quantifiable impacts from proposed Project activities are anticipated.

**Step 5. Where Practicable, Design or Modify the Proposed Action to Minimize the Potential Adverse Impacts To and From the 100-Year Floodplain and to Restore and Preserve its Natural and Beneficial Functions and Values.**

The Project would mitigate future flood risk and minimize potential impacts to the surrounding community located within the 100-year floodplain. This would benefit public health and safety by enabling better access to the community during storm events. The Project will not alter the natural or beneficial functions or values of the Monhagen Brook floodplain. Impacts to the floodplain will also be limited, as construction will involve replacement of existing structures in previously disturbed areas. The proposed Project is consistent with, and is permitted by the United States Army Corps of Engineers (USACE) in accordance with Section 404 of the Clean Water Act under Nationwide Permit #3. Based on e-mail correspondence with Brian Orzel from the USACE, a pre-construction notification is not required from the USACE. Additionally, the proposed Project activities are consistent with a Blanket Water Quality Certification under Section 401 of the Clean Water Act from the NYSDEC. USACE and NYSDEC permit documentation, including applicable permit conditions, is included in Attachment 10 of the Monhagen Brook Culvert Project Environmental Review Record Report. A Floodplain Development Permit will be obtained from the City of Middletown prior to the commencement of Project activities. All permit conditions will be followed and best management practices, including the use of silt fence and a turbidity curtain, will be employed to preserve natural values, lives, and living resources. However, it is still reasonable to promote awareness of future risks of natural hazards, including flooding, plus the physical, social and economic impacts that potential storm events could convey, including the potential for future physical damage to the surrounding property.
**Step 6. Reevaluate the Alternatives and Proposed Action.**
According to the Monhagen Brook Culvert and Drainage Improvements Study, the proposed Project activities were the preferred potential project alternatives based on an analysis of the following items: total estimated cost, flood reduction ranking, property issues, constructability issues, permitting, and notable advantages/challenges for each of the ranked alternatives. The “no action” alternative for not funding this project would not address the purpose and need of the proposed action. Without the proposed action, the impacted community would be left more susceptible to future flooding events in this area than it would after the implementation of the proposed action. Therefore, the “no action” alternative examined is not considered desirable and the proposed action is still practicable in light of exposure to flood hazards in floodplain, possible adverse impacts on floodplain, the extent to which it may aggravate current hazards to other floodplains, and the potential to disrupt natural and beneficial functions and values of floodplains. Additionally, implementation of the proposed action will abide by all applicable state and local codes for floodplain development. As such, the impact of the proposed action on a floodplain would be less than the “no action” alternative.

**Step 7. Issue Findings and Public Explanation.**
A final notice, formally known as “Final Notice and Public Review of a Proposed Activity in a 100-Year Floodplain and Wetlands” (FN), was published in accordance with 24 CFR 55. This public notice was combined with the “Notice of Intent to Request Release of Funds (NOIRROF).” The final notice requires a 7-day comment period after publication and the NOIRROF requires a 7-day comment period as well. As such, a 7-day comment period was used for this Final Notice. The FN/NOIRROF was published in the Times Herald Record on December 4, 2020. The 7-day comment period expires at 5pm on December 14, 2020. The combined notice describes the reasons why the Project must be located in the floodplain, alternatives considered, and all mitigation measures to be taken to minimize adverse impacts and preserve natural and beneficial floodplain and wetland values. Project activities will be completed in accordance with all applicable federal, state and local regulations.

**Step 8. The Proposed Action Can Be Implemented After the Above Steps Have Been Completed.**
GOSR, operating under the auspices of the New York State Homes and Community Renewal’s (NYSHCR) Housing Trust Fund Corporation as the responsible entity, will ensure that the Proposed Action, as described above, is executed and necessary language will be included in all agreements with participating parties. Implementation of the proposed action may require additional local and state permits, which could place additional design modifications or mitigation requirements on the Project. It is acknowledged there is a continuing responsibility by the responsible entity to ensure, to the extent feasible and necessary, compliance with the steps herein.
Appendix I

FEMA National Flood Hazard Layer Map
Appendix II

USFWS NWI Map
NYSDEC Freshwater Wetlands and Waterways Map
NYSDEC Tidal Wetlands Map
Appendix III

Early Notice of a Proposed Activity
in a 100-year Floodplain and Wetland
EARLY NOTICE OF A PROPOSED ACTIVITY
IN A 100-YEAR FLOODPLAIN
MONHAGEN BROOK CULVERT PROJECT
CITY OF MIDDLETOWN, ORANGE COUNTY, NEW YORK 10940
OCTOBER 2, 2020

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 City of Middletown to fund Monhagen Brook Culvert 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 Development (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. 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 Community Development Block Grant – Disaster Recovery (CDBG-DR) program for storm recovery activities in New York State.

This action includes the replacement of a bridge over Monhagen Brook on West Main Street and culvert replacements along Grant Street in Middletown, NY. Monhagen Brook is classified by the USFWS as Riverine habitat, R3UBH (Riverine, Upper Perennial, Unconsolidated Bottom, and Permanently Flooded). A wetland delineation was conducted for the bridge replacement action. No wetlands were identified. Based on the FEMA FIRMette map panels 36071C0255E and 36071C0259E effective date August 3, 2009, the Monhagen Brook section is within a 100-year floodplain. Special Flood Hazard Area (SFHA) – Zone AE and the brook is a flowway. The Grant Street segment of the project is not within a SFHA or wetland.

The Proposed Activity will result in temporary impacts to 0.3 acres of the Monhagen Brook floodplain. The brook has little floodplain development as the brook is contained in a small channel. The Proposed Activity will result in no permanent impacts to the floodplain. Temporary impacts include the construction activities to remove the existing culvert and install the new 28-foot wide and 44-foot long, three-sided bridge and headwalls. The new bridge and headwalls will extend 60 linear feet over Monhagen Brook. The new bridge will increase the width of road crossing Monhagen Brook from 15 feet 10 inches to 28 feet and the length will increase from 43 feet 9 inches to 44 feet 6 inches. Much of the construction area is currently covered with asphalt and concrete. The replacement will not change the function of the floodplain. The wider bridge opening will reduce the volume of flooding that bypasses the bridge and pools at the low point along West Main Street by allowing more flow through the opening. In addition, the wider bridge opening will reduce overtopping for the 25, 50, and 100-year storms compared to existing conditions. The existing bridge has the capacity to convey up to the 10-year storm with the 50-year and 100-year storms overtopping the roadway. The proposed bridge has the capacity to convey up to the 25-year storm with the 100-year storm overtopping.

A wetland delineation and wetland and floodplain maps have been prepared and are available for review 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: James McAllister, Certifying Officer, Governor’s Office of Storm Recovery, 25 Beaver Street, 5th Floor, New York, NY 10004, Email: NYSCDBG_DR_ER@nysdhcr.org If you need additional information, call 212-480-6265.

All comments received by October 17, 2020, will be considered.
EARLY NOTICE OF A PROPOSED ACTIVITY
IN A 100-YEAR FLOODPLAIN
MONHAGEN BROOK CULVERT PROJECT
CITY OF MIDDLETOWN, ORANGE COUNTY, NEW YORK 10940
OCTOBER 2, 2020

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 City of Middletown to fund Monhagen Brook Culvert 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 Development (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. 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 Community Development Block Grant – Disaster Recovery (CDBG-DR) program for storm recovery activities in New York State.

This action includes the replacement of a bridge over Monhagen Brook on West Main Street and culvert replacements along Grant Street in Middletown, NY. Monhagen Brook is classified by the USFWS as Riverine habitat, R3UBH (Riverine, Upper Perennial, Unconsolidated Bottom, and Permanently Flooded). A wetland delineation was conducted for the bridge replacement action. No wetlands were identified. Based on the FEMA FIRMette map panels 36071C0255E and 36071C0256E effective date August 3, 2009, the Monhagen Brook section is within a 100-year floodplain, Special Flood Hazard Area (SFHA) – Zone AE and the brook is a flowway. The Grant Street segment of the project is not within a SFHA or wetland.

The Proposed Activity will result in temporary impacts to 0.3 acres of the Monhagen Brook floodplain. The brook has little floodplain development as the brook is contained in a small channel. The Proposed Activity will result in no permanent impacts to the floodplain. Temporary impacts include the construction activities to remove the existing culvert and install the new 28-foot wide and 44-foot long, three-sided bridge and headwalls. The new bridge and headwalls will extend 60 linear feet over Monhagen Brook. The new bridge will increase the width of road crossing Monhagen Brook from 15 feet 10 inches to 28 feet and the length will increase from 43 feet 9 inches to 44 feet 6 inches. Much of the construction area is currently covered with asphalt and concrete. The replacement will not change the function of the floodplain. The wider bridge opening will reduce the volume of flooding that bypasses the bridge and pools at the low point along West Main Street by allowing more flow through the opening. In addition, the wider bridge opening will reduce overtopping for the 25, 50, and 100-year storms compared to existing conditions. The existing bridge has the capacity to convey up to the 10-year storm with the 50-year and 100-year storms overtopping the roadway. The proposed bridge has the capacity to convey up to the 25-year storm with the 100-year storm overtopping.

A wetland delineation and wetland and floodplain maps have been prepared and are available for review 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 James McAllister, Certifying Officer
Governor’s Office of Storm Recovery
25 Beaver Street, 5th Floor, New York, NY 10004
Email: NYSCDBG_DR_ER@nyshcr.org
For more information call 212-480-6265.
All comments received by October 17, 2020, will be considered.
Appendix IV

Affidavit for Early Notice of a Proposed Activity
In a 100-year Floodplain and Wetland
STATE OF NEW YORK
COUNTY OF NEW YORK

Ambika Mohan being duly sworn hereby declares and says, that she is an Advertising Account Executive at Miller Advertising Agency, Inc., located in New York, NY, and that she is responsible for placing the attached advertisement in Middletown Times Herald Record as requested by NYS Governor's Office of Storm Recovery, and that the Middletown-Monhagen Brook Culvert Project advertisement, of which the annexed is a true copy, has been published in the said publication on the following issue date: October 2, 2020

Ambika Mohan
Ambika Mohan

Subscribed to and Sworn before me

This 19th day of October, 2020

Donna Perez
Notary Public

Donna Perez
Notary Public State Of New York
No. 01PE6151365
Qualified In New York County
Commission Expires August, 14th – 2022
**Autos for Sale**

**Chevy 2015 Silverado LT Extended Cab**

- **Description:** 23,000 mi, 4x4, V8, 5.3L, automatic, back-up camera, tinted windows.
- **Price:** $29,450
- **Contact:** 845-420-9957

**Toyota 2015 Rav4 SUV Limited Edition**

- **Description:** 13,000 mi, automatic, all-wheel drive, automatic.
- **Price:** $14,900
- **Contact:** 845-674-0165

**Gold Medal Property Sales, LLC.**

- **Address:** 17 Market Street, Ellenville, NY 12428
- **Agents:** Sullivan Co. SSNY desig. as agent upon whom process may be served & shall mail process to: The LLC, c/o Kidonakis & Corona, PLLC, 1350 6th Ave, Fl 2, NY, 10019. Purpose: any lawful activity.

**Notice of Formation of 220 Mineral Springs LLC.**

- **Agents:** Sullivan Co. SSNY desig. as agent upon whom process against it may be served. SSNY shall mail process to: Mendon Springs LLC, c/o Kent Companies Inc., 615 Rte. 32, P.O. Box 503, Highland Mills, NY 10930. Purpose: any lawful activities.

**Notice of Formation of YUN GOODWIN LLC.**

- **Agents:** Sullivan Co. SSNY desig. as agent upon whom process against it may be served. SSNY shall mail process to: Brian Goodwin, 140 7th Ave #4E, NY, NY 10011. Purpose: any lawful activities.

**Gold Medal Property Sales, LLC.**

- **Address:** 29/2920, NY Office location: Orange County
- **Agents:** Sullivan Co. SSNY desig. as agent upon process & shall mail to: 60 Warwick Estates Dr, Pine Island, NY 12569. Purpose: any lawful activity.

**Notice of Formation of Essential Cleaning By Kristin LLC.**

- **Agents:** Sullivan Co. SSNY desig. as agent upon process & shall mail to: 60 Warwick Estates Dr, Pine Island, NY 12569. Purpose: any lawful activity.

**Notice of Formation of Kun De LLC.**

- **Agents:** Sullivan Co. SSNY desig. as agent upon process & shall mail to: 60 Warwick Estates Dr, Pine Island, NY 12569. Purpose: any lawful activity.

**Notice of Formation of BENDER ROAD LLC.**

- **Agents:** Sullivan Co. SSNY desig. as agent upon process & shall mail to: 60 Warwick Estates Dr, Pine Island, NY 12569. Purpose: any lawful activity.

**ARPTILE DEVELOPERS LLC**

- **Agents:** Sullivan Co. SSNY desig. as agent upon process & shall mail to: 60 Warwick Estates Dr, Pine Island, NY 12569. Purpose: any lawful activity.

**FATS UNLIMITED LLC**

- **Agents:** Sullivan Co. SSNY desig. as agent upon process & shall mail to: 60 Warwick Estates Dr, Pine Island, NY 12569. Purpose: any lawful activity.

**Notice of Formation of KEHINDE WIREY SHOP LLC.**

- **Agents:** Sullivan Co. SSNY desig. as agent upon process & shall mail to: 60 Warwick Estates Dr, Pine Island, NY 12569. Purpose: any lawful activity.

**Notice of Formation of Roe Park Realty LLC.**

- **Agents:** Sullivan Co. SSNY desig. as agent upon process & shall mail to: 60 Warwick Estates Dr, Pine Island, NY 12569. Purpose: any lawful activity.

**Notice of Formation of BENDER ROAD LLC.**

- **Agents:** Sullivan Co. SSNY desig. as agent upon process & shall mail to: 60 Warwick Estates Dr, Pine Island, NY 12569. Purpose: any lawful activity.

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**Notice of Formation of Roe Park Realty LLC.**

- **Agents:** Sullivan Co. SSNY desig. as agent upon process & shall mail to: 60 Warwick Estates Dr, Pine Island, NY 12569. Purpose: any lawful activity.
Attachment 5

CAA De Minimis Threshold Analysis & General Conformity Worksheet
Evaluation of de minimis levels for General Conformity of Construction Projects with New York State Implementation Plans

The conformity requirements of the CAA and regulations promulgated thereunder (conformity requirements) limit the ability of federal agencies to assist, fund, permit, and approve projects in non-attainment areas that do not conform to the applicable SIP. When subject to this regulation, the lead agency is responsible for demonstrating conformity for its proposed action. Conformity determinations for federal actions other than those related to transportation plans, programs, and projects that are developed, funded, or approved under title 23 U.S.C. or the Federal Transit Act (49 U.S.C. 1601 et seq.) must be made according to the requirements of 40 CFR 93, Subpart B (federal general conformity regulations).

The general conformity regulations apply to those federal actions in non-attainment or maintenance areas where the action’s direct and indirect emissions have the potential to emit one or more of the six criteria pollutants at rates equal to or exceeding the prescribed rates.

General conformity de minimis threshold levels for the non-attainment and maintenance areas in New York State are presented in Table 1.

<table>
<thead>
<tr>
<th>Table 1: General Conformity Threshold Levels</th>
</tr>
</thead>
<tbody>
<tr>
<td>Non-Attainment Area and Pollutants</td>
</tr>
<tr>
<td>ozone, other non-attainment areas inside an ozone transport region: volatile organic compounds (VOC)</td>
</tr>
<tr>
<td>nitrogen oxides (NOx)</td>
</tr>
<tr>
<td>carbon monoxide (CO), maintenance areas: direct emissions</td>
</tr>
<tr>
<td>inhalable particulate matter (PM10), nonattainment areas: direct emissions</td>
</tr>
<tr>
<td>fine particulate matter (PM2.5), maintenance areas: direct emissions</td>
</tr>
<tr>
<td>SO2</td>
</tr>
<tr>
<td>Source: 40 CFR § 93.153(b)</td>
</tr>
<tr>
<td>Notes: NOx and VOCs also limited at 100 tpy in PM2.5 maintenance areas, but ozone requirements are stricter.</td>
</tr>
</tbody>
</table>

The general conformity requirements do not apply to federal actions that:

- Do not satisfy either one of the above conditions (where the action’s direct and indirect emissions have the potential to emit one or more of the six criteria pollutants at rates equal to or exceeding the threshold levels above within a non-attainment or maintenance area);
- Occur in an attainment area;
- Are related to transportation plans, programs, and projects developed, funded, or approved under Title 23 U.S.C. or the Federal Transit Act (49 U.S.C. 1601); or
- Qualify for exemptions established at 40 CFR Part 93.153.

The regulation assumes that a proposed federal action whose criteria pollutant emissions have already been included in the local SIP’s attainment or maintenance demonstrations conforms to the SIP.
Most construction work would not require a general conformity evaluation, since construction activity in general is included in the SIP estimates, based on past activity levels and assumptions regarding growth in future years. However, there may be projects which are not considered to be included in the SIP if they were beyond the scope of what was anticipated during SIP preparation. If a project is not included in the SIP or there is uncertainty regarding its inclusion, a preliminary evaluation of emissions may be sufficient to demonstrate that the project’s emissions would be de minimis under the above general conformity regulations. If that is the case, a detailed conformity analysis and determination would not be required. The following analysis provides a simplified approach to preliminary evaluation, based on construction expenditure.

As a conservative estimate, the analysis below assumes that the emissions intensity per expenditure (tons per dollar) for the project would be similar to the average intensity of the construction sector in the county. This would not be applicable for projects with higher intensity (emissions per dollar) such as large infrastructure projects or intense development projects including substantial excavation and foundations work. Given this and other limitations of this analysis, it is recommended that this approach not be seen as definitive if the results are not clearly de minimis. In such cases, a more refined approach may be needed.

Construction expenditure data is available from the U.S. Census Bureau’s 2007 Survey of Business Owners\(^1\). Since the expenditure data represent firms by their location and not necessarily the location where construction takes place, applying this data at the county level may skew the results in some cases. As a broader estimate, we have categorized the expenditure as ‘upstate’ and ‘downstate’, reflecting the higher cost of construction in the downstate area. Downstate counties include Bronx, Kings, Nassau, New York, Orange, Queens, Richmond, Rockland, Suffolk, and Westchester. Total construction expenditure in 2007 was approximately 23.1 billion dollars in the upstate area, and 71.8 billion in the downstate area.

Construction emissions by county for the year 2007 were obtained from the New York State Department of Environmental Conservation (NYSDEC)\(^2\). The fraction each de minimis emissions level represents of total regional emissions was calculated for each pollutant and area (upstate and downstate). The fraction of construction expenditure in each area equivalent to those emission fractions were then calculated, representing de minimis project construction expenditures which would be equivalent to de minimis emissions.

For example, the downstate VOC emissions were 2,401.6 tons per year (tpy), and the relevant de minimis VOC emissions are 50 tpy; therefore –

- de minimis as fraction of total emissions: \(50 \text{ tpy} \div 2,401.6 \text{tpy} = 2.08\%
- de minimis fraction of total expenditure: \(2.08\% \times \$71.8 \text{ bn} = \$1.5 \text{ bn}\)

The total SIP emissions by pollutant and region and the resulting average project expenditure equivalent to de minimis levels are presented in Table 2.

---


\(^2\) NYSDEC. 2007 SIP data. (provided by DEC, 2014).
Table 2: Regional SIP Emissions and de minimis Construction Expenditure

<table>
<thead>
<tr>
<th>Pollutant</th>
<th>Region</th>
<th>2007 SIP Emissions (tpy)</th>
<th>De Minimis (tpy)</th>
<th>Average Construction De Minimis Expenditure (million $)</th>
</tr>
</thead>
<tbody>
<tr>
<td>VOC</td>
<td>Downstate Upstate</td>
<td>2,401.6</td>
<td>50</td>
<td>1,496</td>
</tr>
<tr>
<td></td>
<td></td>
<td>1,464.3</td>
<td>50</td>
<td>789</td>
</tr>
<tr>
<td>NOx</td>
<td>Downstate Upstate</td>
<td>16,332.1</td>
<td>100</td>
<td>440</td>
</tr>
<tr>
<td></td>
<td></td>
<td>9,745.2</td>
<td>100</td>
<td>237</td>
</tr>
<tr>
<td>CO</td>
<td>Downstate Upstate</td>
<td>17,522.1</td>
<td>100</td>
<td>410</td>
</tr>
<tr>
<td></td>
<td></td>
<td>11,746.2</td>
<td>100</td>
<td>197</td>
</tr>
<tr>
<td>PM10</td>
<td>Downstate</td>
<td>1,489.6</td>
<td>100</td>
<td>4,823</td>
</tr>
<tr>
<td>PM2.5</td>
<td>Downstate</td>
<td>1,442.3</td>
<td>100</td>
<td>4,981</td>
</tr>
<tr>
<td>SO2</td>
<td>Downstate</td>
<td>1,251.9</td>
<td>100</td>
<td>5,738</td>
</tr>
</tbody>
</table>

Notes: Only relevant pollutants by area are presented; see Table 3 for details.

Based on the above analysis, projects with projected construction expenditure substantially lower than the average construction de minimis expenditure would clearly not exceed de minimis emissions levels for general conformity purposes. Table 3 identifies the minimum de minimis expenditure threshold in each county, based on the lowest level for all nonattainment or attainment maintenance areas within which the county is located. For example, New York County is in 4 nonattainment/maintenance areas; of all the pollutants relevant to those areas, the CO de minimis emissions have the lowest corresponding construction expenditure of 410 million dollars. Standard construction projects in Manhattan with construction expenditure substantially lower than 410 million dollars in New York County would not exceed the de minimis level for any of the relevant pollutants and would not require any further analysis or conformity determination. For projects with components in more than one county, use the lowest threshold for all counties (if that exceeds de minimis levels, this can be refined by reviewing all appropriate pollutants based on the nonattainment/maintenance areas identified in Table 3, the appropriate pollutant for the area type from Table 1, and the de minimis expenditure for each pollutant from Table 2).
Table 3: De Minimis Construction Expenditure Threshold by County

<table>
<thead>
<tr>
<th>County</th>
<th>Nonattainment / Maintenance Area</th>
<th>Critical Pollutant</th>
<th>De Minimis Expenditure Threshold (million $)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Ozone</td>
<td>CO</td>
<td>PM$_2.5$</td>
</tr>
<tr>
<td>Upstate:</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Albany</td>
<td>X</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Erie</td>
<td>X</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Genesee</td>
<td>X</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Greene</td>
<td>X</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Livingston</td>
<td>X</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Monroe</td>
<td>X</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Montgomery</td>
<td>X</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Niagara</td>
<td>X</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Onondaga</td>
<td></td>
<td>X</td>
<td></td>
</tr>
<tr>
<td>Ontario</td>
<td>X</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Orleans</td>
<td>X</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Rensselaer</td>
<td>X</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Saratoga</td>
<td>X</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Schenectady</td>
<td>X</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Schoharie</td>
<td>X</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Wayne</td>
<td>X</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Downstate:</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Bronx</td>
<td>X</td>
<td>X</td>
<td>X</td>
</tr>
<tr>
<td>Dutchess</td>
<td>X</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Kings</td>
<td>X</td>
<td>X</td>
<td>X</td>
</tr>
<tr>
<td>Nassau</td>
<td>X</td>
<td>X</td>
<td>X</td>
</tr>
<tr>
<td>New York</td>
<td>X</td>
<td>X</td>
<td>X</td>
</tr>
<tr>
<td>Orange</td>
<td>X</td>
<td>X</td>
<td></td>
</tr>
<tr>
<td>Putnam</td>
<td>X</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Queens</td>
<td>X</td>
<td>X</td>
<td>X</td>
</tr>
<tr>
<td>Richmond</td>
<td>X</td>
<td>X</td>
<td>X</td>
</tr>
<tr>
<td>Rockland</td>
<td>X</td>
<td>X</td>
<td></td>
</tr>
<tr>
<td>Suffolk</td>
<td>X</td>
<td>X</td>
<td></td>
</tr>
<tr>
<td>Westchester</td>
<td>X</td>
<td>X</td>
<td>X</td>
</tr>
</tbody>
</table>
**GENERAL CONFORMITY WORKSHEET**

**Air Emissions Information**

**PROJECT NAME _________________________________**

**LOCATION (COUNTY, STATE)____________________**

**FOR CALENDAR YEAR ___________________________**

**Estimated Construction Start Date: __________ End Date: __________**

### A. ON-ROAD VEHICLES

<table>
<thead>
<tr>
<th>ACTIVITY</th>
<th>VEHICLE TYPE</th>
<th># OPERATING</th>
<th>ON / OFF SITE</th>
<th>GVWR PER VEHICLE</th>
<th>TOTAL MILES PER VEHICLE</th>
<th>TOTAL MILES ALL VEHICLES</th>
</tr>
</thead>
<tbody>
<tr>
<td>Example: Demolition</td>
<td>Truck</td>
<td>2</td>
<td>ON</td>
<td>33,000</td>
<td>36</td>
<td>72</td>
</tr>
</tbody>
</table>

### B. OFF-ROAD VEHICLES

<table>
<thead>
<tr>
<th>ACTIVITY</th>
<th>EQUIPMENT TYPE</th>
<th># OPERATING</th>
<th>HORSE-POWER</th>
<th>GAS / DIESEL</th>
<th>TOTAL HRS PER VEHICLE</th>
<th>TOTAL HRS ALL VEHICLES</th>
</tr>
</thead>
<tbody>
<tr>
<td>Example: Site Clearing</td>
<td>Backhoe</td>
<td>3</td>
<td>90</td>
<td>Diesel</td>
<td>80</td>
<td>240</td>
</tr>
</tbody>
</table>

**Notes:**
1. If construction occurs over more than one calendar year, provide a separate table for each calendar year.
2. For ACTIVITY, include a short description of the type of activity
   - On-Road examples: workers commuting to/from job site, materials deliveries, material movement to site, etc.
   - Off-Road examples: site clearing, demolition, excavation, construction, material placement, etc.
3. For EQUIPMENT
   - On-Road examples: auto, pickup truck (gas or diesel), heavy trucks (gas or diesel), etc.
   - Off-road examples: crane, backhoe, dozer, mixer, chain saw, forklift, etc.
4. Specify whether the on-road vehicles listed are being used for transportation to/from site, or are used exclusively on the site, as this will affect the emission estimates.
5. Specify the Gross Vehicle Weight Ratings for any on-road heavy-dity diesel vehicles, as these are necessary to determine the correct emissions factors.
6. For worker commutation, the number of vehicles and miles traveled can be estimated by using any available data to estimate commuting distance, carpool rates, etc., (e.g., Census Journey-to-Work data).
Attachment 6

HUD Environmental Standards Review
Introduction:
The purpose of this review is to ensure that the project complies with HUD environmental standards in relation to 24 CFR Part 58.5. Properties that are proposed for use in HUD programs “must be free of hazardous materials, contamination, toxic chemicals and gases, and radioactive substances, where a hazard could affect the health and safety of occupants or conflict with the intended utilization of the property.”

A desktop review was performed to identify whether the project area referenced in the title of this document complies with the following criteria:

(i) is not Listed on an U.S. Environmental Protection Agency (EPA) Superfund National Priorities or Comprehensive Environmental Response Superfund National Priorities or Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) List, or equivalent State list;
(ii) is not located within 3,000 feet of a toxic or solid waste landfill site;
(iii) does not have an underground storage tank; and
(iv) is not known or suspected to be contaminated by toxic chemicals or radioactive materials.

Summary of Findings

Project Area Records Review
The Monhagen Brook Culvert Project (Project) involves the replacement of a bridge and culvert over Monhagen Brook on West Main Street and culvert replacements along Grant Street in the City of Middletown, NY. These locations are documented on the HUD Environmental Report maps appended to the end of this report and will be collectively referred to as the Project area. For the purpose of this report, properties immediately abutting the proposed work area within the roadway will be considered part of the targeted Project area.

New York State Department of Environmental Conservation (NYSDEC) and EPA Records:
The Project area is not listed on the NYSDEC Bulk Storage, Environmental Site Remediation Database, or the Spill Incident Database. The Project area is not listed on an EPA Superfund National Priorities or CERCLA list or equivalent State list or EPA Resource Conservation and Recovery (RCRA) database. The Project area is not located within 3,000 feet of a toxic or solid waste landfill site. The Project area is not known or suspected to be contaminated by toxic chemicals or radioactive materials.

Surrounding Properties Records Review

NYSDEC Records:
A search of the NYSDEC Spill Incidents Database resulted in the identification of 54 spills within 1,000 feet of the Project Area. It should be noted that, as accurate spill locations in the NYSDEC Incident Reports were not always provided in the Report itself, a decision was made to err on the side of caution and assume that those spill incidents were located near the Project area and the surrounding properties and reviewed accordingly. The NYSDEC Spill Incidents Database indicates that 53 of the 54 spills have been closed. A spill closure means that the records and the data submitted indicate that the necessary cleanup and removal actions have been completed and no further remedial actions are necessary or the case was closed for administrative reasons (e.g. multiple reports of a single spill consolidated into a single spill number). As such, these spills are not considered a hazard that could affect the health and safety of occupants or conflict with the intended utilization of the Project Area. The one (1) spill that was not closed was Spill Number 1802756, which was associated with the Fleurchem, Inc. facility located approximately 400 feet east of the
Project area. The spill involved an unknown amount of #4 fuel oil into the soil. While this spill remains open, due to the distance between the spill and the Project area, the cross-gradient location of the spill from the Project area, the nature of the proposed Project activities, and the presence of storm drains between the spill and the proposed project area that would likely intercept any potential overland flow, this spill is not considered a hazard that could conflict with the intended utilization of the Project area.

According to NYSDEC Bulk Storage Database, there are forty-three (43) Bulk Storage sites located within 3,000 feet of the Project area. Of these forty-three (43) bulk storage sites, thirty-eight (38) of them are either located greater than 1,000 feet from the Subject Property, are located down-gradient or cross-gradient from the Project area, and/or are not associated with any documented spills or releases. As such, these thirty-eight (38) sites are not considered a hazard that could affect the health and safety of occupants or conflict with the intended utilization of the Project area. The remaining five (5) facilities are described below.

1. **Fleurchem, Inc. (Site Number: 3-170550)** is a Petroleum Bulk Storage (PBS) facility located at 33 Sprague Avenue, approximately 400 feet east and cross-gradient of the Project area. The facility has one (1) tank that is in service and two (2) tanks that have been closed. There have been eight (8) documented spills associated with this address, seven (7) of which have been closed, and one (1) of which remains open, which involved an unknown amount of #4 fuel oil into the soil. Due to the distance between the spill and the Project area, the cross-gradient location of the spill from the Project area, the nature of the proposed Project activities, and the presence of storm drains between the spill and the proposed project area that would likely intercept any potential overland flow, this spill is not considered a hazard that could conflict with the intended utilization of the Project area.

2. **Bell Flavors and Fragrances, Inc. (Site Number: 3-170542)** is an unregulated/closed PBS facility located at 10 Sprague Avenue, approximately 500 feet southeast and cross-gradient of the Project area. The facility had one (1) 12,000 gallon tank that was removed and two (2) 8,000 gallon tanks that were removed. There was one (1) documented spill associated with this facility, which involved two (2) gallons of spilled hydraulic oil. This spill was closed on 4/3/2001. Due to the distance between the spill and the Project area, the cross-gradient location of the spill from the Project area, the nature of the proposed Project activities, and the presence of storm drains between the spill and the proposed project area that would likely intercept any potential overland flow, this spill is not considered a hazard that could conflict with the intended utilization of the Project area.

3. **Atwoods Service Center (Site Number 3-172022)** is an unregulated/closed PBS facility located at 20 Academy Avenue, approximately 300 feet northwest and cross-gradient of the Project area. The facility had four (4) 4,000 gallon tanks, one (1) 1,000 gallon tank, and one (1) 550 gallon tank. There were three (3) documented spills associated with this facility, all three (3) of which have been closed. Due to the distance of this facility from the Project area, the lack of evidence of material releases that could have flowed to the Project area, and the nature of the proposed Project, this facility is not considered a hazard that could conflict with the intended utilization of the Project area.

4. **SPC Petroleum (Site Number 3-600379)** is an active PBS facility located at 76 East Main Street, which is approximately 550 feet northwest and cross-gradient of the Project area. The facility has one (1) 10,000 gallon in service and one (1) 6,000 gallon in service tank; as well as four (4) 4,000 gallon tanks, two (2) 1,000 gallon tanks, two (2) 1,500 gallon tanks, and one (1) 330 gallon tank that have been removed. The facility has two (2) spills that have been reported, both of which have been closed. Due to the distance of this facility from the Project area, the lack of evidence of material releases that could have flowed to the Project area, and the nature of the proposed Project, this facility is not considered a hazard that could conflict with the intended utilization of the Project area.

5. **Rockland Psychiatric Center (Site Number 3-170534)** is an unregulated/closed PBS facility located at 45 Ashley Avenue, approximately 600 feet northwest and upslope of the Project area. The facility has two (2) tanks that have been converted to non-regulated use, one (1) tank that is in
service in contact with an impervious barrier, and thirteen (13) tanks that have been closed. The facility has one (1) spill that has been reported, which involved an unknown quantity of #2 fuel oil and was closed on 10/31/2003. Due to the distance of this facility from the Project area, the lack of evidence of material releases that could have flowed to the Project area, and the nature of the proposed Project, this facility is not considered a hazard that could conflict with the intended utilization of the Project area.

According to the NYSDEC Environmental Site Remediation Database, there are zero (0) remediation sites within 3,000 feet of the West Main Street project location and four (4) remediation sites within 3,000 feet of the Grant Street project location. The OR – Fulton Ave. – Middletown MGP site is located approximately 1,700 feet southwest and cross / up-gradient of the Grant Street project location, the Erie Way Post Office site is located approximately 2,000 feet northwest and cross / up-gradient of the Grant Street project location, the OR – Genung Ave. – Middletown MGP site is located 2,450 feet south and cross / up-gradient of the Grant Street project location, and the 302 ½ and 324 ½ East Main St. (Rear) site is located approximately 2,950 feet southwest and up-gradient of the Grant Street project location. The Project locations and the mapped remediation sites are located in an urban area with numerous paved roadways and storm drains between the Project locations and the mapped remediation sites. Due to the distance between the mapped sites and the Project area, the nature of the contamination, the cross / up-gradient location of the mapped remediation sites in relation to the Project areas, and the nature of the proposed Project activities, these remediation sites are not considered a hazard that could conflict with the intended utilization of the Project area.

EPA Records:
According to the EPA’s Enforcement and Compliance History Online (ECHO) search, there are thirty-three (33) hazardous waste sites (RCRA), five (5) water dischargers (NPDES), two (2) Toxic Releases (TRI), one (1) Toxic Substances Control Act (TSCA), and eight (8) air pollution (ICIS-AIR) sites within 3,000 feet of the Project area. None of these facilities had violations reported. Facilities with no violations are not considered a hazard as the facilities are in compliance with permit conditions that are enforced and meet standards that protect public health and the environment by preventing releases to the environment. These facilities are not considered a hazard that could affect the health and safety of occupants or conflict with the intended utilization of the Project area.

Conclusion:
Based on a review of available environmental records for the Project Area and surrounding area, the Project Area is unlikely to contain hazardous materials, contamination, toxic chemicals and gases, or radioactive substances, which would constitute a hazard that could affect the health and safety of occupants or conflict with the intended utilization of the Project Area. Therefore, a Phase I Environmental Site Assessment (ESA) or Phase II Investigation is not warranted. Maps, NYSDEC reports, and EPA reports are included at the end of this report.

Data Sources:
Tectonic Engineering Consultants, Geologists & Land Surveyors, D.P.C. (Tectonic) has reviewed the following sources to make the above determinations: Hazardous Waste records contained in the Resource Conservation and Recovery Act (RCRA) Information System, the Superfund Enterprise Management System (SEMS) for sites listed under CERCLA (otherwise known as Superfund), EPA’s Toxic Release Inventory database (TRI), and the EPA Radiation Information Database (RADInfo). RCRA includes data on small and large quantity hazardous waste material generators and handlers. EPA’s Toxic Release Inventory provides information on toxic chemical releases and waste management activities by certain industries. The RADInfo database provides information about facilities that are regulated by the U.S. EPA for radiation and radioactivity.
Tectonic reviewed the NYSDEC Environmental Site Remediation Database to assess whether the site is registered as a NYS Superfund or Environmental Restoration site. The NYSDEC Environmental Site Remediation Database includes records of sites that are part of the NYS Superfund, Brownfield Cleanup, Environmental Restoration, and Voluntary Cleanup Programs. The Database also includes a Registry of Inactive Hazardous Waste Disposal Sites. The NYSDEC Bulk Storage Database was reviewed for records of facilities that are or have been regulated according to one of the Bulk Storage Programs - Petroleum Bulk Storage, Chemical Bulk Storage, or Major Oil Facility. The NYSDEC Spill Incidents Database was used to determine the potential effects of spills on or near the Project area. A desktop review of Google Earth was used in conjunction with a map of active municipal landfills (provided by the NYSDEC), and a list of landfills provided by the NYSDEC to determine whether a non-active or active landfill is located within 3,000 feet of the Project area.
Maps

HUD Environmental Report Maps
EPA NEPAssist Map
Monhagen Brook Culvert Project
West Main Street/ County Route 11 and Grant Street
City of Middletown
Orange County, New York

Legend
- Culvert and Bridge Replacement
- Culvert Replacement
- 3,000 Buffer Around Project Areas

Orange County Bulk Storage
- Chemical Bulk Storage
- Petroleum Bulk Storage
- Major Oil Storage
- Active Municipal Solid Waste Landfills
- Solid Waste Landfill Buffer (3,000 ft)

Source data: Environmental remediation sites listed in the NYSDEC Environmental Remediation Database. Properties listed on the NYSDEC Bulk Storage Database. Solid waste landfill information provided by NYSDEC; Brownfields (ACRES) information provided by EPA.
Environmental Reports

NYSDEC Reports for Spills, Environmental Remediation Sites, or Bulk Storage Sites Located on, or within close proximity to, the Project Area
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70. 2004517 08/17/2020  COMMERCIAL (FORMER DISTELBERGER FARM)  Orange MIDDLETOWN 430 EAST MAIN ST

Refine This Search
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Refine This Search
Attachment 7

Endangered Species Compliance Documents

NYNHP Findings Summary Letter
USFWS No Effect Determination Acknowledgement
USFWS Consultation Package
Memorandum

Date: February 15, 2019
To: GOSR File
From: Thomas Fralick
Subject: Monhagen Brook Culvert Project, City of Middletown, Orange County, NY

As per direction from GOSR and correspondence with NYSDEC NHP, any project that does not have Significant Communities and/or Rare Animals and Plants, as determined by the NYSDEC Environmental Mapper database, does not require a NYSDEC NPH consultation to proceed.

LiRo’s query of the NYSDEC Environmental Mapper database reported no significant communities and/or rare animals and plants present in the project area (see attached Figure). Therefore, following the guidance from GOSR and NYSDEC NHP, no consultation letter will be prepared and the attached figure will be included in the environmental review as backup to the negative declaration for endangered or threatened plants and animals.
Approximate Segment Locations

No Significant Natural Communities Mapped in Project Area

Area of Rare Animals and Plants
To: Alicia Shultz  
USFWS File No: 1911698  
Regarding your: ❌ Letter  ❌ Fax  ✗ Email  
For project: Monhagen Brook Culvert Project  
Located: between Sterling & Genung Sts. & Academy Ave.  
In Town/County: City of Middletown, Orange County


❌ Acknowledges receipt of your “no effect” and/or no impact determination. No further ESA coordination or consultation is required.

✓ Acknowledges receipt of your determination. Please provide a copy of your determination and supporting materials to any involved Federal agency for their final ESA determination.

Is taking no action pursuant to ESA or any legislation at this time, but would like to be kept informed of project developments.

As a reminder, until the proposed project is complete, we recommend that you check our website (http://www.fws.gov/northeast/nyfo/es/section7.htm) every 90 days from the date of this letter to ensure that listed species presence/absence information for the proposed project is current. Should project plans change or if additional information on listed or proposed species or critical habitat becomes available, this determination may be reconsidered.

USFWS Contact(s):  
Supervisor: Acting Branch Chief  
Date: 4/17/19
February 15, 2019

Steve Papa
United States Fish and Wildlife Service
Long Island Field Office
340 Smith Road
Shirley, NY 11967

Re: ESA/MBTA/BGEPA Consultation for the Monhagen Brook Culvert Project

Dear Mr. Papa:

The Governor’s Office of Storm Recovery (GOSR), acting under the auspices of New York State Homes and Community Renewal’s (HCR) Housing Trust Fund Corporation (HTFC), on behalf of the Department of Housing and Urban Development (HUD) is preparing an Environmental Assessment (EA) for the Monhagen Culvert Project (the “Proposed Action”) (Attachment 1). Funding is being provided by the HUD Community Development Block Grant Disaster Recovery (CDBG-DR) program.

The purpose of this letter is to provide the United States Fish and Wildlife Service (USFWS) – New York Ecological Services Field Office notice of the proposed project and to document compliance with Section 7 of the Endangered Species Act (ESA) (87 Stat. 884, as amended; 16 U.S.C. 1531 et seq.), Migratory Bird Treaty Act of 1918 (MBTA) (40 Stat. 755, as amended; 16 U.S.C. 703-712) and the Bald and Golden Eagle Protection Act of 1940 (BGEPA) (54 Stat. 240, as amended; 16 U.S.C. 668-668c). As discussed below, we have reviewed the project and found that it does not jeopardize the continued existence of ESA species or destroy or adversely modify their critical habitat.

1.0 Proposed Project Description:

This project consists of the design and construction of stormwater drainage improvements between Sterling and Genung Streets and Academy Avenue near the confluence of Monhagen and Draper Brooks. The current scope consists of flood mitigation measures/improvements for six segments of drainage channel in Draper Brook and Monhagen Brook within the City of Middletown, Orange County, New York (Attachment 1, Figures 1, 2 and 3).

Draper Brook is a structurally controlled drainage channel (buried stormwater culverts) that flows in a southerly direction from just north of Church Street to the confluence of Draper Brook and Monhagen Brook, northwest of Leonard Street. These mitigation/improvement measures are the based upon the “Monhagen Brook Culvert and
The six segments and their proposed improvements are:

1. **Wisner Avenue Segment** - The proposed improvements include the cleaning of approximately 900 linear feet of buried storm drain/culvert (Draper Brook) from just north of Church to Midland Avenue (Attachment 1, Figure 4).

2. **Grove Street Segment** - The proposed improvements include spot repairs on approximately 206 linear feet of buried storm drain/culvert (Draper Brook) from north of the intersection of Railroad Avenue and Grove Street, northerly to the west of Grove Street (Attachment 1, Figure 5).

3. **Montgomery Street Segment** - The proposed improvements include spot repairs, rehabilitation, and replacement of approximately 148 linear feet of buried storm drain/culvert (Draper Brook) from southeast of Cottage Street to northwest of Montgomery Street (Attachment 1, Figure 6).

4. **Grant Street Segment** - The proposed improvements include spot repairs, rehabilitation, and replacement of approximately 243 linear feet of buried storm drain/culvert (Draper Brook) from southeast of the intersection of Academy Avenue and Benton Avenue to south of Grant Street (Attachment 1, Figure 7).

5. **Genung Street Segment** - The proposed improvements include spot repairs and rehabilitation of approximately 390 linear feet of stream channel (Monhagen Brook) from northeast of the intersection of Genung and Sprague Avenue to southwest of Genung Street (Attachment 1, Figure 8).

6. **West Main Street Segment** - The proposed improvements include the bridge replacement spanning of approximately 60 linear feet of stream channel (Monhagen Brook) as it flows under West Main Street, just west of Dorothy Dix Drive (Attachment 1, Figure 9).

The current project description is for Phase II, which consists of design, bidding and construction of one or more of the proposed measures listed above. Phase I, Hydraulic and Hydrological Study has been completed. Based upon Phase I, the current proposed improvement measures consist of cleaning, spot repairs, rehabilitation or replacement of segments of the structurally controlled (buried box culverts) Draper Brook and the replacement of the West Main Street Bridge on Monhagen Brook.

This project will mitigate localized flooding that occurs during heavy rainfall events.

### 2.0 Compliance with Endangered Species Act (ESA) and Migratory Bird Treaty Act and the Bald and Golden Eagle Protection Act Species

#### Endangered Species Act

The New York State Department of Conservation Natural Heritage Data did not identify any Significant Communities and/or Rare Animals and Plants.

According to the United States Fish and Wildlife Service (USFWS) Information, Planning and Conservation (IPaC) online planning tool and Trust Resource List generated for the
proposed project (Attachment 2) there are two listed endangered species the Indiana Bat
(Myotis sodalist) and the Dwarf Wedge mussel (Alasmidonta heterodon) and three (3)
threatened species the Northern Long-eared bat (NLEB) (Myotis septentrionalis), Bog
Turtle (Clemmys muhlenbergii) and the Small Whorled Pogonia (Isotria medeoloides) that
can be found within the vicinity of the project area. The official species list for the
proposed project indicated that there is no critical habitat in the project area. There are
currently no known maternity roost trees or hibernacula known to be occupied by NLEB
within the vicinity of the project location.

Indiana Bat

The Indiana bat is one of nine bat species found in New York. All are small as mammals
go, this species being roughly 2 inches (51 mm) in length and weighing approximately .2
-.3 ounce (6-9 gm). Indiana bats are generally found in tightly packed clusters. In the center
of the cluster, only the faces and wrists are visible. Little browns generally occur in loose
clusters. Indiana bats spend the winter months in secluded caves or mines which average
37 to 43 degrees F. Criteria for selecting hibernacula are not clearly understood; many
apparently suitable sites are not occupied. Where this species is found, however, it can be
extremely abundant, congregating in densities of more than 300/square foot. Year after
year, bats often return to exactly the same spots within individual caves or mines.
Hibernation can begin as early as September and extend nearly to June. With the coming
of spring, Indiana bats disperse from their winter homes, known as hibernacula, some going
hundreds of miles. They feed solely on flying insects and presumably, males spend the
summer preparing for the breeding season and winter that follows. Females congregate in
nursery colonies, only a handful of which have ever been discovered. These were located
along the banks of streams or lakes in forested habitat, under the loose bark of dead trees,
and contained from 50-100 females.

In August or early September, Indiana bats swarm at the entrance of selected caves or
mines. This is when mating takes place. Sperm is stored in the female's body; eggs are
fertilized in the spring. Like other hibernating species, the Indiana bat accumulates layers
of fat, which sustain it over the winter period of dormancy.

The project does not require tree removal and involves minor shallow excavations of
existing stream channel for removal of debris and improvement of flow (Attachment 1
Figures 3 through 9). Considering the limited construction activities and the current site
conditions GOSR has made a no effect determination for the Indiana Bat.

The Dwarf Wedge Mussel

The species name heterodon refers to the chief distinguishing characteristic of this species,
which is the only North American freshwater mussel that consistently has two lateral teeth
on the right valve, but only one on the left. It is a small mussel whose shell rarely exceeds
1.5 inches in length. The species exhibits strong sexual dimorphism with females showing
posterior inflation of the shell to accommodate the marsupial gills.
The dwarf wedge mussel lives on muddy sand, sand, and gravel bottoms in creeks and rivers of varying sizes, in areas of slow to moderate current and little silt deposition (Federal Register 1989).

Only two segments of the project are located in the open channel of Monhagen Creek. (Attachment 1). These locations are not mapped by NYSDEC as areas of significant natural communities or rare animals or plants. Based on the habitat requirements for the Dwarf Wedge Mussel and sediments of the Monhagen Brook and the surrounding urban development, GOSR has made a no effect determination for the Dwarf Wedge Mussel.

**Northern Long-eared Bat**

The NLEB is a temperate, insectivorous bat whose life cycle can be coarsely divided into two primary phases - reproduction and hibernation. NLEB hibernate in caves or mines during winter and then emerge in early spring, with males dispersing and remain solitary until mating season at the end of the summer, and pregnant females forming maternity colonies in which to rear young. No caves or mines occur near the project site. Summer habitat of the NLEB generally includes upland and riparian forest within heavily forested landscapes (Ford et al. 2005, Henderson et al. 2008). Roost trees are usually intact forest, close to the core and away from large clearings, roads, or other sharp edges (Menzel et al. 2002, Owen et al. 2003, Carter and Feldhammer 2005).

The project does not require tree removal and involves minor shallow excavations of existing stream channel for removal of debris and improvement of flow. (Attachment 1 Figures 3 through 9). Considering the limited construction activities and the current site conditions, GOSR has made a no effect determination for the NLEB.

**Bog Turtle**

The bog turtle is New York's smallest turtle, reaching a maximum length of 4.5 inches. It is one of seventeen species of turtles found in New York State, including marine turtles. A bright yellow or orange blotch on each side of its head and neck are a distinctive feature of this species. The bog turtle is generally found in open, early successional types of habitats such as wet meadows or open calcareous boggy areas generally dominated by sedges or sphagnum moss. In New York, the bog turtle emerges from hibernation often spent in an abandoned muskrat lodge or other burrow, by mid-April. In New York, bog turtles often hibernate communally with other bog turtles and with spotted turtles (*Clemmys guttata*). Generally, both the air and water temperature must exceed 50 degrees F for the turtle to become active. Mating occurs primarily in the spring but may also occur in the fall and may be focused in or near the hibernaculum (winter shelter). In early to mid-June, a clutch of two to four eggs is laid in a nest, which is generally located inside the upper part of an unshaded tussock. The eggs hatch around mid-September. Some young turtles spend the winter in the nest, emerging the following spring. The adults enter hibernation in late October.

The project does require minor shallow excavations of existing stream channel for removal of debris and improvement of flow (Attachment 1 Figures 3 through 9) disturbance of
riverine wetland habitat in an urban setting. Considering the urban setting, the limited construction activities and the current site conditions GOSR has made a no effect determination for the Bog Turtle.

**Small Whorled Pogonia**

The Small Whorled Pogonia (*Istoria medgolides*) is an herbaceous perennial with slender, hairy, fibrous roots that radiate from a crown or rootstock. In the genus *Isotria*, over wintering buds for the next year’s shoot form on the rootstock at ground level in robust plants and beneath the soil surface on most smaller plants. The five or six leaves of *Isotria* plants (or four leaves in some vegetative plants) display themselves in a circular arrangement (false whorl) at the apex of a robust, smooth, hollow stem. A single flower, or flower pair, stands in the center of the whorl of leaves. The sepals are outwardly spreading, and the overall shape of the *Isotria* flower superficially resembles a typical Easter corsage orchid; however, in the *Isotria* species two lateral petals point forward above the lip, and the petals and sepals are narrower than the typical orchid. The three sepals of the flower are more or less equal in length, the attribute for which the genus received its name (isos, equal; treis, three) (Fernald 1950).

The small whorled pogonia occurs on upland sites in mixed-deciduous or mixed deciduous/coniferous forests that are generally in second- or third-growth successional stages. Characteristics common to most *Istoria medeoloides* sites include sparse to moderate ground cover in the species’ microhabitat, a relatively open understory canopy, and proximity to features that create long persisting breaks in the forest canopy. Soils at most sites are highly acidic and nutrient poor, with moderately high soil moisture values (USFWS, 1992). The project location is not a typical of the habitat of the small whorled pogonia. The project will occur in an urbanized open stormwater brook (Monhagen Brook) and a closed structurally controlled former stream channel (Draper Brook). Given the habitats at the project location GOSR has made a no effect determination for the Small Whorled Pogonia.

**Migratory Bird Treaty Act**

According to the USFWS IPaC Trust Resource Report, there are several migratory birds of concern that could potentially be affected by the proposed project. The project takes place within the Atlantic Flyway. The proposed project involves construction of flood protection and rehabilitation of existing culverts, and storm drainage structures, and does not involve areas that provide a suitable habitat for breeding or nesting. It has been determined that this phase of the project would have no significant adverse impact on migratory birds or their habitat.

**Bald and Golden Eagle Protection Act**

The proposed project involves construction of flood protection and rehabilitation of existing culverts, and storm drainage structures. All work is expected to take place within the stream and adjacent areas. Considering the limited area to be disturbed and the nature of the trees and vegetation, the project does not involve areas that provide a suitable habitat
for breeding or nesting and therefore, GOSR has made a no effect determination for the Bald Eagle.

3.0 Conclusions

GOSR is submitting the above information to request acknowledgement from USFWS that they have no objections to the GOSR’s no effect determination for the Indiana Bat, the Dwarf Wedgemussel, the Norther Long Eared Bat, the Bog Turtle, the Small Whorled Pogonia and Bald Eagle.

GOSR further determines that the proposed project will have no significant adverse impact on migratory birds.

GOSR requests your concurrence with this determination. If USFWS does not respond within 30 days from submittal of this letter, then GOSR may presume that its determination for each project is informed by the best available information and its project responsibilities under Section 7 of the ESA have been fulfilled. GOSR understands that the USFWS presumes that all activities will be implemented as described herein. GOSR will promptly report any departures from the described activities to the New York Field Office.

If you have questions or require additional information regarding this request, please contact me at (518) 474-0647 or Alicia.Shultz@nyshcr.org. Thank you for your time and consideration.

Sincerely,

Alicia Shultz
Senior Environmental Scientist
Bureau of Environmental Review and Assessment
Governor’s Office of Storm Recovery
38-40 State Street
Albany, NY 12207

Attachments:  Attachment 1 – Project Location Maps and Aerials Figures 1 through 9  Attachment 2 – IPaC Trust Resource Report  Attachment 3 – Cover of Feasibility with Photographs of Work Areas

Literature Cited


Federal Register. April 17, 1989, Volume 54, Number 72 page 15237.


ATTACHMENT 1

PROJECT LOCATION FIGURES
AND
AERIAL LOCATION FIGURES
FIGURE 1
Monhagen Brook Culvert Project

The New York Department of State (DOS) gives no warranty, expressed or implied, as to the accuracy, reliability, or completeness of data shown on this map product. DOS does not assume responsibility for the use or application of any information represented on this map nor responsibility for any error, omission or other discrepancy between the electronic and printed versions of documents.

FIGURE 2
PROJECT LOCATION TOPOGRAPHIC MAP
NOTES:
1. STATIONING SHOWN HERE IS APPROXIMATE AND FOR REFERENCE PURPOSES ONLY.
2. ACCESS OPENINGS ARE NOT TO SCALE.
3. PROPERTY BOUNDARIES SHOWN HERE ARE FROM ORANGE COUNTY GEOGRAPHIC INFORMATION SYSTEM AND ARE APPROXIMATE.

FIGURE 4
Wisner Ave Segment

1" = 100'
SPOT REPAIRS / REHABILITATION / REPLACEMENT

FIGURE 5
FIGURE 7

NOTES:
1. STATIONING SHOWN HERE IS APPROXIMATE AND FOR REFERENCE PURPOSES ONLY.
2. ACCESS OPENINGS ARE NOT TO SCALE.
3. PROPERTY BOUNDARIES SHOWN HERE ARE FROM ORANGE COUNTY GEOGRAPHIC INFORMATION SYSTEMS AND ARE APPROXIMATE.
DOROTHY DIX DRIVE
17' WIDE x 7' HIGH
THREE SIDED CULVERT

WEST MAIN STREET
69+00
72+00
75+00
78+00

BRIDGE REPLACEMENT

SBL: 28-1-1
SBL: 28-6-1.2
SBL: 28-3-9.2

NOTES:
1. STATIONING SHOWN HERE IS APPROXIMATE AND FOR REFERENCE PURPOSES ONLY.
2. ACCESS OPENINGS ARE NOT TO SCALE.
3. PROPERTY BOUNDARIES SHOWN HERE ARE FROM ORANGE COUNTY GEOGRAPHIC INFORMATION SYSTEMS AND ARE APPROXIMATE.

FIGURE 9
ATTACHMENT 2

IPaC TRUST RESOURCE REPORT
IPaC resource list

This report is an automatically generated list of species and other resources such as critical habitat (collectively referred to as trust resources) under the U.S. Fish and Wildlife Service's (USFWS) jurisdiction that are known or expected to be on or near the project area referenced below. The list may also include trust resources that occur outside of the project area, but that could potentially be directly or indirectly affected by activities in the project area. However, determining the likelihood and extent of effects a project may have on trust resources typically requires gathering additional site-specific (e.g., vegetation/species surveys) and project-specific (e.g., magnitude and timing of proposed activities) information.

Below is a summary of the project information you provided and contact information for the USFWS office(s) with jurisdiction in the defined project area. Please read the introduction to each section that follows (Endangered Species, Migratory Birds, USFWS Facilities, and NWI Wetlands) for additional information applicable to the trust resources addressed in that section.

Location
Orange County, New York

Local office
New York Ecological Services Field Office

(607) 753-9334
(607) 753-9699
3817 Luker Road
Cortland, NY 13045-9385

http://www.fws.gov/northeast/nyfo/es/section7.htm
Endangered species

This resource list is for informational purposes only and does not constitute an analysis of project level impacts.

The primary information used to generate this list is the known or expected range of each species. Additional areas of influence (AOI) for species are also considered. An AOI includes areas outside of the species range if the species could be indirectly affected by activities in that area (e.g., placing a dam upstream of a fish population, even if that fish does not occur at the dam site, may indirectly impact the species by reducing or eliminating water flow downstream). Because species can move, and site conditions can change, the species on this list are not guaranteed to be found on or near the project area. To fully determine any potential effects to species, additional site-specific and project-specific information is often required.

Section 7 of the Endangered Species Act requires Federal agencies to "request of the Secretary information whether any species which is listed or proposed to be listed may be present in the area of such proposed action" for any project that is conducted, permitted, funded, or licensed by any Federal agency. A letter from the local office and a species list which fulfills this requirement can only be obtained by requesting an official species list from either the Regulatory Review section in IPaC (see directions below) or from the local field office directly.

For project evaluations that require USFWS concurrence/review, please return to the IPaC website and request an official species list by doing the following:

1. Draw the project location and click CONTINUE.
2. Click DEFINE PROJECT.
3. Log in (if directed to do so).
4. Provide a name and description for your project.
5. Click REQUEST SPECIES LIST.

Listed species and their critical habitats are managed by the Ecological Services Program of the U.S. Fish and Wildlife Service (USFWS) and the fisheries division of the National Oceanic and Atmospheric Administration (NOAA Fisheries).

Species and critical habitats under the sole responsibility of NOAA Fisheries are not shown on this list. Please contact NOAA Fisheries for species under their jurisdiction.

1. Species listed under the Endangered Species Act are threatened or endangered; IPaC also shows species that are candidates, or proposed, for listing. See the listing status page for more information.
2. NOAA Fisheries, also known as the National Marine Fisheries Service (NMFS), is an office of the National Oceanic and Atmospheric Administration within the Department of Commerce.

The following species are potentially affected by activities in this location:

Mammals

<table>
<thead>
<tr>
<th>NAME</th>
<th>STATUS</th>
</tr>
</thead>
</table>

1. Species listed under the Endangered Species Act are threatened or endangered; IPaC also shows species that are candidates, or proposed, for listing. See the listing status page for more information.
2. NOAA Fisheries, also known as the National Marine Fisheries Service (NMFS), is an office of the National Oceanic and Atmospheric Administration within the Department of Commerce.
Indiana Bat  Myotis sodalis  
There is final critical habitat for this species. Your location is outside the critical habitat.  
https://ecos.fws.gov/ecp/species/5949

Northern Long-eared Bat  Myotis septentrionalis  
No critical habitat has been designated for this species.  
https://ecos.fws.gov/ecp/species/9045

Reptiles

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Clams

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Flowering Plants

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<tbody>
<tr>
<td>Small Whorled Pogonia Isotria medeoloides</td>
<td>Threatened</td>
</tr>
</tbody>
</table>

Critical habitats

Potential effects to critical habitat(s) in this location must be analyzed along with the endangered species themselves.

THERE ARE NO CRITICAL HABITATS AT THIS LOCATION.

Migratory birds

Certain birds are protected under the Migratory Bird Treaty Act$^1$ and the Bald and Golden Eagle Protection Act$^2$. 

$^1$ Migratory Bird Treaty Act
$^2$ Bald and Golden Eagle Protection Act
Any person or organization who plans or conducts activities that may result in impacts to migratory birds, eagles, and their habitats should follow appropriate regulations and consider implementing appropriate conservation measures, as described below.

2. The Bald and Golden Eagle Protection Act of 1940.

Additional information can be found using the following links:


The birds listed below are birds of particular concern either because they occur on the USFWS Birds of Conservation Concern (BCC) list or warrant special attention in your project location. To learn more about the levels of concern for birds on your list and how this list is generated, see the FAQ below. This is not a list of every bird you may find in this location, nor a guarantee that every bird on this list will be found in your project area. To see exact locations of where birders and the general public have sighted birds in and around your project area, visit the E-bird data mapping tool (Tip: enter your location, desired date range and a species on your list). For projects that occur off the Atlantic Coast, additional maps and models detailing the relative occurrence and abundance of bird species on your list are available. Links to additional information about Atlantic Coast birds, and other important information about your migratory bird list, including how to properly interpret and use your migratory bird report, can be found below.

For guidance on when to schedule activities or implement avoidance and minimization measures to reduce impacts to migratory birds on your list, click on the PROBABILITY OF PRESENCE SUMMARY at the top of your list to see when these birds are most likely to be present and breeding in your project area.

<table>
<thead>
<tr>
<th>NAME</th>
<th>BREEDING SEASON (IF A BREEDING SEASON IS INDICATED FOR A BIRD ON YOUR LIST, THE BIRD MAY BREED IN YOUR PROJECT AREA SOMETIME WITHIN THE TIMEFRAME SPECIFIED, WHICH IS A VERY LIBERAL ESTIMATE OF THE DATES INSIDE WHICH THE BIRD BREEDS ACROSS ITS ENTIRE RANGE. &quot;BREEDS ELSEWHERE&quot; INDICATES THAT THE BIRD DOES NOT LIKELY BREED IN YOUR PROJECT AREA.)</th>
</tr>
</thead>
<tbody>
<tr>
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</table>
Bald Eagle  Haliaeetus leucocephalus  
Breed Sep 1 to Aug 31
This is not a Bird of Conservation Concern (BCC) in this area, but warrants attention because of the Eagle Act or for potential susceptibilities in offshore areas from certain types of development or activities.
https://ecos.fws.gov/ecp/species/1626

Black-billed Cuckoo  Coccyzus erythropthalmus  
Breed May 15 to Oct 10
This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska.
https://ecos.fws.gov/ecp/species/9399

Black-capped Chickadee  Poecile atricapillus practicus  
Breed Apr 10 to Jul 31
This is a Bird of Conservation Concern (BCC) only in particular Bird Conservation Regions (BCRs) in the continental USA

Bobolink  Dolichonyx oryzivorus  
Breed May 20 to Jul 31
This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska.

Canada Warbler  Cardellina canadensis  
Breed May 20 to Aug 10
This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska.

Cerulean Warbler  Dendroica cerulea  
Breed Apr 27 to Jul 20
This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska.
https://ecos.fws.gov/ecp/species/2974

Eastern Whip-poor-will  Antrostomus vociferus  
Breed May 1 to Aug 20
This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska.

Golden Eagle  Aquila chrysaetos  
Breed elsewhere
This is not a Bird of Conservation Concern (BCC) in this area, but warrants attention because of the Eagle Act or for potential susceptibilities in offshore areas from certain types of development or activities.
https://ecos.fws.gov/ecp/species/1680

Golden-winged Warbler  Vermivora chrysoptera  
Breed May 1 to Jul 20
This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska.
https://ecos.fws.gov/ecp/species/8745
Probability of Presence Summary

The graphs below provide our best understanding of when birds of concern are most likely to be present in your project area. This information can be used to tailor and schedule your project activities to avoid or minimize impacts to birds. Please make sure you read and understand the FAQ “Proper Interpretation and Use of Your Migratory Bird Report” before using or attempting to interpret this report.

**Probability of Presence (≥)**

Each green bar represents the bird’s relative probability of presence in the 10km grid cell(s) your project overlaps during a particular week of the year. (A year is represented as 12 4-week months.) A taller bar indicates a higher probability of species presence. The survey effort (see below) can be used to establish a level of confidence in the presence score. One can have higher confidence in the presence score if the corresponding survey effort is also high.

How is the probability of presence score calculated? The calculation is done in three steps:

1. The probability of presence for each week is calculated as the number of survey events in the week where the species was detected divided by the total number of survey events for that week. For example, if in week 12 there were 20 survey events and the Spotted Towhee was found in 5 of them, the probability of presence of the Spotted Towhee in week 12 is 0.25.
2. To properly present the pattern of presence across the year, the relative probability of presence is calculated. This is the probability of presence divided by the maximum probability of presence across all weeks. For example, imagine the probability of presence in week 20 for the Spotted Towhee is 0.05, and that the probability of presence at week 12 (0.25) is the maximum of any week of the year. The relative probability of presence on week 12 is 0.25/0.25 = 1; at week 20 it is 0.05/0.25 = 0.2.
3. The relative probability of presence calculated in the previous step undergoes a statistical conversion so that all possible values fall between 0 and 10, inclusive. This is the probability of presence score.

To see a bar's probability of presence score, simply hover your mouse cursor over the bar.

**Breeding Season (○)**
Yellow bars denote a very liberal estimate of the time-frame inside which the bird breeds across its entire range. If there are no yellow bars shown for a bird, it does not breed in your project area.

**Survey Effort (Ⅰ)**
Vertical black lines superimposed on probability of presence bars indicate the number of surveys performed for that species in the 10km grid cell(s) your project area overlaps. The number of surveys is expressed as a range, for example, 33 to 64 surveys.

To see a bar's survey effort range, simply hover your mouse cursor over the bar.

**No Data (--)**
A week is marked as having no data if there were no survey events for that week.

**Survey Timeframe**
Surveys from only the last 10 years are used in order to ensure delivery of currently relevant information. The exception to this is areas off the Atlantic coast, where bird returns are based on all years of available data, since data in these areas is currently much more sparse.

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**Prairie Warbler**  
BCC Rangewide (CON) (This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska.)

**Rusty Blackbird**  
BCC Rangewide (CON) (This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska.)

**Wood Thrush**  
BCC Rangewide (CON) (This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska.)

**Yellow-bellied Sapsucker**  
BCC - BCR (This is a Bird of Conservation Concern (BCC) only in particular Bird Conservation Regions (BCRs) in the continental USA)

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**Tell me more about conservation measures I can implement to avoid or minimize impacts to migratory birds.**

**Nationwide Conservation Measures** describes measures that can help avoid and minimize impacts to all birds at any location year round. Implementation of these measures is particularly important when birds are most likely to occur in the project area. When birds may be breeding in the area, identifying the locations of any active nests and avoiding their destruction is a very helpful impact minimization measure. To see when birds are most likely to occur and be breeding in your project area, view the Probability of Presence Summary. **Additional measures** and/or **permits** may be advisable depending on the type of activity you are conducting and the type of infrastructure or bird species present on your project site.

**What does IPaC use to generate the migratory birds potentially occurring in my specified location?**

The Migratory Bird Resource List is comprised of USFWS **Birds of Conservation Concern (BCC)** and other species that may warrant special attention in your project location.

The migratory bird list generated for your project is derived from data provided by the **Avian Knowledge Network (AKN)**. The AKN data is based on a growing collection of **survey, banding, and citizen science datasets** and is queried and filtered to return a list of those birds reported as occurring in the 10km grid cell(s) which your project intersects, and that have been identified as warranting special attention because they are a BCC species in that area, an eagle (**Eagle Act** requirements may apply), or a species that has a particular vulnerability to offshore activities or development.

Again, the Migratory Bird Resource list includes only a subset of birds that may occur in your project area. It is not representative of all birds that may occur in your project area. To get a list of all birds potentially present in your project area, please visit the **E-bird Explore Data Tool**.
What does IPaC use to generate the probability of presence graphs for the migratory birds potentially occurring in my specified location?

The probability of presence graphs associated with your migratory bird list are based on data provided by the Avian Knowledge Network (AKN). This data is derived from a growing collection of survey, banding, and citizen science datasets.

Probability of presence data is continuously being updated as new and better information becomes available. To learn more about how the probability of presence graphs are produced and how to interpret them, go to the Probability of Presence Summary and then click on the "Tell me about these graphs" link.

How do I know if a bird is breeding, wintering, migrating or present year-round in my project area?

To see what part of a particular bird's range your project area falls within (i.e. breeding, wintering, migrating or year-round), you may refer to the following resources: The Cornell Lab of Ornithology All About Birds Bird Guide, or (if you are unsuccessful in locating the bird of interest there), the Cornell Lab of Ornithology Neotropical Birds guide. If a bird on your migratory bird species list has a breeding season associated with it, if that bird does occur in your project area, there may be nests present at some point within the timeframe specified. If "Breeds elsewhere" is indicated, then the bird likely does not breed in your project area.

What are the levels of concern for migratory birds?

Migratory birds delivered through IPaC fall into the following distinct categories of concern:

1. "BCC Rangewide" birds are Birds of Conservation Concern (BCC) that are of concern throughout their range anywhere within the USA (including Hawaii, the Pacific Islands, Puerto Rico, and the Virgin Islands);
2. "BCC - BCR" birds are BCCs that are of concern only in particular Bird Conservation Regions (BCRs) in the continental USA; and
3. "Non-BCC - Vulnerable" birds are not BCC species in your project area, but appear on your list either because of the Eagle Act requirements (for eagles) or (for non-eagles) potential susceptibilities in offshore areas from certain types of development or activities (e.g. offshore energy development or longline fishing).

Although it is important to try to avoid and minimize impacts to all birds, efforts should be made, in particular, to avoid and minimize impacts to the birds on this list, especially eagles and BCC species of rangewide concern. For more information on conservation measures you can implement to help avoid and minimize migratory bird impacts and requirements for eagles, please see the FAQs for these topics.

Details about birds that are potentially affected by offshore projects

For additional details about the relative occurrence and abundance of both individual bird species and groups of bird species within your project area off the Atlantic Coast, please visit the Northeast Ocean Data Portal. The Portal also offers data and information about other taxa besides birds that may be helpful to you in your project review. Alternately, you may download the bird model results files underlying the portal maps through the NOAA NCCOS Integrative Statistical Modeling and Predictive Mapping of Marine Bird Distributions and Abundance on the Atlantic Outer Continental Shelf project webpage.

Bird tracking data can also provide additional details about occurrence and habitat use throughout the year, including migration. Models relying on survey data may not include this information. For additional information on marine bird tracking data, see the Diving Bird Study and the nanotag studies or contact Caleb Spiegel or Pam Loring.

What if I have eagles on my list?

If your project has the potential to disturb or kill eagles, you may need to obtain a permit to avoid violating the Eagle Act should such impacts occur.
Proper Interpretation and Use of Your Migratory Bird Report

The migratory bird list generated is not a list of all birds in your project area, only a subset of birds of priority concern. To learn more about how your list is generated, and see options for identifying what other birds may be in your project area, please see the FAQ “What does IPaC use to generate the migratory birds potentially occurring in my specified location”. Please be aware this report provides the “probability of presence” of birds within the 10 km grid cell(s) that overlap your project; not your exact project footprint. On the graphs provided, please also look carefully at the survey effort (indicated by the black vertical bar) and for the existence of the “no data” indicator (a red horizontal bar). A high survey effort is the key component. If the survey effort is high, then the probability of presence score can be viewed as more dependable. In contrast, a low survey effort bar or no data bar means a lack of data and, therefore, a lack of certainty about presence of the species. This list is not perfect; it is simply a starting point for identifying what birds of concern have the potential to be in your project area, when they might be there, and if they might be breeding (which means nests might be present). The list helps you know what to look for to confirm presence, and helps guide you in knowing when to implement conservation measures to avoid or minimize potential impacts from your project activities, should presence be confirmed. To learn more about conservation measures, visit the FAQ “Tell me about conservation measures I can implement to avoid or minimize impacts to migratory birds” at the bottom of your migratory bird trust resources page.

Facilities

National Wildlife Refuge lands

Any activity proposed on lands managed by the National Wildlife Refuge system must undergo a 'Compatibility Determination' conducted by the Refuge. Please contact the individual Refuges to discuss any questions or concerns.

THERE ARE NO REFUGE LANDS AT THIS LOCATION.

Fish hatcheries

THERE ARE NO FISH HATCHERIES AT THIS LOCATION.

Wetlands in the National Wetlands Inventory

Impacts to NWI wetlands and other aquatic habitats may be subject to regulation under Section 404 of the Clean Water Act, or other State/Federal statutes.

For more information please contact the Regulatory Program of the local U.S. Army Corps of Engineers District.

Please note that the NWI data being shown may be out of date. We are currently working to update our NWI data set. We recommend you verify these results with a site visit to determine the actual extent of wetlands on site.
This location overlaps the following wetlands:

FRESHWATER EMERGENT WETLAND
   PEM1Ed
RIVERINE
   R3UBH
   R4SBC

A full description for each wetland code can be found at the National Wetlands Inventory website

Data limitations
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 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.

Data 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.

Data 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 advice of appropriate federal, state, or local agencies concerning specified agency regulatory programs and proprietary jurisdictions that may affect such activities.
ATTACHMENT 3

COVER OF FEASIBILITY STUDY
Monhagen Brook Culvert & Drainage Improvements Study
July 13, 2018

Prepared For:

CITY OF MIDDLETOWN, NY
16 James Street
Middletown, NY 10940
Attachment 8

Agricultural and NRCS Soil Resource Documents

New York State Agricultural Districts Map
USDA NRCS Soil Resource Report
USDA NRCS Farmland Classification Report
Custom Soil Resource Report for Orange County, New York

November 10, 2020
Preface

Soil surveys contain information that affects land use planning in survey areas. They highlight soil limitations that affect various land uses and provide information about the properties of the soils in the survey areas. Soil surveys are designed for many different users, including farmers, ranchers, foresters, agronomists, urban planners, community officials, engineers, developers, builders, and home buyers. Also, conservationists, teachers, students, and specialists in recreation, waste disposal, and pollution control can use the surveys to help them understand, protect, or enhance the environment.

Various land use regulations of Federal, State, and local governments may impose special restrictions on land use or land treatment. Soil surveys identify soil properties that are used in making various land use or land treatment decisions. The information is intended to help the land users identify and reduce the effects of soil limitations on various land uses. The landowner or user is responsible for identifying and complying with existing laws and regulations.

Although soil survey information can be used for general farm, local, and wider area planning, onsite investigation is needed to supplement this information in some cases. Examples include soil quality assessments (http://www.nrcs.usda.gov/wps/portal/nrcs/main/soils/health/) and certain conservation and engineering applications. For more detailed information, contact your local USDA Service Center (https://offices.sc.egov.usda.gov/locator/app?agency=nrcs) or your NRCS State Soil Scientist (http://www.nrcs.usda.gov/wps/portal/nrcs/detail/soils/contactus/?cid=nrcs142p2_053951).

Great differences in soil properties can occur within short distances. Some soils are seasonally wet or subject to flooding. Some are too unstable to be used as a foundation for buildings or roads. Clayey or wet soils are poorly suited to use as septic tank absorption fields. A high water table makes a soil poorly suited to basements or underground installations.

The National Cooperative Soil Survey is a joint effort of the United States Department of Agriculture and other Federal agencies, State agencies including the Agricultural Experiment Stations, and local agencies. The Natural Resources Conservation Service (NRCS) has leadership for the Federal part of the National Cooperative Soil Survey.

Information about soils is updated periodically. Updated information is available through the NRCS Web Soil Survey, the site for official soil survey information.

The U.S. Department of Agriculture (USDA) prohibits discrimination in all its programs and activities on the basis of race, color, national origin, age, disability, and where applicable, sex, marital status, familial status, parental status, religion, sexual orientation, genetic information, political beliefs, reprisal, or because all or a part of an individual's income is derived from any public assistance program. (Not all prohibited bases apply to all programs.) Persons with disabilities who require
alternative means for communication of program information (Braille, large print, audiotape, etc.) should contact USDA's TARGET Center at (202) 720-2600 (voice and TDD). To file a complaint of discrimination, write to USDA, Director, Office of Civil Rights, 1400 Independence Avenue, S.W., Washington, D.C. 20250-9410 or call (800) 795-3272 (voice) or (202) 720-6382 (TDD). USDA is an equal opportunity provider and employer.
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How Soil Surveys Are Made

Soil surveys are made to provide information about the soils and miscellaneous areas in a specific area. They include a description of the soils and miscellaneous areas and their location on the landscape and tables that show soil properties and limitations affecting various uses. Soil scientists observed the steepness, length, and shape of the slopes; the general pattern of drainage; the kinds of crops and native plants; and the kinds of bedrock. They observed and described many soil profiles. A soil profile is the sequence of natural layers, or horizons, in a soil. The profile extends from the surface down into the unconsolidated material in which the soil formed or from the surface down to bedrock. The unconsolidated material is devoid of roots and other living organisms and has not been changed by other biological activity.

Currently, soils are mapped according to the boundaries of major land resource areas (MLRAs). MLRAs are geographically associated land resource units that share common characteristics related to physiography, geology, climate, water resources, soils, biological resources, and land uses (USDA, 2006). Soil survey areas typically consist of parts of one or more MLRA.

The soils and miscellaneous areas in a survey area occur in an orderly pattern that is related to the geology, landforms, relief, climate, and natural vegetation of the area. Each kind of soil and miscellaneous area is associated with a particular kind of landform or with a segment of the landform. By observing the soils and miscellaneous areas in the survey area and relating their position to specific segments of the landform, a soil scientist develops a concept, or model, of how they were formed. Thus, during mapping, this model enables the soil scientist to predict with a considerable degree of accuracy the kind of soil or miscellaneous area at a specific location on the landscape.

Commonly, individual soils on the landscape merge into one another as their characteristics gradually change. To construct an accurate soil map, however, soil scientists must determine the boundaries between the soils. They can observe only a limited number of soil profiles. Nevertheless, these observations, supplemented by an understanding of the soil-vegetation-landscape relationship, are sufficient to verify predictions of the kinds of soil in an area and to determine the boundaries.

Soil scientists recorded the characteristics of the soil profiles that they studied. They noted soil color, texture, size and shape of soil aggregates, kind and amount of rock fragments, distribution of plant roots, reaction, and other features that enable them to identify soils. After describing the soils in the survey area and determining their properties, the soil scientists assigned the soils to taxonomic classes (units). Taxonomic classes are concepts. Each taxonomic class has a set of soil characteristics with precisely defined limits. The classes are used as a basis for comparison to classify soils systematically. Soil taxonomy, the system of taxonomic classification used in the United States, is based mainly on the kind and character of soil properties and the arrangement of horizons within the profile. After the soil
scientists classified and named the soils in the survey area, they compared the individual soils with similar soils in the same taxonomic class in other areas so that they could confirm data and assemble additional data based on experience and research.

The objective of soil mapping is not to delineate pure map unit components; the objective is to separate the landscape into landforms or landform segments that have similar use and management requirements. Each map unit is defined by a unique combination of soil components and/or miscellaneous areas in predictable proportions. Some components may be highly contrasting to the other components of the map unit. The presence of minor components in a map unit in no way diminishes the usefulness or accuracy of the data. The delineation of such landforms and landform segments on the map provides sufficient information for the development of resource plans. If intensive use of small areas is planned, onsite investigation is needed to define and locate the soils and miscellaneous areas.

Soil scientists make many field observations in the process of producing a soil map. The frequency of observation is dependent upon several factors, including scale of mapping, intensity of mapping, design of map units, complexity of the landscape, and experience of the soil scientist. Observations are made to test and refine the soil-landscape model and predictions and to verify the classification of the soils at specific locations. Once the soil-landscape model is refined, a significantly smaller number of measurements of individual soil properties are made and recorded. These measurements may include field measurements, such as those for color, depth to bedrock, and texture, and laboratory measurements, such as those for content of sand, silt, clay, salt, and other components. Properties of each soil typically vary from one point to another across the landscape.

Observations for map unit components are aggregated to develop ranges of characteristics for the components. The aggregated values are presented. Direct measurements do not exist for every property presented for every map unit component. Values for some properties are estimated from combinations of other properties.

While a soil survey is in progress, samples of some of the soils in the area generally are collected for laboratory analyses and for engineering tests. Soil scientists interpret the data from these analyses and tests as well as the field-observed characteristics and the soil properties to determine the expected behavior of the soils under different uses. Interpretations for all of the soils are field tested through observation of the soils in different uses and under different levels of management. Some interpretations are modified to fit local conditions, and some new interpretations are developed to meet local needs. Data are assembled from other sources, such as research information, production records, and field experience of specialists. For example, data on crop yields under defined levels of management are assembled from farm records and from field or plot experiments on the same kinds of soil.

Predictions about soil behavior are based not only on soil properties but also on such variables as climate and biological activity. Soil conditions are predictable over long periods of time, but they are not predictable from year to year. For example, soil scientists can predict with a fairly high degree of accuracy that a given soil will have a high water table within certain depths in most years, but they cannot predict that a high water table will always be at a specific level in the soil on a specific date.

After soil scientists located and identified the significant natural bodies of soil in the survey area, they drew the boundaries of these bodies on aerial photographs and
identified each as a specific map unit. Aerial photographs show trees, buildings, fields, roads, and rivers, all of which help in locating boundaries accurately.
Soil Map

The soil map section includes the soil map for the defined area of interest, a list of soil map units on the map and extent of each map unit, and cartographic symbols displayed on the map. Also presented are various metadata about data used to produce the map, and a description of each soil map unit.
The soil surveys that comprise your AOI were mapped at 1:15,800.

Warning: Soil Map may not be valid at this scale.

Enlargement of maps beyond the scale of mapping can cause misunderstanding of the detail of mapping and accuracy of soil line placement. The maps do not show the small areas of contrasting soils that could have been shown at a more detailed scale.

Please rely on the bar scale on each map sheet for map measurements.

Source of Map: Natural Resources Conservation Service
Web Soil Survey URL: 
Coordinate System: Web Mercator (EPSG:3857)

Maps from the Web Soil Survey are based on the Web Mercator projection, which preserves direction and shape but distorts distance and area. A projection that preserves area, such as the Albers equal-area conic projection, should be used if more accurate calculations of distance or area are required.

This product is generated from the USDA-NRCS certified data as of the version date(s) listed below.

Soil Survey Area: Orange County, New York
Survey Area Data: Version 21, Jun 11, 2020

Soil map units are labeled (as space allows) for map scales 1:50,000 or larger.

Data(s) aerial images were photographed: Data not available.

The orthophoto or other base map on which the soil lines were compiled and digitized probably differs from the background imagery displayed on these maps. As a result, some minor shifting of map unit boundaries may be evident.
Map Unit Legend

<table>
<thead>
<tr>
<th>Map Unit Symbol</th>
<th>Map Unit Name</th>
<th>Acres in AOI</th>
<th>Percent of AOI</th>
</tr>
</thead>
<tbody>
<tr>
<td>ErB</td>
<td>Erie gravelly silt loam, 3 to 8 percent slopes</td>
<td>0.0</td>
<td>1.9%</td>
</tr>
<tr>
<td>MdB</td>
<td>Mardin gravelly silt loam, 3 to 8 percent slopes</td>
<td>0.4</td>
<td>98.1%</td>
</tr>
<tr>
<td><strong>Totals for Area of Interest</strong></td>
<td></td>
<td><strong>0.4</strong></td>
<td><strong>100.0%</strong></td>
</tr>
</tbody>
</table>

Map Unit Descriptions

The map units delineated on the detailed soil maps in a soil survey represent the soils or miscellaneous areas in the survey area. The map unit descriptions, along with the maps, can be used to determine the composition and properties of a unit.

A map unit delineation on a soil map represents an area dominated by one or more major kinds of soil or miscellaneous areas. A map unit is identified and named according to the taxonomic classification of the dominant soils. Within a taxonomic class there are precisely defined limits for the properties of the soils. On the landscape, however, the soils are natural phenomena, and they have the characteristic variability of all natural phenomena. Thus, the range of some observed properties may extend beyond the limits defined for a taxonomic class. Areas of soils of a single taxonomic class rarely, if ever, can be mapped without including areas of other taxonomic classes. Consequently, every map unit is made up of the soils or miscellaneous areas for which it is named and some minor components that belong to taxonomic classes other than those of the major soils.

Most minor soils have properties similar to those of the dominant soil or soils in the map unit, and thus they do not affect use and management. These are called noncontrasting, or similar, components. They may or may not be mentioned in a particular map unit description. Other minor components, however, have properties and behavioral characteristics divergent enough to affect use or to require different management. These are called contrasting, or dissimilar, components. They generally are in small areas and could not be mapped separately because of the scale used. Some small areas of strongly contrasting soils or miscellaneous areas are identified by a special symbol on the maps. If included in the database for a given area, the contrasting minor components are identified in the map unit descriptions along with some characteristics of each. A few areas of minor components may not have been observed, and consequently they are not mentioned in the descriptions, especially where the pattern was so complex that it was impractical to make enough observations to identify all the soils and miscellaneous areas on the landscape.

The presence of minor components in a map unit in no way diminishes the usefulness or accuracy of the data. The objective of mapping is not to delineate pure taxonomic classes but rather to separate the landscape into landforms or landform segments that have similar use and management requirements. The delineation of such segments on the map provides sufficient information for the development of resource plans. If intensive use of small areas is planned, however,
onsite investigation is needed to define and locate the soils and miscellaneous areas.

An identifying symbol precedes the map unit name in the map unit descriptions. Each description includes general facts about the unit and gives important soil properties and qualities.

Soils that have profiles that are almost alike make up a soil series. Except for differences in texture of the surface layer, all the soils of a series have major horizons that are similar in composition, thickness, and arrangement.

Soils of one series can differ in texture of the surface layer, slope, stoniness, salinity, degree of erosion, and other characteristics that affect their use. On the basis of such differences, a soil series is divided into soil phases. Most of the areas shown on the detailed soil maps are phases of soil series. The name of a soil phase commonly indicates a feature that affects use or management. For example, Alpha silt loam, 0 to 2 percent slopes, is a phase of the Alpha series.

Some map units are made up of two or more major soils or miscellaneous areas. These map units are complexes, associations, or undifferentiated groups.

A complex consists of two or more soils or miscellaneous areas in such an intricate pattern or in such small areas that they cannot be shown separately on the maps. The pattern and proportion of the soils or miscellaneous areas are somewhat similar in all areas. Alpha-Beta complex, 0 to 6 percent slopes, is an example.

An association is made up of two or more geographically associated soils or miscellaneous areas that are shown as one unit on the maps. Because of present or anticipated uses of the map units in the survey area, it was not considered practical or necessary to map the soils or miscellaneous areas separately. The pattern and relative proportion of the soils or miscellaneous areas are somewhat similar. Alpha-Beta association, 0 to 2 percent slopes, is an example.

An undifferentiated group is made up of two or more soils or miscellaneous areas that could be mapped individually but are mapped as one unit because similar interpretations can be made for use and management. The pattern and proportion of the soils or miscellaneous areas in a mapped area are not uniform. An area can be made up of only one of the major soils or miscellaneous areas, or it can be made up of all of them. Alpha and Beta soils, 0 to 2 percent slopes, is an example.

Some surveys include miscellaneous areas. Such areas have little or no soil material and support little or no vegetation. Rock outcrop is an example.
Orange County, New York

ErB—Erie gravelly silt loam, 3 to 8 percent slopes

Map Unit Setting

- **National map unit symbol:** 9vv9
- **Elevation:** 100 to 1,390 feet
- **Mean annual precipitation:** 42 to 52 inches
- **Mean annual air temperature:** 46 to 52 degrees F
- **Frost-free period:** 135 to 215 days
- **Farmland classification:** Farmland of statewide importance

Map Unit Composition

- **Erie and similar soils:** 80 percent
- **Minor components:** 20 percent
- Estimates are based on observations, descriptions, and transects of the mapunit.

Description of Erie

Setting

- **Landform:** Till plains, drumlinoid ridges, hills
- **Landform position (two-dimensional):** Footslope, summit
- **Landform position (three-dimensional):** Base slope
- **Down-slope shape:** Concave
- **Across-slope shape:** Linear
- **Parent material:** Loamy till derived from siltstone, sandstone, shale, and limestone

Typical profile

H1 - 0 to 9 inches: gravelly silt loam
H2 - 9 to 18 inches: channery silt loam
H3 - 18 to 54 inches: channery silt loam
H4 - 54 to 70 inches: channery silt loam

Properties and qualities

- **Slope:** 3 to 8 percent
- **Depth to restrictive feature:** 10 to 21 inches to fragipan
- **Drainage class:** Somewhat poorly drained
- **Capacity of the most limiting layer to transmit water (Ksat):** Moderately low to moderately high (0.06 to 0.20 in/hr)
- **Depth to water table:** About 6 to 18 inches
- **Frequency of flooding:** None
- **Frequency of ponding:** None
- **Calcium carbonate, maximum content:** 15 percent
- **Available water capacity:** Very low (about 2.4 inches)

Interpretive groups

- **Land capability classification (irrigated):** None specified
- **Land capability classification (nonirrigated):** 3w
- **Hydrologic Soil Group:** D
- **Ecological site:** F144AY037MA - Moist Dense Till Uplands
- **Hydric soil rating:** No

Minor Components

- **Bath**
  - **Percent of map unit:** 5 percent
Hydric soil rating: No

**Mardin**
Percent of map unit: 5 percent
Hydric soil rating: No

**Alden**
Percent of map unit: 5 percent
Landform: Depressions
Hydric soil rating: Yes

**Wurtsboro**
Percent of map unit: 5 percent
Hydric soil rating: No

---

**MdB—Mardin gravelly silt loam, 3 to 8 percent slopes**

**Map Unit Setting**
National map unit symbol: 2v30j
Elevation: 330 to 2,460 feet
Mean annual precipitation: 31 to 70 inches
Mean annual air temperature: 39 to 52 degrees F
Frost-free period: 105 to 180 days
Farmland classification: Farmland of statewide importance

**Map Unit Composition**
Mardin and similar soils: 85 percent
Minor components: 15 percent
Estimates are based on observations, descriptions, and transects of the map unit.

**Description of Mardin**

**Setting**
Landform: Hills, mountains
Landform position (two-dimensional): Summit, shoulder
Landform position (three-dimensional): Interfluve, side slope
Down-slope shape: Convex
Across-slope shape: Convex
Parent material: Loamy till

**Typical profile**
Ap - 0 to 8 inches: gravelly silt loam
Bw - 8 to 15 inches: gravelly silt loam
E - 15 to 20 inches: gravelly silt loam
Bx - 20 to 72 inches: gravelly silt loam

**Properties and qualities**
Slope: 3 to 8 percent
Surface area covered with cobbles, stones or boulders: 0.0 percent
Depth to restrictive feature: 14 to 26 inches to fragipan
Drainage class: Moderately well drained
Capacity of the most limiting layer to transmit water (Ksat): Very low to moderately low (0.00 to 0.14 in/hr)

Depth to water table: About 13 to 24 inches

Frequency of flooding: None

Frequency of ponding: None

Available water capacity: Low (about 3.6 inches)

Interpretive groups

- Land capability classification (irrigated): None specified
- Land capability classification (nonirrigated): 2w
- Hydrologic Soil Group: D
- Ecological site: F144AY008CT - Moist Till Uplands
- Hydric soil rating: No

Minor Components

Volusia

- Percent of map unit: 5 percent
- Landform: Hills, mountains
- Landform position (two-dimensional): Footslope, summit
- Landform position (three-dimensional): Base slope, interfluve, side slope
- Down-slope shape: Concave
- Across-slope shape: Linear
- Hydric soil rating: No

Bath

- Percent of map unit: 5 percent
- Landform: Hills, mountains
- Landform position (two-dimensional): Backslope, shoulder
- Landform position (three-dimensional): Interfluve, side slope
- Down-slope shape: Concave
- Across-slope shape: Linear
- Hydric soil rating: No

Lordstown

- Percent of map unit: 5 percent
- Landform: Mountains, hills
- Landform position (two-dimensional): Summit, shoulder
- Landform position (three-dimensional): Mountaintop, interfluve, crest
- Down-slope shape: Convex
- Across-slope shape: Convex
- Hydric soil rating: No
Soil Information for All Uses

Suitabilities and Limitations for Use

The Suitabilities and Limitations for Use section includes various soil interpretations displayed as thematic maps with a summary table for the soil map units in the selected area of interest. A single value or rating for each map unit is generated by aggregating the interpretive ratings of individual map unit components. This aggregation process is defined for each interpretation.

Land Classifications

Land Classifications are specified land use and management groupings that are assigned to soil areas because combinations of soil have similar behavior for specified practices. Most are based on soil properties and other factors that directly influence the specific use of the soil. Example classifications include ecological site classification, farmland classification, irrigated and nonirrigated land capability classification, and hydric rating.

Farmland Classification

Farmland classification identifies map units as prime farmland, farmland of statewide importance, farmland of local importance, or unique farmland. It identifies the location and extent of the soils that are best suited to food, feed, fiber, forage, and oilseed crops. NRCS policy and procedures on prime and unique farmlands are published in the "Federal Register," Vol. 43, No. 21, January 31, 1978.
### MAP LEGEND

- **Prime farmland if subsoiled, completely removing the root inhibiting soil layer**
- **Prime farmland if irrigated and reclaimed of excess salts and sodium**
- **Prime farmland if irrigated and either protected from flooding or not frequently flooded during the growing season**
- **Prime farmland if irrigated and either protected from flooding or not frequently flooded during the growing season**
- **Prime farmland if irrigated and drained**
- **Prime farmland if irrigated and either protected from flooding or not frequently flooded during the growing season**
- **Prime farmland if irrigated and the product of I (soil erodibility) x C (climate factor) does not exceed 60**
- **Farmland of statewide importance, if irrigated and reclaimed of excess salts and sodium**
- **Farmland of statewide importance, if irrigated and either protected from flooding or not frequently flooded during the growing season**
- **Farmland of statewide importance, if irrigated and protected from flooding or not frequently flooded during the growing season**
- **Farmland of statewide importance, if irrigated and drained**
- **Farmland of statewide importance, if irrigated and either protected from flooding or not frequently flooded during the growing season**
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- **Farmland of statewide importance, if irrigated and drained**
- **Farmland of statewide importance, if irrigated and either protected from flooding or not frequently flooded during the growing season**
- **Farmland of statewide importance, if irrigated and the product of I (soil erodibility) x C (climate factor) does not exceed 60**
- **Farmland of unique importance**
- **Not rated or not available**

### Soil Rating Lines

- **Not prime farmland**
- **All areas are prime farmland**
- **Prime farmland if drained**
- **Prime farmland if protected from flooding or not frequently flooded during the growing season**
- **Prime farmland if irrigated**
- **Prime farmland if drained and either protected from flooding or not frequently flooded during the growing season**
- **Prime farmland if irrigated and drained**
- **Prime farmland if irrigated and either protected from flooding or not frequently flooded during the growing season**

### Area of Interest (AOI)

- **Not prime farmland**
- **All areas are prime farmland**
- **Prime farmland if drained**
- **Prime farmland if protected from flooding or not frequently flooded during the growing season**
- **Prime farmland if irrigated**
- **Prime farmland if drained and either protected from flooding or not frequently flooded during the growing season**
- **Prime farmland if irrigated and drained**
- **Prime farmland if irrigated and either protected from flooding or not frequently flooded during the growing season**

### Soil Rating Polygons

- Not prime farmland
- All areas are prime farmland
- Prime farmland if drained
- Prime farmland if protected from flooding or not frequently flooded during the growing season
- Prime farmland if irrigated
- Prime farmland if drained and either protected from flooding or not frequently flooded during the growing season
- Prime farmland if irrigated and drained
- Prime farmland if irrigated and either protected from flooding or not frequently flooded during the growing season
<table>
<thead>
<tr>
<th>Farmland of statewide importance, if irrigated</th>
<th>Farmland of statewide importance, if irrigated and reclaimed of excess salts and sodium</th>
<th>Farmland of unique importance</th>
</tr>
</thead>
<tbody>
<tr>
<td>Farmland of statewide importance, if irrigated and reclaimed of excess salts and sodium</td>
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<td>Farmland of statewide importance, if irrigated and reclaimed of excess salts and sodium</td>
<td>Not rated or not available</td>
</tr>
</tbody>
</table>

**Soil Rating Points**

- Prime farmland if irrigated and the product of I (soil erodibility) x C (climate factor) does not exceed 60
- Prime farmland if irrigated and reclaimed of excess salts and sodium
- Farmland of statewide importance
- Farmland of statewide importance, if drained or either protected from flooding or not frequently flooded during the growing season
- Farmland of statewide importance, if warm enough, and either drained or either protected from flooding or not frequently flooded during the growing season
- Farmland of statewide importance, if warm enough
- Farmland of unique importance
- Not rated or not available
- All areas are prime farmland
- Prime farmland if drained
- Prime farmland if protected from flooding or not frequently flooded during the growing season
- Prime farmland if irrigated
- Prime farmland if drained and either protected from flooding or not frequently flooded during the growing season
- Prime farmland if irrigated and drained
- Farmland of statewide importance, if irrigated

**Custom Soil Resource Report**

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Farmland of statewide importance, if drained and either protected from flooding or not frequently flooded during the growing season

Farmland of statewide importance, if irrigated and drained

Farmland of statewide importance, if irrigated and either protected from flooding or not frequently flooded during the growing season

Farmland of statewide importance, if subsoiled, completely removing the root inhibiting soil layer

Farmland of statewide importance, if irrigated and the product of I (soil erodibility) x C (climate factor) does not exceed 60

Farmland of unique importance

Not rated or not available

Water Features

Streams and Canals

Transportation

Rails

Interstate Highways

US Routes

Major Roads

Local Roads

Background

Aerial Photography

The soil surveys that comprise your AOI were mapped at 1:15,800.

Warning: Soil Map may not be valid at this scale.

Enlargement of maps beyond the scale of mapping can cause misunderstanding of the detail of mapping and accuracy of soil line placement. The maps do not show the small areas of contrasting soils that could have been shown at a more detailed scale.

Please rely on the bar scale on each map sheet for map measurements.

Source of Map: Natural Resources Conservation Service

Web Soil Survey URL: Web Mercator (EPSG:3857)

Coordinate System: Web Mercator (EPSG:3857)

Maps from the Web Soil Survey are based on the Web Mercator projection, which preserves direction and shape but distorts distance and area. A projection that preserves area, such as the Albers equal-area conic projection, should be used if more accurate calculations of distance or area are required.

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Soil Survey Area: Orange County, New York

Survey Area Data: Version 21, Jun 11, 2020

Soil map units are labeled (as space allows) for map scales 1:50,000 or larger.

Date(s) aerial images were photographed: Data not available.

The orthophoto or other base map on which the soil lines were compiled and digitized probably differs from the background imagery displayed on these maps. As a result, some minor shifting of map unit boundaries may be evident.
### Table—Farmland Classification

<table>
<thead>
<tr>
<th>Map unit symbol</th>
<th>Map unit name</th>
<th>Rating</th>
<th>Acres in AOI</th>
<th>Percent of AOI</th>
</tr>
</thead>
<tbody>
<tr>
<td>ErB</td>
<td>Erie gravelly silt loam, 3 to 8 percent slopes</td>
<td>Farmland of statewide importance</td>
<td>0.0</td>
<td>1.9%</td>
</tr>
<tr>
<td>MdB</td>
<td>Mardin gravelly silt loam, 3 to 8 percent slopes</td>
<td>Farmland of statewide importance</td>
<td>0.4</td>
<td>98.1%</td>
</tr>
<tr>
<td><strong>Totals for Area of Interest</strong></td>
<td></td>
<td></td>
<td><strong>0.4</strong></td>
<td><strong>100.0%</strong></td>
</tr>
</tbody>
</table>

### Rating Options—Farmland Classification

*Aggregation Method:* No Aggregation Necessary  
*Tie-break Rule:* Lower
References


Custom Soil Resource Report for Orange County, New York

A product of the National Cooperative Soil Survey, a joint effort of the United States Department of Agriculture and other Federal agencies, State agencies including the Agricultural Experiment Stations, and local participants.
Preface

Soil surveys contain information that affects land use planning in survey areas. They highlight soil limitations that affect various land uses and provide information about the properties of the soils in the survey areas. Soil surveys are designed for many different users, including farmers, ranchers, foresters, agronomists, urban planners, community officials, engineers, developers, builders, and home buyers. Also, conservationists, teachers, students, and specialists in recreation, waste disposal, and pollution control can use the surveys to help them understand, protect, or enhance the environment.

Various land use regulations of Federal, State, and local governments may impose special restrictions on land use or land treatment. Soil surveys identify soil properties that are used in making various land use or land treatment decisions. The information is intended to help the land users identify and reduce the effects of soil limitations on various land uses. The landowner or user is responsible for identifying and complying with existing laws and regulations.

Although soil survey information can be used for general farm, local, and wider area planning, onsite investigation is needed to supplement this information in some cases. Examples include soil quality assessments (http://www.nrcs.usda.gov/wps/portal/nrcs/main/soils/health/) and certain conservation and engineering applications. For more detailed information, contact your local USDA Service Center (https://offices.sc.egov.usda.gov/locator/app?agency=nrcs) or your NRCS State Soil Scientist (http://www.nrcs.usda.gov/wps/portal/nrcs/detail/soils/contactus/?cid=nrcs142p2_053951).

Great differences in soil properties can occur within short distances. Some soils are seasonally wet or subject to flooding. Some are too unstable to be used as a foundation for buildings or roads. Clayey or wet soils are poorly suited to use as septic tank absorption fields. A high water table makes a soil poorly suited to basements or underground installations.

The National Cooperative Soil Survey is a joint effort of the United States Department of Agriculture and other Federal agencies, State agencies including the Agricultural Experiment Stations, and local agencies. The Natural Resources Conservation Service (NRCS) has leadership for the Federal part of the National Cooperative Soil Survey.

Information about soils is updated periodically. Updated information is available through the NRCS Web Soil Survey, the site for official soil survey information.

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How Soil Surveys Are Made

Soil surveys are made to provide information about the soils and miscellaneous areas in a specific area. They include a description of the soils and miscellaneous areas and their location on the landscape and tables that show soil properties and limitations affecting various uses. Soil scientists observed the steepness, length, and shape of the slopes; the general pattern of drainage; the kinds of crops and native plants; and the kinds of bedrock. They observed and described many soil profiles. A soil profile is the sequence of natural layers, or horizons, in a soil. The profile extends from the surface down into the unconsolidated material in which the soil formed or from the surface down to bedrock. The unconsolidated material is devoid of roots and other living organisms and has not been changed by other biological activity.

Currently, soils are mapped according to the boundaries of major land resource areas (MLRAs). MLRAs are geographically associated land resource units that share common characteristics related to physiography, geology, climate, water resources, soils, biological resources, and land uses (USDA, 2006). Soil survey areas typically consist of parts of one or more MLRA.

The soils and miscellaneous areas in a survey area occur in an orderly pattern that is related to the geology, landforms, relief, climate, and natural vegetation of the area. Each kind of soil and miscellaneous area is associated with a particular kind of landform or with a segment of the landform. By observing the soils and miscellaneous areas in the survey area and relating their position to specific segments of the landform, a soil scientist develops a concept, or model, of how they were formed. Thus, during mapping, this model enables the soil scientist to predict with a considerable degree of accuracy the kind of soil or miscellaneous area at a specific location on the landscape.

Commonly, individual soils on the landscape merge into one another as their characteristics gradually change. To construct an accurate soil map, however, soil scientists must determine the boundaries between the soils. They can observe only a limited number of soil profiles. Nevertheless, these observations, supplemented by an understanding of the soil-vegetation-landscape relationship, are sufficient to verify predictions of the kinds of soil in an area and to determine the boundaries.

Soil scientists recorded the characteristics of the soil profiles that they studied. They noted soil color, texture, size and shape of soil aggregates, kind and amount of rock fragments, distribution of plant roots, reaction, and other features that enable them to identify soils. After describing the soils in the survey area and determining their properties, the soil scientists assigned the soils to taxonomic classes (units). Taxonomic classes are concepts. Each taxonomic class has a set of soil characteristics with precisely defined limits. The classes are used as a basis for comparison to classify soils systematically. Soil taxonomy, the system of taxonomic classification used in the United States, is based mainly on the kind and character of soil properties and the arrangement of horizons within the profile. After the soil
scientists classified and named the soils in the survey area, they compared the individual soils with similar soils in the same taxonomic class in other areas so that they could confirm data and assemble additional data based on experience and research.

The objective of soil mapping is not to delineate pure map unit components; the objective is to separate the landscape into landforms or landform segments that have similar use and management requirements. Each map unit is defined by a unique combination of soil components and/or miscellaneous areas in predictable proportions. Some components may be highly contrasting to the other components of the map unit. The presence of minor components in a map unit in no way diminishes the usefulness or accuracy of the data. The delineation of such landforms and landform segments on the map provides sufficient information for the development of resource plans. If intensive use of small areas is planned, onsite investigation is needed to define and locate the soils and miscellaneous areas.

Soil scientists make many field observations in the process of producing a soil map. The frequency of observation is dependent upon several factors, including scale of mapping, intensity of mapping, design of map units, complexity of the landscape, and experience of the soil scientist. Observations are made to test and refine the soil-landscape model and predictions and to verify the classification of the soils at specific locations. Once the soil-landscape model is refined, a significantly smaller number of measurements of individual soil properties are made and recorded. These measurements may include field measurements, such as those for color, depth to bedrock, and texture, and laboratory measurements, such as those for content of sand, silt, clay, salt, and other components. Properties of each soil typically vary from one point to another across the landscape.

Observations for map unit components are aggregated to develop ranges of characteristics for the components. The aggregated values are presented. Direct measurements do not exist for every property presented for every map unit component. Values for some properties are estimated from combinations of other properties.

While a soil survey is in progress, samples of some of the soils in the area generally are collected for laboratory analyses and for engineering tests. Soil scientists interpret the data from these analyses and tests as well as the field-observed characteristics and the soil properties to determine the expected behavior of the soils under different uses. Interpretations for all of the soils are field tested through observation of the soils in different uses and under different levels of management. Some interpretations are modified to fit local conditions, and some new interpretations are developed to meet local needs. Data are assembled from other sources, such as research information, production records, and field experience of specialists. For example, data on crop yields under defined levels of management are assembled from farm records and from field or plot experiments on the same kinds of soil.

Predictions about soil behavior are based not only on soil properties but also on such variables as climate and biological activity. Soil conditions are predictable over long periods of time, but they are not predictable from year to year. For example, soil scientists can predict with a fairly high degree of accuracy that a given soil will have a high water table within certain depths in most years, but they cannot predict that a high water table will always be at a specific level in the soil on a specific date.

After soil scientists located and identified the significant natural bodies of soil in the survey area, they drew the boundaries of these bodies on aerial photographs and
identified each as a specific map unit. Aerial photographs show trees, buildings, fields, roads, and rivers, all of which help in locating boundaries accurately.
Soil Map

The soil map section includes the soil map for the defined area of interest, a list of soil map units on the map and extent of each map unit, and cartographic symbols displayed on the map. Also presented are various metadata about data used to produce the map, and a description of each soil map unit.
Custom Soil Resource Report
Soil Map

Soil Map may not be valid at this scale.

Map Scale: 1:290 if printed on A landscape (11" x 8.5") sheet.

Map projection: Web Mercator   Corner coordinates: WGS84   Edge tics: UTM Zone 18N WGS84
The soil surveys that comprise your AOI were mapped at 1:15,800.

Warning: Soil Map may not be valid at this scale.

Enlargement of maps beyond the scale of mapping can cause misunderstanding of the detail of mapping and accuracy of soil line placement. The maps do not show the small areas of contrasting soils that could have been shown at a more detailed scale.

Please rely on the bar scale on each map sheet for map measurements.

Source of Map: Natural Resources Conservation Service
Web Soil Survey URL: Coordinate System: Web Mercator (EPSG:3857)

Maps from the Web Soil Survey are based on the Web Mercator projection, which preserves direction and shape but distorts distance and area. A projection that preserves area, such as the Albers equal-area conic projection, should be used if more accurate calculations of distance or area are required.

This product is generated from the USDA-NRCS certified data as of the version date(s) listed below.

Soil Survey Area: Orange County, New York
Survey Area Data: Version 21, Jun 11, 2020

Soil map units are labeled (as space allows) for map scales 1:50,000 or larger.

Date(s) aerial images were photographed: Data not available.

The orthophoto or other base map on which the soil lines were compiled and digitized probably differs from the background imagery displayed on these maps. As a result, some minor shifting of map unit boundaries may be evident.
Map Unit Legend

<table>
<thead>
<tr>
<th>Map Unit Symbol</th>
<th>Map Unit Name</th>
<th>Acres in AOI</th>
<th>Percent of AOI</th>
</tr>
</thead>
<tbody>
<tr>
<td>ErB</td>
<td>Erie gravelly silt loam, 3 to 8 percent slopes</td>
<td>0.2</td>
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<td><strong>Totals for Area of Interest</strong></td>
<td></td>
<td><strong>0.2</strong></td>
<td><strong>100.0%</strong></td>
</tr>
</tbody>
</table>

Map Unit Descriptions

The map units delineated on the detailed soil maps in a soil survey represent the soils or miscellaneous areas in the survey area. The map unit descriptions, along with the maps, can be used to determine the composition and properties of a unit.

A map unit delineation on a soil map represents an area dominated by one or more major kinds of soil or miscellaneous areas. A map unit is identified and named according to the taxonomic classification of the dominant soils. Within a taxonomic class there are precisely defined limits for the properties of the soils. On the landscape, however, the soils are natural phenomena, and they have the characteristic variability of all natural phenomena. Thus, the range of some observed properties may extend beyond the limits defined for a taxonomic class. Areas of soils of a single taxonomic class rarely, if ever, can be mapped without including areas of other taxonomic classes. Consequently, every map unit is made up of the soils or miscellaneous areas for which it is named and some minor components that belong to taxonomic classes other than those of the major soils.

Most minor soils have properties similar to those of the dominant soil or soils in the map unit, and thus they do not affect use and management. These are called noncontrasting, or similar, components. They may or may not be mentioned in a particular map unit description. Other minor components, however, have properties and behavioral characteristics divergent enough to affect use or to require different management. These are called contrasting, or dissimilar, components. They generally are in small areas and could not be mapped separately because of the scale used. Some small areas of strongly contrasting soils or miscellaneous areas are identified by a special symbol on the maps. If included in the database for a given area, the contrasting minor components are identified in the map unit descriptions along with some characteristics of each. A few areas of minor components may not have been observed, and consequently they are not mentioned in the descriptions, especially where the pattern was so complex that it was impractical to make enough observations to identify all the soils and miscellaneous areas on the landscape.

The presence of minor components in a map unit in no way diminishes the usefulness or accuracy of the data. The objective of mapping is not to delineate pure taxonomic classes but rather to separate the landscape into landforms or landform segments that have similar use and management requirements. The delineation of such segments on the map provides sufficient information for the development of resource plans. If intensive use of small areas is planned, however, onsite investigation is needed to define and locate the soils and miscellaneous areas.
An identifying symbol precedes the map unit name in the map unit descriptions. Each description includes general facts about the unit and gives important soil properties and qualities.

Soils that have profiles that are almost alike make up a soil series. Except for differences in texture of the surface layer, all the soils of a series have major horizons that are similar in composition, thickness, and arrangement.

Soils of one series can differ in texture of the surface layer, slope, stoniness, salinity, degree of erosion, and other characteristics that affect their use. On the basis of such differences, a soil series is divided into soil phases. Most of the areas shown on the detailed soil maps are phases of soil series. The name of a soil phase commonly indicates a feature that affects use or management. For example, Alpha silt loam, 0 to 2 percent slopes, is a phase of the Alpha series.

Some map units are made up of two or more major soils or miscellaneous areas. These map units are complexes, associations, or undifferentiated groups.

A complex consists of two or more soils or miscellaneous areas in such an intricate pattern or in such small areas that they cannot be shown separately on the maps. The pattern and proportion of the soils or miscellaneous areas are somewhat similar in all areas. Alpha-Beta complex, 0 to 6 percent slopes, is an example.

An association is made up of two or more geographically associated soils or miscellaneous areas that are shown as one unit on the maps. Because of present or anticipated uses of the map units in the survey area, it was not considered practical or necessary to map the soils or miscellaneous areas separately. The pattern and relative proportion of the soils or miscellaneous areas are somewhat similar. Alpha-Beta association, 0 to 2 percent slopes, is an example.

An undifferentiated group is made up of two or more soils or miscellaneous areas that could be mapped individually but are mapped as one unit because similar interpretations can be made for use and management. The pattern and proportion of the soils or miscellaneous areas in a mapped area are not uniform. An area can be made up of only one of the major soils or miscellaneous areas, or it can be made up of all of them. Alpha and Beta soils, 0 to 2 percent slopes, is an example.

Some surveys include miscellaneous areas. Such areas have little or no soil material and support little or no vegetation. Rock outcrop is an example.
Orange County, New York

ErB—Erie gravelly silt loam, 3 to 8 percent slopes

Map Unit Setting

- National map unit symbol: 9vv9
- Elevation: 100 to 1,390 feet
- Mean annual precipitation: 42 to 52 inches
- Mean annual air temperature: 46 to 52 degrees F
- Frost-free period: 135 to 215 days
- Farmland classification: Farmland of statewide importance

Map Unit Composition

- Erie and similar soils: 80 percent
- Minor components: 20 percent
- Estimates are based on observations, descriptions, and transects of the mapunit.

Description of Erie

Setting

- Landform: Till plains, drumlinoid ridges, hills
- Landform position (two-dimensional): Footslope, summit
- Landform position (three-dimensional): Base slope
- Down-slope shape: Concave
- Across-slope shape: Linear
- Parent material: Loamy till derived from siltstone, sandstone, shale, and limestone

Typical profile

- H1 - 0 to 9 inches: gravelly silt loam
- H2 - 9 to 18 inches: channery silt loam
- H3 - 18 to 54 inches: channery silt loam
- H4 - 54 to 70 inches: channery silt loam

Properties and qualities

- Slope: 3 to 8 percent
- Depth to restrictive feature: 10 to 21 inches to fragipan
- Drainage class: Somewhat poorly drained
- Capacity of the most limiting layer to transmit water (Ksat): Moderately low to moderately high (0.06 to 0.20 in/hr)
- Depth to water table: About 6 to 18 inches
- Frequency of flooding: None
- Frequency of ponding: None
- Calcium carbonate, maximum content: 15 percent
- Available water capacity: Very low (about 2.4 inches)

Interpretive groups

- Land capability classification (irrigated): None specified
- Land capability classification (nonirrigated): 3w
- Hydrologic Soil Group: D
- Ecological site: F144AY037MA - Moist Dense Till Uplands
- Hydric soil rating: No

Minor Components

- Bath
  - Percent of map unit: 5 percent
Hydric soil rating: No

Mardin
Percent of map unit: 5 percent
Hydric soil rating: No

Alden
Percent of map unit: 5 percent
Landform: Depressions
Hydric soil rating: Yes

Wurtsboro
Percent of map unit: 5 percent
Hydric soil rating: No
Soil Information for All Uses

Suitabilities and Limitations for Use

The Suitabilities and Limitations for Use section includes various soil interpretations displayed as thematic maps with a summary table for the soil map units in the selected area of interest. A single value or rating for each map unit is generated by aggregating the interpretive ratings of individual map unit components. This aggregation process is defined for each interpretation.

Land Classifications

Land Classifications are specified land use and management groupings that are assigned to soil areas because combinations of soil have similar behavior for specified practices. Most are based on soil properties and other factors that directly influence the specific use of the soil. Example classifications include ecological site classification, farmland classification, irrigated and nonirrigated land capability classification, and hydric rating.

Farmland Classification

Farmland classification identifies map units as prime farmland, farmland of statewide importance, farmland of local importance, or unique farmland. It identifies the location and extent of the soils that are best suited to food, feed, fiber, forage, and oilseed crops. NRCS policy and procedures on prime and unique farmlands are published in the "Federal Register," Vol. 43, No. 21, January 31, 1978.
| Prime farmland if subsoiled, completely removing the root inhibiting soil layer |
| Prime farmland if irrigated and the product of I (soil erodibility) x C (climate factor) does not exceed 60 |
| Prime farmland if irrigated and reclaimed of excess salts and sodium |
| Farmland of statewide importance |
| Farmland of statewide importance, if drained |
| Farmland of statewide importance, if protected from flooding or not frequently flooded during the growing season |
| Farmland of statewide importance, if irrigated |
| Farmland of state-wide importance, if irrigated and drained |
| Farmland of state-wide importance, if irrigated and either protected from flooding or not frequently flooded during the growing season |
| Farmland of state-wide importance, if warm enough, and either drained or either protected from flooding or not frequently flooded during the growing season |
| Farmland of state-wide importance, if irrigated and the product of I (soil erodibility) x C (climate factor) does not exceed 60 |
| Farmland of unique importance |
| Not rated or not available |

**Soil Rating Points**

- Not prime farmland
- All areas are prime farmland
- Prime farmland if irrigated and drained
- Prime farmland if protected from flooding or not frequently flooded during the growing season
- Prime farmland if irrigated and drained
- Prime farmland if drained and either protected from flooding or not frequently flooded during the growing season
- Prime farmland if irrigated and drained and either protected from flooding or not frequently flooded during the growing season
- Farmland of statewide importance
- Farmland of statewide importance, if drained
- Farmland of statewide importance, if protected from flooding or not frequently flooded during the growing season
- Farmland of statewide importance, if irrigated
- Farmland of local importance
- Farmland of unique importance
- Not rated or not available
### Farmland of statewide importance, if drained and either protected from flooding or not frequently flooded during the growing season
- Farmland of statewide importance, if irrigated and drained
- Farmland of statewide importance, if irrigated and either protected from flooding or not frequently flooded during the growing season
- Farmland of statewide importance, if irrigated, completely removing the root inhibiting soil layer
- Farmland of statewide importance, if irrigated and the product of I (soil erodibility) x C (climate factor) does not exceed 60

### Water Features
- Streams and Canals

### Transportation
- Rails
- Interstate Highways
- US Routes
- Major Roads
- Local Roads

### Background
- Aerial Photography

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The soil surveys that comprise your AOI were mapped at 1:15,800.

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Please rely on the bar scale on each map sheet for map measurements.

**Source of Map:** Natural Resources Conservation Service

**Web Soil Survey URL:** [Web Mercator (EPSG:3857)](http://websoilsurvey.nrcs.usda.gov/)

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### Table—Farmland Classification

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<th>Map unit name</th>
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Totals for Area of Interest

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</table>

### Rating Options—Farmland Classification

*Aggregation Method:* No Aggregation Necessary

*Tie-break Rule:* Lower
References


Attachment 9

SHPO Documentation

SHPO Response
February 21, 2019

Alicia Shultz
Governor's Office of Storm Recovery
38 State Street
Albany, NY 11207

Re: GOSR/ HUD CDBG-DR/ Monhagen Brook Culvert Repairs:
Sterling and Genung Streets and Academy Avenue near Monhagen and Draper
Brooks, Middletown/ Orange County.
19PR01055

Dear Ms. Shultz:

Thank you for requesting the comments of the New York State Historic Preservation Office (SHPO). We have reviewed the submitted materials 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 other 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 on this review, it is the opinion of SHPO that there will be No Historic Properties Affected by the proposed undertaking.

If I can be of further assistance, please contact me at (518) 268-2187 Larry.moss@parks.ny.gov

Sincerely,

Larry K Moss, Historic Preservation Technical Specialist
Attachment 10

United States Army Corps of Engineers Nationwide Permit #3 and NYSDEC Blanket Water Quality Certification

United States Army Corps of Engineers Confirmation that Project is Consistent with Nationwide Permit #3 and Does Not Require Pre-Construction Notification
Final Regional Conditions, Water Quality Certification and Coastal Zone Concurrence for Nationwide Permit 3 – (Maintenance) within the New York District Regulatory Boundary in the State of New York
Expiration March 18, 2022

NOTE: This document is derived from the New York District Public Notice dated March 21, 2017, which listed all the Nationwide Permits (NWP) and their regional conditions for all of New York State. That document can be obtained from the New York District website, located at: http://www.nan.usace.army.mil/Missions/Regulatory/Nationwide-Permits/

This document focuses specifically on NWP 3 (Maintenance) and the regional conditions applicable to the counties within the New York District Corps of Engineers.

Table of Contents:

A. Nationwide Permits Index

B. Nationwide Permit 3 - Maintenance
   ➢ Specific NWP terms and notification requirements
   ➢ New York District Specific NWP Regional Conditions
   ➢ NYSDEC Specific NWP Water Quality Certification
   ➢ NYSDOS Specific NWP Coastal Zone Consistency Determination

C. Nationwide Permit General Conditions 1-32

D. District Engineer’s Decision

E. Further Information

F. Definitions

G. New York District Regional General Conditions A-F (applicable to all NWPs)

H. NYSDEC General Water Quality Conditions (applicable to all NWPs for which Water Quality Certification has been provided)

I. NYSDOS Coastal Zone Management Consistency Additional Information (applicable to all projects located within the NYS Coastal Zone)

J. Information on Nationwide Permit Verification

K. Agency Contact Information

ENCLOSURE 1: New York State Regulatory District Boundary Map

ENCLOSURE 2: NYC Water Supply – East of Hudson Watershed
A. Nationwide Permits Index:

1. Aids to Navigation
2. Structures in Artificial Canals
3. Maintenance
4. Fish and Wildlife Harvesting, Enhancement, and Attraction Devices and Activities
5. Scientific Measurement Devices
6. Survey Activities
7. Outfall Structures and Associated Intake Structures
8. Oil and Gas Structures on the Outer Continental Shelf
9. Structures in Fleeting and Anchorage Areas
10. Mooring Buoys
11. Temporary Recreational Structures
12. Utility Line Activities
13. Bank Stabilization
14. Linear Transportation Projects
15. U.S. Coast Guard Approved Bridges
16. Return Water From Upland Contained Disposal Areas
17. Hydropower Projects
18. Minor Discharges
19. Minor Dredging
20. Response Operations for Oil or Hazardous Substances
21. Surface Coal Mining Activities
22. Removal of Vessels
23. Approved Categorical Exclusions
24. Indian Tribe or State Administered Section 404 Programs
25. Structural Discharges
26. [Reserved]
27. Aquatic Habitat Restoration, Establishment, and Enhancement Activities
28. Modifications of Existing Marinas
29. Residential Developments
30. Moist Soil Management for Wildlife
31. Maintenance of Existing Flood Control Facilities
32. Completed Enforcement Actions
33. Temporary Construction, Access, and Dewatering
34. Cranberry Production Activities
35. Maintenance Dredging of Existing Basins
36. Boat Ramps
37. Emergency Watershed Protection and Rehabilitation
38. Cleanup of Hazardous and Toxic Waste
39. Commercial and Institutional Developments
40. Agricultural Activities
41. Reshaping Existing Drainage Ditches
42. Recreational Facilities
43. Stormwater Management Facilities
44. Mining Activities
45. Repair of Uplands Damaged by Discrete Events
46. Discharges in Ditches
47. [Reserved]
48. Commercial Shellfish Aquaculture Activities
49. Coal Remining Activities
50. Underground Coal Mining Activities
51. Land-Based Renewable Energy Generation Facilities
52. Water-Based Renewable Energy Generation Pilot Projects
53. Removal of Low-Head Dams
54. Living Shorelines
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. This NWP also authorizes the removal of previously authorized structures or fills. 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. This NWP also authorizes the removal of accumulated sediment and debris within, and in the immediate vicinity 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 outside the immediate vicinity of existing structures (e.g., bridges, culverted road crossings, water intake structures, etc.). 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.

(c) This NWP also authorizes temporary structures, fills, and work, including the use of temporary mats, 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. After conducting the maintenance activity, 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 32). The pre-construction notification must include information regarding the original design capacities and configurations of the outfalls, intakes, small impoundments, and canals. (Authorities: Section 10 of the Rivers and Harbors Act of 1899 and section 404 of the Clean Water Act (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.
Final Regional Conditions, Water Quality Certification and Coastal Zone Concurrence for Nationwide Permit 3 – (Maintenance) within the New York District Regulatory Boundary in the State of New York Expiration March 18, 2022

Permit-specific Regional Conditions:

a. The Nationwide General Permit Condition No. 32 – 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, excluding the placement of toe stone protection recommended/required by state/federal resource agencies (i.e. NYSDEC, NYSDOS, USFWS & USEPA), which 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).

c. Within Essential Fish Habitat as discussed in Section G-E.8. below, if any work is proposed within areas supporting anadromous fish migration and spawning, sediment removal and pile and sheet pile/cofferdam installation and removal shall be avoided from March 1 to June 30 of any year. Work within cofferdams can proceed any time during the year provided that the cofferdams are installed or removed outside of the seasonal work restriction. A PCN is required if a variance of this seasonal work window is requested.

d. Within Essential Fish Habitat, if any work is proposed within areas identified as EFH for winter flounder eggs and larvae, in-water work shall be avoided from January 15 to May 31 of any year. A PCN is required if a variance of this seasonal work window is requested.

e. Within Essential Fish Habitat, if any work is proposed within submerged aquatic vegetation (SAV) habitat or within 50 feet of SAV habitat, a PCN is required.

f. Within Essential Fish Habitat, if tide gate replacement or maintenance is proposed, tide gates shall be replaced with self-regulating tide gates that allow tidal flow and fish passage but can be set to close at a specified water level, unless it can be demonstrated that a self-regulating tide gate would not be practicable due to ecological or public safety reasons. A PCN is required for all tide gate replacements and maintenance in which a one-way gate is proposed. The PCN shall describe fully the existing conditions of the tide gate and the habitat upstream of the gate and include documentation of its condition, function and maintenance over the previous decade.

g. Within National Marine Fisheries Service (NMFS) Threatened, Endangered or Candidate (TE&C) habitat as discussed in Section G-E.8. below, any work that would generate turbidity or sedimentation shall be avoided from March 16 to October 31. A PCN is required if a variance of this seasonal work window is requested.

h. Within National Marine Fisheries Service (NMFS) Threatened, Endangered or Candidate (TE&C) habitat, any proposed pilings which would be steel or would exceed 12 inches in diameter shall require a PCN.

REMINDER TO APPLICANT: For projects involving culvert maintenance or replacement, please take particular note of the requirements of General Regional Conditions G-B.1 and
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B.2. below. For projects involving aerial transmission lines, note clearance requirements as
outlined in 33 CFR 322.5(i) (See NWP #12).

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 and 930.43, 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 USACE’ consistency determination for NWP 3 outside of tidal wetlands and within
the NYS Coastal Area where the activities to be authorized would: involve the repair/replacement in-place or
landward, with no waterward expansion or increase in footprint; or for those proposed within the artificial canals
identified by NYSDOS at: https://appext20.dos.ny.gov/coastal map public/map.aspx.

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. If a bottomless culvert cannot be used, then the crossing should be
designed and constructed to minimize adverse effects to aquatic life movements.
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 NWPs 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, storm water management activities, and temporary and permanent road crossings, 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, or during low tides.

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. (a) No NWP 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.

(b) If a proposed NWP activity will 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, the permittee must submit a pre-construction notification (see general condition 32). The district engineer will coordinate the PCN with the Federal agency with direct management responsibility for that river. The permittee shall not begin the NWP activity until notified by the district engineer that the Federal agency with direct management responsibility for that river has determined in writing that the proposed NWP activity will not adversely affect the Wild and Scenic River designation or study status.

(c) 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). Information on these rivers is also available at: http://www.rivers.gov/.

17. Tribal Rights. No NWP activity may cause more than minimal adverse effects on tribal rights (including treaty rights), protected tribal resources, or tribal lands.

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 ESA section 7 consultation addressing the effects of the proposed activity has been completed. Direct effects are the immediate effects on listed species and critical habitat caused by the NWP activity. Indirect effects are those effects on listed species and critical habitat that are caused by the NWP activity and are later in time, but still are reasonably certain to occur.

(b) Federal agencies should follow their own procedures for complying with the requirements of the ESA. If pre-construction notification is required for the proposed activity, the Federal permittee must provide the district engineer with the appropriate documentation to demonstrate compliance with those requirements. The district engineer will verify that the appropriate documentation has been submitted. If the appropriate documentation has not been submitted, additional ESA section 7 consultation may be necessary for the activity and the respective federal agency would be responsible for fulfilling its obligation under section 7 of the ESA.

(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 activity, or if the activity 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 activity or that utilize the designated critical habitat that might be affected by the proposed activity. 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 USACE 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 activity, and has so notified the Corps, the applicant shall not begin work until the Corps has provided notification that the proposed activity will have “no effect” on listed species or critical habitat, or until ESA 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.
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(d) As a result of formal or informal consultation with the FWS or NMFS the district engineer may add
species-specific permit conditions to the NWPs.

(e) Authorization of an activity by an 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 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) If the non-federal permittee has a valid ESA section 10(a)(1)(B) incidental take permit with an approved
Habitat Conservation Plan for a project or a group of projects that includes the proposed NWP activity, the non-
federal applicant should provide a copy of that ESA section 10(a)(1)(B) permit with the PCN required by paragraph
(c) of this general condition. The district engineer will coordinate with the agency that issued the ESA section
10(a)(1)(B) permit to determine whether the proposed NWP activity and the associated incidental take were
considered in the internal ESA section 7 consultation conducted for the ESA section 10(a)(1)(B) permit. If that
coordination results in concurrence from the agency that the proposed NWP activity and the associated incidental
take were considered in the internal ESA section 7 consultation for the ESA section 10(a)(1)(B) permit, the district
engineer does not need to conduct a separate ESA section 7 consultation for the proposed NWP activity. The
district engineer will notify the non-federal applicant within 45 days of receipt of a complete pre-construction
notification whether the ESA section 10(a)(1)(B) permit covers the proposed NWP activity or whether additional
ESA section 7 consultation is required.

(g) Information on the location of threatened and endangered species and their critical habitat can be
obtained directly from the offices of the FWS and NMFS or their world wide web pages at http://www.fws.gov/ or

19. Migratory Birds and Bald and Golden Eagles. The permittee is responsible for ensuring their action
complies with the Migratory Bird Treaty Act and the Bald and Golden Eagle Protection Act. The permittee is
responsible for contacting appropriate local office of the U.S. Fish and Wildlife Service to determine applicable
measures to reduce impacts to migratory birds or eagles, including whether “incidental take” permits are necessary
and available under the Migratory Bird Treaty Act or Bald and Golden Eagle Protection Act for a particular activity.

20. Historic Properties. (a) In cases where the district engineer determines that the activity may have the
potential to cause effects to 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. If pre-construction notification is required for the proposed NWP
activity, the Federal permittee must provide the district engineer with the appropriate documentation to demonstrate
compliance with those requirements. The district engineer will verify that the appropriate documentation has been
submitted. If the appropriate documentation is not submitted, then additional consultation under section 106 may be
necessary. The respective federal agency is responsible for fulfilling its obligation to comply with section 106.

(c) Non-federal permittees must submit a pre-construction notification to the district engineer if the NWP
activity might 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
might have the potential to be affected by the proposed NWP activity 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 properties can be sought from the State Historic Preservation Officer, Tribal Historic Preservation Officer, or designated tribal representative, 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 in the PCN and these identification efforts, the district engineer shall determine whether the proposed NWP activity has the potential to cause effects on the historic properties. Section 106 consultation is not required when the district engineer determines that the activity does not have the potential to cause effects on historic properties (see 36 CFR 800.3(a)). Section 106 consultation is required when the district engineer determines that the activity has the potential to cause effects on historic properties. The district engineer will conduct consultation with consulting parties identified under 36 CFR 800.2(c) when he or she makes any of the following effect determinations for the purposes of section 106 of the NHPA: no historic properties affected, no adverse effect, or adverse effect. Where the non-Federal applicant has identified historic properties on which the activity might 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 to historic properties or that NHPA section 106 consultation has been completed.

(d) For non-federal permittees, 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. If NHPA section 106 consultation is required, the district engineer will notify the non-Federal applicant that he or she cannot begin the activity 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 (54 U.S.C. 306113) 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.
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(a) Discharges of dredged or fill material into waters of the United States are not authorized by NWPs 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, 38, and 54, notification is required in accordance with general condition 32, 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 the individual and cumulative adverse environmental effects are no more than 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 individual and cumulative adverse environmental effects are no more than 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 environmental effects of the proposed activity are no more than minimal, and provides an activity-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 only minimal adverse environmental effects.

(d) For losses of streams or other open waters that require pre-construction notification, the district engineer may require compensatory mitigation to ensure that the activity results in no more than minimal adverse environmental effects. Compensatory mitigation for losses of streams should be provided, if practicable, through stream rehabilitation, enhancement, or preservation, since streams are difficult-to-replace resources (see 33 CFR 332.3(e)(3)).

(e) Compensatory mitigation plans for NWP activities in or near streams or other open waters will normally include a requirement for the restoration or enhancement, maintenance, and legal protection (e.g., conservation easements) of riparian areas next to open waters. In some cases, the restoration or maintenance/protection of riparian areas may be the only compensatory mitigation required. Restored 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 restore or maintain/protect a riparian area on both sides of a stream, or if the waterbody is a lake or coastal waters, then restoring or maintaining/protecting 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 minimization or compensatory mitigation, the district engineer may waive or reduce the requirement to provide wetland compensatory mitigation for wetland losses.

(f) 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 no more than minimal adverse environmental effects. For the NWPs, the preferred mechanism for providing compensatory mitigation is mitigation bank credits or in-lieu fee program credits (see 33 CFR 332.3(b)(2) and (3)). However, if an appropriate number and type of mitigation bank or in-lieu credits are not available at the time the PCN is submitted to the district engineer, the district engineer may approve the use of permittee-responsible mitigation.

(2) The amount of compensatory mitigation required by the district engineer must be sufficient to ensure that the authorized activity results in no more than minimal individual and cumulative adverse environmental effects (see 33 CFR 330.1(e)(3)). (See also 33 CFR 332.3(f)).

(3) Since the likelihood of success is greater and the impacts to potentially valuable uplands are reduced, aquatic resource restoration should be the first compensatory mitigation option considered for permittee-responsible mitigation.

(4) 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) through (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)).

(5) 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.

(6) 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 (see 33 CFR 332.4(c)(1)(ii)).

(g) 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 NWP activity 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 an NWP activity already meeting the established acreage limits also satisfies the no more than minimal impact requirement for the NWPs.

(h) Permittees may propose the use of mitigation banks, in-lieu fee programs, or permittee-responsible mitigation. When developing a compensatory mitigation proposal, the permittee must consider appropriate and practicable options consistent with the framework at 33 CFR 332.3(b). For activities resulting in the loss of marine or estuarine resources, permittee-responsible 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.

(i) Where certain functions and services of waters of the United States are permanently adversely affected by a regulated activity, such as discharges of dredged or fill material into waters of the United States that will convert 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 environmental effects of the activity to the no more than 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 implementation of 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 activity 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 activity and mitigation.

The completed certification document must be submitted to the district engineer within 30 days of completion of the authorized activity or the implementation of any required compensatory mitigation, whichever occurs later.

31. **Activities Affecting Structures or Works Built by the United States.** If an NWP activity also requires permission from the Corps pursuant to 33 U.S.C. 408 because it will alter or temporarily or permanently occupy or use a U.S. Army Corps of Engineers (USACE) federally authorized Civil Works project (a “USACE project”), the prospective permittee must submit a pre-construction notification. See paragraph (b)(10) of general condition 32. An activity that requires section 408 permission is not authorized by NWP until the appropriate Corps office issues the section 408 permission to alter, occupy, or use the USACE project, and the district engineer issues a written NWP verification.

32. **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 are in the vicinity of the activity, or to notify the Corps pursuant to general condition 20 that the activity might 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 Act (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 activity;

(3) Identify the specific NWP or NWP(s) the prospective permittee wants to use to authorize the proposed activity;

(4) A description of the proposed activity; the activity’s purpose; direct and indirect adverse environmental effects the activity would cause, including the anticipated amount of loss of wetlands, other special aquatic sites, and other waters expected to result from the NWP activity, in acres, linear feet, or other appropriate unit of measure; a description of any proposed mitigation measures intended to reduce the adverse environmental effects caused by the proposed activity; and 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, including other separate and distant crossings for linear projects that require Department of the Army authorization but do not require pre-construction notification. The description of the proposed activity and any proposed mitigation measures should be sufficiently detailed to allow the district engineer to determine that the adverse environmental effects of the activity will be no more than minimal and to determine the need for compensatory mitigation or other mitigation measures. For single and complete linear projects, the PCN must include the quantity of anticipated losses of wetlands, other special aquatic sites, and other waters for each single and complete crossing of those wetlands, other special aquatic sites, and other waters. Sketches should be provided when necessary to show that the activity complies with the terms of the NWP. (Sketches usually clarify the activity 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);

(5) 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 wetlands, other special aquatic sites, and other waters. Furthermore, the 45 day period will not start until the delineation has been submitted to or completed by the Corps, as appropriate;

(6) 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 environmental effects are no more than minimal and why compensatory mitigation should not be required. As an alternative, the prospective permittee may submit a conceptual or detailed mitigation plan.

(7) For non-Federal permittees, if any listed species or designated critical habitat might be affected or is in the vicinity of the activity, or if the activity is located in designated critical habitat, the PCN must include the name(s) of those endangered or threatened species that might be affected by the proposed activity or utilize the designated critical habitat that might be affected by the proposed activity. For NWP activities that require pre-construction notification, Federal permittees must provide documentation demonstrating compliance with the Endangered Species Act;
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(8) For non-Federal permittees, if the NWP activity might have the potential to cause effects to a historic property listed on, determined to be eligible for listing on, or potentially eligible for listing on, the National Register of Historic Places, the PCN must state which historic property might have the potential to be affected by the proposed activity or include a vicinity map indicating the location of the historic property. For NWP activities that require pre-construction notification, Federal permittees must provide documentation demonstrating compliance with section 106 of the National Historic Preservation Act;

(9) For an activity that will 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, the PCN must identify the Wild and Scenic River or the “study river” (see general condition 16); and

(10) For an activity that requires permission from the Corps pursuant to 33 U.S.C. 408 because it will alter or temporarily or permanently occupy or use a U.S. Army Corps of Engineers federally authorized civil works project, the pre-construction notification must include a statement confirming that the project proponent has submitted a written request for section 408 permission from the Corps office having jurisdiction over that USACE project.

(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 an NWP PCN and must include all of the applicable information required in paragraphs (b)(1) through (10) of this general condition. A letter containing the required information may also be used. Applicants may provide electronic files of PCNs and supporting materials if the district engineer has established tools and procedures for electronic submittals.

(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 activity’s adverse environmental effects so that they are no more than minimal.

(2) Agency coordination is required for: (i) 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; (ii) 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; (iii) NWP 13 activities in excess of 500 linear feet, fills greater than one cubic yard per running foot, or involve discharges of dredged or fill material into special aquatic sites; and (iv) NWP 54 activities in excess of 500 linear feet, or that extend into the waterbody more than 30 feet from the mean low water line in tidal waters or the ordinary high water mark in the Great Lakes.

(3) When agency coordination is required, 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 (FWS, state natural resource or water quality agency, EPA, 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 notify the district engineer via telephone, facsimile transmission, or e-mail that they intend to provide substantive, site-specific comments. The comments must explain why the agency believes the adverse environmental 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 of the proposed activity are no more than 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.

(4) 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.

(5) 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. If a project proponent requests authorization by a specific NWP, the district engineer should issue the NWP verification for that activity if it meets the terms and conditions of that NWP, unless he or she determines, after considering mitigation, that the proposed activity will result in more than minimal individual and cumulative adverse effects on the aquatic environment and other aspects of the public interest and exercises discretionary authority to require an individual permit for the proposed activity. For a linear project, this determination will include an evaluation of the individual crossings of waters of the United States 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 streams or of an otherwise applicable limit, as provided for in NWPs 13, 21, 29, 36, 39, 40, 42, 43, 44, 50, 51, 52, or 54, the district engineer will only grant the waiver upon a written determination that the NWP activity will result in only minimal individual and cumulative adverse environmental effects. For those NWPs that have a waivable 300 linear foot limit for losses of intermittent and ephemeral stream bed and a 1/2-acre limit (i.e., NWPs 21, 29, 39, 40, 42, 43, 44, 50, 51, and 52), the loss of intermittent and ephemeral stream bed, plus any other losses of jurisdictional waters and wetlands, cannot exceed 1/2-acre.

2. When making minimal adverse environmental effects determinations the district engineer will consider the direct and indirect effects caused by the NWP activity. He or she will also consider the cumulative adverse environmental effects caused by activities authorized by NWP and whether those cumulative adverse environmental effects are no more than minimal. 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 or condition assessment method is available and practicable to use, that assessment method may be used by the district engineer to assist in the minimal adverse environmental effects determination. The district engineer may add case-specific special conditions to the NWP authorization to address site-specific environmental concerns.

3. 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 NWP activities with smaller impacts, or for impacts to other types of waters (e.g., streams). The district engineer will consider any proposed compensatory mitigation or other mitigation measures the applicant has included in the proposal in determining whether the net adverse environmental effects of the proposed activity are no more than 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 environmental effects are no more than 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
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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 the NWP activity results in no more than minimal adverse environmental effects. If the net adverse environmental effects of the NWP activity (after consideration of the mitigation proposal) are determined by the district engineer to be no more than minimal, the district engineer will provide a timely written response to the applicant. The response will state that the NWP activity can proceed under the terms and conditions of the NWP, including any activity-specific conditions added to the NWP authorization by the district engineer.

4. If the district engineer determines that the adverse environmental effects of the proposed activity are more than minimal, then the district engineer will notify the applicant either: (a) that the activity 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 activity is authorized under the NWP subject to the applicant’s submission of a mitigation plan that would reduce the adverse environmental effects so that they are no more than minimal; or (c) that the activity 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 environmental effects, the activity will be authorized within the 45-day PCN period (unless additional time is required to comply with general conditions 18, 20, and/or 31, or to evaluate PCNs for activities authorized by NWPs 21, 49, and 50), with activity-specific conditions that state the mitigation requirements. The authorization will include the necessary conceptual or detailed mitigation plan or a requirement that the applicant submit a mitigation plan that would reduce the adverse environmental effects so that they are no more than minimal. When compensatory 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 (see general condition 31).

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 into waters of the United States.

Ecological reference: A model used to plan and design an aquatic habitat and riparian area restoration, enhancement, or establishment activity under NWP 27. An ecological reference may be based on the structure, functions, and dynamics of an aquatic habitat type or a riparian area type that currently exists in the region where the proposed NWP 27 activity is located. Alternatively, an ecological reference may be based on a conceptual model for the aquatic habitat type or riparian area type to be restored, enhanced, or established as a result of the proposed NWP 27 activity. An ecological reference takes into account the range of variation of the aquatic habitat type or riparian area type in the region.

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 acres or linear feet of stream bed that are filled or excavated as a result of the regulated activity. 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 that do not require Department of the Army authorization, such as 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.

**Navigable waters**: Waters subject to section 10 of the Rivers and Harbors Act of 1899. These waters are defined at 33 CFR part 329.

**Non-tidal wetland**: A non-tidal wetland is a wetland that is not subject to the ebb and flow of tidal waters. 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 flowing or standing 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.

**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.
Protected tribal resources: Those natural resources and properties of traditional or customary religious or cultural importance, either on or off Indian lands, retained by, or reserved by or for, Indian tribes through treaties, statutes, judicial decisions, or executive orders, including tribal trust resources.

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 course 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 next 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.
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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 jurisdictional wetland that is inundated by tidal waters. 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.

Tribal lands: Any lands title to which is either: 1) held in trust by the United States for the benefit of any Indian tribe or individual; or 2) held by any Indian tribe or individual subject to restrictions by the United States against alienation.

Tribal rights: Those rights legally accruing to a tribe or tribes by virtue of inherent sovereign authority, unextinguished aboriginal title, treaty, statute, judicial decisions, executive order or agreement, and that give rise to legally enforceable remedies.

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 wetland is adjacent to a waterbody determined to be a water of the United States, that waterbody and any 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. Buffalo and New York District 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 variance 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 throughout the entire construction project 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. Prior to the discharge of any dredged or fill material into waters of the United States, including wetlands, authorized by NWP, the permittee must install and maintain erosion and sedimentation controls in and/or adjacent to wetlands or other waters of the United States.

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 and staging areas shall be by means that avoid or minimize impacts to aquatic sites (e.g. use of upland areas for access & staging, floating barges, mats, etc.). Discharges of fill material associated with the construction of temporary access roads, staging areas 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, including cover type. All vegetation utilized in the restoration activity shall consist of native species.

7. All return flow from dredged 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 variance 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 and to prevent draining of the wetland or permanent hydrologic alteration. 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).
G-B. CULVERTS

1. **ALL NEW OR REPLACEMENT CULVERTS** in streams shall be constructed/installed in accordance with the following, in order to ensure compliance with NWP General Condition #2 – Aquatic Life Movement and #9 Management of Water Flows:

   a. Size: Bank-full flows shall be accommodated through maintenance of the existing bank-full channel cross sectional dimensions within one 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. Either a bottomless culvert or bridge must be used where practicable. If the stream cannot be spanned, the culvert width shall be minimum of 1.25 times width of the stream channel at the ordinary high water, or a 2 year design storm.

   b. Depth: To maintain low flow and aquatic life movement within culverts with a bottom, the culvert invert must be embedded. Specifically, the culvert must be installed with its bottom buried below the grade of the stream bed, as measured at the average low point, to a depth of a minimum of 20 percent of the culvert vertical rise (height) throughout the length of the culvert. (Note: When not practicable to do so due to small culvert size, it is acceptable to allow natural deposition to cover the interior of the culvert bed following placement of the culvert invert to the 20% depth.)

   c. The dimension, pattern, and profile of the stream above and below the stream crossing shall not be permanently modified by changing the width or depth of the stream channel.

   d. The culvert bed slope shall remain consistent with the slope of the adjacent stream channel.

   e. Stone aprons and scour protection placed in streams shall not extend higher than the stream bed in order to create a uniform grade and shall be filled with native stream bed material and supplemented with similarly sized material, if needed, to fill interstitial spaces to maintain water flow on the surface of the stream bed.

   **Note 1:** Use of the requirements 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, both upstream and downstream). It is the permittee’s responsibility to ensure the structure is appropriately designed.

   **Note 2:** This condition does not apply to temporary culverts used for construction access that are in place for less than one construction season. However, compliance with General Conditions #2 and #9 still applies.
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Preconstruction Notification (PCN) Requirements:
A PCN is required for projects that do not meet all of the above requirements. In addition to the PCN requirements of General Condition #32, the PCN must include the following information:

i. A statement 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:
   - Site specific information (i.e. stream bed slope, type and size of stream bed material, stream type, existing natural or manmade barriers, etc.) assessed to determine appropriate culvert design and to ensure management of water flows and aquatic life movement.
   - Evaluation of the replacement for its impacts on: downstream flooding, upstream and downstream habitat (in-stream habitat, wetlands), potential for erosion and headcutting, and stream stability.
   - Flow/storm event the proposed culvert is designed to pass (2 year, 50 year, etc.)

iv. Cross sections of the stream used to calculate the stream bed low point and ordinary high water width, consisting of:
   - 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 and the average width at ordinary high water.
     o For new crossing locations, the average values from at least three measurements (project location and straight sections of the stream upstream and downstream) shall be used.
     o For replacement of an existing structure, the average values from at least two cross sections (straight sections of the stream upstream and downstream from the existing structure representative of the natural channel) shall be used.
   - This average low point shall be used to ensure low flow is maintained through the culvert and from which all embedment depths are measured.
   - If the above cross section method was not practicable to use, an alternative method may be utilized. The PCN shall include justification for the method used including the data used and an explanation as to how it provides an equivalent measure.

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. Mitigation measures may include, but are not limited to baffles, weirs, roughened channels, and grade control structures

A variance of the requirement(s) will be issued by the Corps if it can be demonstrated that the proposal would meet General Conditions #2 & #9 and 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).
2. **ALL CULVERT REHABILITATION PROJECTS** in streams, not including culvert replacement projects, shall be constructed in accordance with the following, in order to ensure compliance with NWP General Condition #2 – Aquatic Life Movement and #9 Management of Water Flows:

   a. An evaluation of the existing culvert shall be conducted prior to the proposed culvert rehabilitation to determine if the existing culvert is in compliance with NWP GC #2 and #9. Specifically, the culvert shall be evaluated regarding its effect upon aquatic life movements and low/high water flow. If the above requirements in General Regional Condition B. I (a)-(e) are met then the culvert is considered in compliance with NWP General Conditions #2 & # 9. (Potential evaluation methods to consider include: North Atlantic Aquatic Connectivity Collaborative (NAACC), US Forest Service Aquatic Organism Passage FishXing, etc.)

   b. A PCN is not required for projects that utilize cured-in-place pipe lining or other repair activities that do not raise the existing invert elevation such that it causes an impediment to the passage of either aquatic life movement or water flow unless there is an existing impediment.

   c. A PCN is required for any culvert rehabilitation project that includes a culvert which is not in compliance with GC #2 and/or #9 (i.e. impedes aquatic life movement or water flow) and which will not be corrected by the proposed repair.

   d. 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. Slip lining is defined as the insertion of a smaller diameter pipe into an existing pipe by pulling, pushing, or spiral winding.

**Preconstruction Notification (PCN) Requirements:**

In addition to the PCN requirements of General Condition #32, the PCN must include the following information:

   i. A summary of the evaluation required in Item a. above including a discussion of the impediment(s) to aquatic life movement and/or water flow.

   ii. Information as to how the proposal will mitigate for the impediment. Mitigation measures may include, but are not limited to baffles, weirs, roughened channels, and grade control structures.

**G-C.** 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:


**G-D. 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
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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, unless NPS has previously indicated the project will not adversely affect the waterway. (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: https://www.rivers.gov/new-york.php

G-E. For all proposals requiring a pre-construction notification (PCN), in addition to the requirements in General Condition 32, 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. (http://www.lrb.usace.army.mil/Missions/Regulatory/Application-Forms/)

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 & 32(b)(6)): 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.

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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.

Note 3: If more than 0.10 acres of designated EFH habitat (as discussed in Section G-E.8. below) would be
impacted such that habitat would be lost, compensatory mitigation at a minimum ratio of 1:1 is required. A
ratio of more than 1:1 may be required depending upon the ecological value of the habitat to be lost or
degraded and the form of compensatory mitigation proposed to be provided.

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:

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 (NR). 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 archaeology or building/structure survey reports. 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.
   • Copies of any available correspondence from federally recognized Indian Nations regarding
     historic properties that may be affected by the project.
   • Projects with ground disturbance may have the potential to cause effects to buried historic
     properties, regardless of occurring outside SHPO designated archaeological sensitive areas.
     Therefore, the PCN shall indicate if the ground disturbance will occur in any areas of
     previously undisturbed soil. For areas with prior disturbance, the PCN shall include a brief
     narrative describing the disturbance and its limit (i.e. type of disturbance, size of area with
     current undisturbed soil, size of area with existing disturbed soils, when the disturbance
     occurred, an estimate on how deep the soil disturbance extends, etc.) as well as photos of the
     existing ground disturbance.
   • Above ground buildings/structures that are over 50 years old and potentially affected by the
     project will need to be assessed to determine if they are eligible for the NR. The PCN shall:
     identify any structures present in the project area, which have not already been subject to
     SHPO review, include photos of the structures, and describe how the project would/would not
     affect them.

* - see NWP definition section for further clarification

NOTE 1: Information regarding historic properties may be found at: https://cris.parks.ny.gov. 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 2: 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 and Essential Fish Habitat: In accordance with General Condition 18, non-federal applicants must submit a PCN if any listed species or designated critical habitat might be affected or is in the vicinity of the activity, or if the activity is located in designated critical habitat. Please refer to General Condition 18 for submission requirements. In addition, all PCNs must include:

- a written statement and documentation concerning any Essential Fish Habitat (EFH) and any federally listed or proposed Threatened, Endangered, or Candidate (TE&C) species or designated and/or proposed critical habitat that might be affected or located in the vicinity of the project.
- 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), regarding the potential presence of TE&C species on the project site. USFWS TE&C website: [http://www.fws.gov/northeast/nyfo/es/section7.htm](http://www.fws.gov/northeast/nyfo/es/section7.htm). Information on NOAA-Fisheries (NMFS) species (both TE&C and EFH) can be found at: [https://www.greateratlantic.fisheries.noaa.gov/](https://www.greateratlantic.fisheries.noaa.gov/)
- an official TE&C species list printed within 90 days of the PCN submission from the USFWS Website.
- For projects where TE&C species are listed, a discussion of potential TE&C species habitat within the project site (See USFWS T&E website for species habitat information).
- If there is potential habitat for any TE&C species within the project site the following, as applicable, shall 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) and 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, typical sizes (d.b.h.) 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, minimize and/or mitigate impacts to listed species.

NOTE 1: There are no known TE&C 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 TE&C species should be directed to the USFWS. In addition, no EFH review is necessary within the following New York District counties: Clinton, Essex, Franklin, Fulton, Hamilton, Montgomery, Otsego, Schenectady, Schoharie and Warren.


NOTE 3: 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 application drawings 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 & ephemeral stream bed,
   iii. NWP 13 activities in excess of 500 linear feet, fills greater than one cubic yard per running foot, or involve discharges of dredged or fill material into special aquatic sites;
   iv. NWP 54 activities in excess of 500 linear feet or that extend into the waterbody more than 30 feet from the mean low water line in tidal waters or the ordinary high water mark in the Great Lakes.

G-F. 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.


H. NYSDEC General Water Quality Certification (WQC) Conditions applicable to all NWPs 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, inadvertent returns of drilling muds (frac-outs) or any other environmentally deleterious materials associated with the project.
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2. Installation and Replacement of Culverts
To be covered under this blanket Water Quality Certification, all of the following criteria must be met:
• Culvert pipes shall be designed to safely pass a 2% annual chance storm event.
• This certification does not authorize the installation of any culverts that are not embedded beneath the existing grade of the stream channel.
• Width of the structure must be a minimum of 1.25 times (1.25X) width of the Mean (Ordinary) High Water Channel.
• The culvert bed slope shall remain consistent with the slope of the adjacent stream channel. For slopes greater than 3%, an open bottom culvert must be used.
• This certification does not authorize work on culverts that provide sole access to “Critical Facilities”: An individual WQC must be obtained for work on these culverts.
• This certification does not authorize culvert rehabilitation projects that involve slip lining, or similar treatments.
• 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. Discharge and Disturbance Limits of the Blanket WQC
• For Nationwide Permits #5, 7, 12, 13, 14, 15, 18, 19, 23, 25, 29, 31, 32, 34, 36, 37, 39, 40, 42, 45, 46, 48, 51, utility line replacement projects under Nationwide Permit #3 and non-maintenance activities under Nationwide Permit #43.
• The following discharge limits apply:
  a) Temporary or permanent discharges of dredged or fill material into wetlands and other waters of the U.S. must not exceed ¼ acre;
  b) Temporary or permanent impacts (i.e., loss) to stream beds must not exceed 300 linear feet.
  c) The discharge area limit under paragraph (a) plus the equivalent stream impact area limit under paragraph (b) must not exceed ¼ acre total.

• For Nationwide Permits #3, 4, 6, 20, 22, 27, 30, 33, 41 and maintenance activities under Nationwide Permit #43, this certification authorizes discharges and disturbances up to the limit of the respective Nationwide Permit or regional conditions, whichever is most restrictive.

• If a project requiring coverage under two or more Nationwide Permits results in a temporary or permanent discharge or disturbance, the most restrictive threshold applies to the project.

4. Bulkheads
• This certification does not authorize the construction of new bulkheads or vertical walls.
• This certification does not authorize the waterward extension of existing bulkheads.
• New toe-stone protection may not extend more than 36 inches waterward from the existing bulkhead face.

5. Maintenance of Water Levels
• This certification does not authorize any activity that results in a permanent water level alteration in waterbodies, such as draining or impounding, with the exception of activities authorized by Nationwide Permit #27.

6. Dewatering
• Authorized dewatering is limited to immediate work areas that are within coffer dams or otherwise isolated from the larger waterbody or waters of the United States.
• Dewatering must be localized and must not drain extensive areas of a waterbody or reduce the water level such that fish and other aquatic organisms 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 waterbody.
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• All dewatering structures must be permanently removed and disturbed areas must be graded and stabilized immediately following completion of work. Return flows from the dewatering structure shall be as visibly clear as the receiving waterbody.

7. Endangered or Threatened Species
• This certification does not authorize projects likely to result in the take or taking of any species listed as endangered or threatened species listed in 6 NYCRR Part 182.5 (a), (b) or projects likely to destroy or adversely modify the habitat of such species. Applicants must either verify that the activity is outside of the occupied habitat of such species or, if located within the habitat of such species, obtain a determination from the NYS Department of Conservation Regional Office that the proposed activity will not be likely to result in the take or taking of any species listed as endangered or threatened species listed in 6 NYCRR Part 182. 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 DEC website at http://www.dec.ny.gov/animals/29338.html

If it is determined that the project is likely to result in the take of (or modify the habitat of such species) a New York listed endangered or threatened species , then this blanket water quality certification is not applicable, and the applicant will need an individual water quality certification from the department.

8. Rare Mollusks
• This Certification may not be issued for and does not authorize disturbances or discharges to waters of the state listed as supporting mollusks S-1 or S-2 on the New York State Natural Heritage database. http://www.dec.ny.gov/animals/29338.html

9. Prohibition Period for In-water Work
In-water work is prohibited during the following time period:

• in cold water trout fisheries (waterbodies classified under Article 15 of New York State Environmental Conservation Law with a "t" or "ts" designation), beginning October 1 and ending May 31.

To determine if the prohibition period is in effect for a particular water, contact the Regional Natural Resources Supervisor in the appropriate New York State Department of Environmental Conservation regional office. Water Classification values can be determined on the DEC’s Environmental Resource Mapper available on the Departments Website @ http://www.dec.ny.gov/gis/erm/ Work windows may be extended by the Regional Natural Resources Supervisor or their designee.

10. 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. https://www.dos.ny.gov/opd/programs/consistency/scfwhabitats.html

11. Coastal Erosion Hazard Areas
• This certification does not authorize projects in Coastal Erosion Hazard Areas, as identified in New York State Environmental Conservation Law Article 34, and its implementing regulations, 6 NYCRR Part 505. http://www.dec.ny.gov/lands/86541.html
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12. 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:

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

13. Tidal Wetlands
• This certification does not authorize any activities in tidal wetlands as defined in Article 25 of New York State Environmental Conservation Law, with the exception of activities authorized by Nationwide Permits # 4, 20 and 48. http://www.dec.ny.gov/lands/4940.html

14. Wild, Scenic and Recreational Rivers
• This certification does not authorize activities in any Wild, Scenic or Recreational River pursuant to 6 NYCRR Part 666 or state designated Wild, Scenic or Recreational River corridors. http://www.dec.ny.gov/permits/6033.html

15. Floodplains
• Authorized projects subject to this certification must first be in compliance with State and Local Floodplain Regulations prior to commencement of construction.

16. Public Service Commission
• This certification does not authorize activities regulated pursuant to Article VII or Article 10 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.

17. Utility Projects
• This certification does not authorize maintenance or other activities associated with hydroelectric power generation projects.
• This certification does not authorize the construction of substation facilities or permanent access roads in wetlands.
• Excess materials resulting from trench excavation must be permanently removed from the waters of the United States and contained so that they do not re-enter any waters of the United States.

18. Preventing the Spread of Terrestrial and Aquatic Invasive Species
• To prevent the unintentional introduction or spread of invasive species, the permittee must ensure that all construction equipment be cleaned of mud, seeds, vegetation and other debris before entering any approved construction areas within waters of the U.S. When using construction equipment projects authorized under this Certification shall take reasonable precautions to prevent the spread of aquatic invasive species as required under the provisions in ECL § 9-1710.
I. New York State Department of State (NYSDOS) Coastal Zone Management Consistency Determination

Additional Information (applicable to all NWPs located within or affecting the NYS Coastal Zone):

Where NYSDOS has objected to the USACE consistency determination or where the project will not comply with the NYSDOS NWP specific condition(s), as outlined in the specific NWP listing in Section B above, the applicant must submit a request for an individual consistency determination to NYSDOS. See Section K for NYSDOS contact information.

Further Information:

- Unless NYSDOS issues consistency concurrence or USACE has determined that NYSDOS concurrence is presumed, NWPs are not valid within the Coastal Zone.
- All consistency concurrence determination requests must be submitted directly to NYSDOS with a copy provided to USACE with any required Preconstruction Notification submissions.
- Limits of the coastal zone and details regarding NYSDOS submission requirements, including application forms can be obtained at: https://www.dos.ny.gov/opd/programs/consistency/index.html

J. INFORMATION ON NATIONWIDE PERMIT VERIFICATION

Verification of the applicability of these Nationwide Permits is valid until March 18, 2022 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.
Final Regional Conditions, Water Quality Certification and Coastal Zone Concurrence for
Nationwide Permit 3 – (Maintenance)
within the New York District Regulatory Boundary in the State of New York
Expiration March 18, 2022

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
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
1205 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

US Army Corps of Engineers
http://www.nan.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
Final Regional Conditions, Water Quality Certification and Coastal Zone Concurrence for
Nationwide Permit 3 – (Maintenance)
within the New York District Regulatory Boundary in the State of New York
Expiration March 18, 2022
Autumn,

As long as the project meets all of the terms and conditions of NWP 3, including the general and regional conditions, and no PCN is required, you don't need a written, project-specific permit letter from this office.

Brian

Brian A. Orzel
Project Manager, Civil Engineer
NY District US Army Corps of Engineers
Regulatory Branch
26 Federal Plaza, Room 16-406
New York, New York 10278-0090

-----Original Message-----
From: Thomas, Autumn [mailto:autumn.thomas@davey.com]
Sent: Thursday, July 2, 2020 6:14 AM
To: Orzel, Brian A CIV USARMY CENAN (USA) <Brian.A.Orzel@usace.army.mil>
Cc: Susan Quackenbush <susan.quackenbush@davey.com>
Subject: Re: [Non-DoD Source] Nationwide Permit 14 general question

Great, thank you for checking that for me!

The culvert replacement is the entire project, it is not part of any larger project. I guess we assumed a 8' enlargement wouldn't be considered a 'slight' deviation from the original...

So, if I understand correctly, you're saying they could also utilize the NWP 3 for this activity with no PCN required?

-Autumn

On Wed, Jul 1, 2020, 4:48 PM Orzel, Brian A CIV USARMY CENAN (USA) <Brian.A.Orzel@usace.army.mil> wrote:

Autumn,

You are correct about NWP 14. I haven't read it in a while.

NWP 3 does allow a structure to be a little bigger than before, in order to meet new standards. Making a culvert larger, within essentially the same footprint (give or take), in order to improve hydraulic capacity is generally acceptable under NWP 3.

Is the culvert replacement the entire project, or is it part of something larger?

Brian

Brian A. Orzel
Project Manager, Civil Engineer
NY District US Army Corps of Engineers
Mr. Orzel,

Thank you for your prompt response.

We originally tried to utilize the NWP 3, however, the project design needed to be upsized from a 16’ to a 24’ opening to increase the hydraulic capacity of the culvert.

We have reviewed the documents you sent, but still fail to find where it states that a PCN is required for ‘all impacts to jurisdictional waters proposed under NWP 14.’ It is our understanding that PCN is required for NWP 14 if (1) the loss of water of US exceeds 1/10-acre; or (2) there is a discharge in a special aquatic site, incl. wetlands. There is 0.07-acre temporary disturbance/impact to the streambed associated with this project in order to excavate for a sewer line that is currently attached to the bottom of the existing culvert. There are no wetlands, no Essential Fish Habitat, no TE&C species habitat, no SAV, etc.

Would you be able to direct me to the specific page # or condition # within the ‘Final Regional Conditions WQC CZM NY’ document so that we may understand where we’ve erred in this determination?

Sincerely,

Autumn

Autumn M. Thomas, PWS, QBTS | Senior Project Manager

Amy Greene Environmental, a Davey Company
4 Walter E. Foran Boulevard, Suite 209, Flemington, NJ

o: 908.788.9676 x4908 | c: 215.605.7227
However, if there is more to the project than just replacing the culvert, you should look at the overall purpose of the project. For instance, if you’re replacing an old culvert that was part of a prior residential use, but now you want to replace the culvert and construct a commercial facility, then NWP 39 might be more appropriate, as the purpose would be the construction of a commercial development, not just a single road crossing.

Attached is the NY District public notice from March 21, 2017, listing all of the current nationwide general permits as well as the NY State regional conditions.

Please note that many of the NWPs require notification of the Corps district prior to the commencement of the project. If you submit a complete pre-construction notification and the Corps district does not provide a written, project-specific response within 45 days, then the work may be accomplished as proposed. Due to my excessive work load, I am often forced to let the 45 days elapse for smaller projects. If notification is required, you are required to send in all of the necessary information, as described in the attached document. I just might not be able to respond in time.

Let me know if you have any other questions.

Brian

Brian A. Orzel
Project Manager, Civil Engineer
NY District US Army Corps of Engineers
Regulatory Branch
26 Federal Plaza, Room 16-406
New York, New York 10278-0090

-----Original Message-----
From: Thomas, Autumn [mailto:autumn.thomas@davey.com]
<br> <mailto:autumn.thomas@davey.com>
<br> <mailto:autumn.thomas@davey.com>
<br> <mailto:autumn.thomas@davey.com> >
<br> >
<br> >
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<br>
<br> Sent: Monday, June 29, 2020 8:49 AM
To: PublicNotice, CENAN NAN02 <CENAN.PublicNotice@usace.army.mil>
<br> <mailto:CENAN.PublicNotice@usace.army.mil>
<br> <mailto:CENAN.PublicNotice@usace.army.mil>
<br> <mailto:CENAN.PublicNotice@usace.army.mil> >
<br> >
<br> Subject: [Non-DoD Source] Nationwide Permit 14 general question

Dear Sir or Madam,

I have a client who is proposing a culvert replacement project in Middletown, Orange County, NY over Monhagen Brook. We have reviewed the project activities and determined the activities qualify for a Nationwide Permit 14 - Linear Transportation Projects (NWP 14).

The project activities meet all the permit specific regional conditions, NYSDEC WQC NWP #14 Special Conditions, and Nationwide Permit general conditions. A wetland delineation was completed and no wetlands were observed near the project. The total impacts to the stream bed from the project activities does not exceed the thresholds that would require a pre-construction notification.

We have advised our client that the activities may proceed under the NWP 14 and no further coordination with ACOE or NYSDEC is required; however, they are not assured that the NWP 14 is more or less a ‘pre-authorization’ of the activities as long as all conditions within are met.

Does the District have some kind of form letter or response I can submit to them to assure them the work can be completed under the NWP14 if all the terms and conditions within it are met and no further coordination is required?

Thank you for your time and consideration.

Sincerely,

Autumn Thomas

Autumn M. Thomas, PWS, QBTS | Senior Project Manager Amy Greene Environmental, a Davey Company
4 Walter E. Foran Boulevard, Suite 209, Flemington, NJ