

**Tier 1 Programmatic Environmental Review Record  
Community Development Block Grant – Disaster Recovery  
NY Rising Bulkhead Repair Initiative:  
Environmental Assessment for Residential Properties in  
Nassau County, NY**

**PREPARED FOR:  
NEW YORK STATE HOMES AND COMMUNITY RENEWAL  
38 – 40 STATE STREET  
ALBANY, NEW YORK 12207-2804**

**PREPARED BY:  
PROSOURCE TECHNOLOGIES, LLC  
9219 EAST RIVER ROAD  
COON RAPIDS, MN 55433**



**JAD ENVIRONMENTAL, LLC  
1835 TERMINAL DRIVE, SUITE 101  
RICHLAND, WASHINGTON 99354**



**TETRA TECH, INC.  
240 CONTINENTAL DRIVE, SUITE 200  
NEWARK, DE 19713**



**AKRF, INC.  
440 PARK AVENUE SOUTH, 7TH FLOOR  
NEW YORK, NY 10016**



**ORIGINAL SUBMISSION—MARCH 2014**

**AMENDED SUBMISSION—JUNE 2014**

<b>ERR Project Summary</b>	
<b>Responsible Entity:</b>	New York State Homes and Community Renewal
<b>Certifying Officer:</b>	Ms. Amy Zamenick, Senior Attorney, New York State Homes and Community Renewal
<b>Project Name:</b>	NY Rising Bulkhead Repair Program
<b>Federal Agency:</b>	U.S. Department of Housing and Urban Development (HUD)
<b>Project Sponsor:</b>	New York State Homes and Community Renewal
<b>Program Name:</b>	New York State Community Development Block Grant - Disaster Recovery
<b>Project Site Address:</b>	Scattered Residential Sites
<b>Project County:</b>	Nassau County, New York
<b>Estimated Project Cost:</b>	\$16,560,000.00
<b>Project Sponsor Address:</b>	New York State Housing Trust Fund Corporation 38-40 State Street Albany, NY 12207
<b>Primary Contact's Name:</b>	Amy Zamenick
<b>E-Mail address:</b>	AZamenick@nyshcr.org
<b>Telephone Number:</b>	(518) 473-4732
<b>Project NEPA Classification:</b>	24 CFR 58.36 Environmental Assessment
<b>ENVIRONMENTAL FINDING:</b>	<input checked="" type="checkbox"/> <b>Finding of No Significant Impact</b> - The project will not result in a significant impact on the quality of the human environment. <input type="checkbox"/> <b>Finding of Significant Impact</b> - The project may significantly affect the quality of the human environment.
	<p>The undersigned hereby certifies that New York State Housing Trust Fund Corporation 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 under 24 CFR Part 58.</p> <p style="text-align: center;"></p> <hr style="width: 20%; margin-left: auto; margin-right: auto;"/> <p><b>NAME:</b> Ms. Amy Zamenick  <b>Title/Agency:</b> Senior Attorney, NYS Homes and Community Renewal  <b>Date:</b> 28 February 2014</p>

# **Table of Contents**

<b>List of Tables and Figures .....</b>	<b>iii</b>
<b>List of Exhibits .....</b>	<b>iii</b>
<b>List of Appendices.....</b>	<b>iii</b>
<b>Acronyms and Abbreviations .....</b>	<b>iv</b>
<b>1.0 NY Rising Bulkhead Repair Program: Environmental Assessment for Residential Properties in Nassau County, NY.....</b>	<b>1</b>
1.1 Background.....	1
1.2 Community Development Block Grant-Disaster Recovery .....	2
1.3 Program Location.....	5
1.4 Current Conditions and Trends.....	7
1.5 Damage Assessments and Need.....	9
1.6 Recovery Measures .....	12
1.7 Bulkheads Definitions and Descriptions.....	13
1.8 Repair and Rehabilitation Activities.....	15
1.9 Permitting.....	18
1.10 Alternatives to the Proposed Action .....	22
1.11 Cumulative Impacts .....	25
<b>2.0 Tiering of Environmental Review .....</b>	<b>28</b>
2.1 Tier 1 Environmental Review.....	28
2.2 Tier 2 Environmental Review.....	29
<b>3.0 Conditions for Approval and Mitigation .....</b>	<b>30</b>
3.1 General.....	30
3.2 Historic Preservation.....	30
3.3 Water Quality.....	31
3.4 Wetlands Protection.....	33
3.5 Aquatic Wildlife and Endangered Species .....	33
3.6 Soil Erosion.....	35
3.7 Storm Water.....	35
3.8 Noise .....	36
3.9 Air Quality .....	37
3.10 Hazardous Materials .....	37
3.11 Solid Waste.....	38
3.12 Transportation.....	38
3.13 Airport Clear Zones and Accident Potential Zones .....	39
3.14 Coastal Barrier Resources.....	39
3.15 Explosive and Flammable Operations .....	39
3.16 Farmland Policy Act.....	40
3.17 Environmental Justice.....	40
<b>4.0 Eight-Step Decision Making Process.....</b>	<b>41</b>
4.1 Eight-Step Decision Making Process for Proposed Action in a Floodplain.....	41
4.2 Eight-Step Decision Making Process for Proposed Action in a Wetland.....	48

<b>5.0</b>	<b>Summary of Findings and Conclusions and Evaluation of Effects .....</b>	<b>49</b>
<b>6.0</b>	<b>List of Sources, Agencies, and Persons Consulted .....</b>	<b>50</b>

**List of Tables and Figures**

Table 1: Nassau County Most Impacted Communities .....	6
Figure 1: Nassau County Land Use Map .....	8
Figure 2: Nassau County Verified Applicant Address Map .....	11

**List of Exhibits**

- Exhibit 1: NEPA Environmental Assessment Checklist
- Exhibit 2: Environmental Assessment Work Sheet
- Exhibit 3: Sample Site-specific Checklist
- Exhibit 4: Site-specific Checklist Template
- Exhibit 5: DASNY Site Inspection Checklist

**List of Appendices**

- Appendix A: Nassau County USGS Topographic Maps
- Appendix B: Nassau County USDA Soil Survey Maps
- Appendix C: Nassau County FEMA Flood Insurance Rate Map
- Appendix D: Nassau County Wetlands Maps
- Appendix E: Nassau County Land Use and Zoning Maps
- Appendix F: Potential Environmental Justice Area Maps
- Appendix G: Coastal Barrier Resources Map
- Appendix H: Airport Clear Zone Maps
- Appendix I: Nassau County Wild, Scenic, and Recreational Rivers
- Appendix J: Nassau County Sole Source Aquifer Map and Memorandum of Understanding
- Appendix K: USFWS Natural Resources of Concern
- Appendix L: Farmland Protection Checklist
- Appendix M: NYSDEC Air Quality Consultation and Conformity with State Implementation Plans
- Appendix N: NYSDOS Coastal Consistency Consultation and NYS Coastal Assessment Form
- Appendix O: NY Natural Heritage Program Consultation
- Appendix P: NY Historic Preservation Programmatic Agreement
- Appendix Q: HUD Noise Abatement and Explosive Operations Email
- Appendix R: NMFS Consultation Letters
- Appendix S: USFWS Consultation Letters
- Appendix T: USACE Coordination and Permits
- Appendix U: NYSDEC General Permit Application for Bulkhead Repairs
- Appendix V: Sample Floodplain Management Public Notices
- Appendix W: Combined Finding of No Significant Impact and Notice of Intent to Request Release of Funds (FONSI/NOIRROF)
- Appendix X: Response to EPA Comments

## Acronyms and Abbreviations

ABFE	Advisory Base Flood Elevation
ASD	Acceptable Separation Distance
BFE	Base Flood Elevation
BMPs	Best Management Practices
C&D	Construction and Demolition Debris
CAA	Clean Air Act
CBRA	Coastal Barrier Resources Act
CBRS	Coastal Barrier Resource System
CDBG-DR	Community Development Block Grant for Disaster Recovery
CDC	U.S. Centers for Disease Control and Prevention
CEA	Critical Environmental Area
CEHA	Coastal Erosion Hazard Area
CEM	Coastal Erosion Management
CFR	Code of Federal Regulations
CWA	Clean Water Act
EJ	Environmental Justice
EPA	U.S. Environmental Protection Agency
ESA	Endangered Species Act
FEMA	Federal Emergency Management Agency
FEMA IA	Federal Emergency Management Agency Individual Assistance
FIRM	Flood Insurance Rate Maps
FONSI	Finding of No Significant Impact
GP	General Permit
HCR	New York State Homes and Community Renewal
HTFC	Housing Trust Fund Corporation
HEAP	Home Energy Assistance Program
HUD	U.S. Department of Housing and Urban Development
LIB	Long Island Bus
LIPA	Long Island Power Authority
LWRP	Local Waterfront Revitalization Plan
MTA	Metropolitan Transportation Authority
MS4	Municipal Separate Storm Sewer Systems
NCSWMP	Nassau County Stormwater Management Program
NEPA	National Environmental Policy Act
NFIP	National Flood Insurance Program
NHPA	National Historic Preservation Act
NMFS	National Marine Fisheries Service
NOAA	National Oceanographic and Atmospheric Administration
NOI	Notice of Intent
NOIRROF	Notice of Intent to Request Release of Funds
NPS	National Park Service
NRCS	Natural Resources Conservation Service
NWI	National Wetlands Inventory
NWP3	Nationwide Permit 3

## Acronyms and Abbreviations (continued)

NWSRS	National Wild and Scenic River System
NY	New York
NYC	New York City
NYCRR	New York Codes, Rules and Regulations
NYDGP-15	New York District General Permit 15
NYS	New York State
NYSCMP	New York State Coastal Management Program
NYSDEC	New York State Department of Environmental Conservation
NYSDOS	New York State Department of State
NYSDOT	New York State Department of Transportation
O&M	Operations and Maintenance
OPA	Otherwise Protected Area
OCR	Office of Community Renewal
OPRHP	Office of Parks, Recreation and Historic Preservation
OSHA	Occupational Safety and Health Administration
PCN	Pre-construction Notification
PEA	Programmatic Environmental Assessment
P-FIRMS	Preliminary Flood Insurance Rate Maps
PM2.5	Particulate Matter 2.5
QEP	Qualified Environmental Professional
RE	Responsible Entity
RRP	Repair, Renovation, Painting
SEQR	New York State Environmental Quality Review Act
SFHA	Special Flood Hazard Area
SHPO	State Historic Preservation Office
SIP	State Implementation Plan
TANF	Temporary Assistance for Needy Families
THPO	Tribal Historic Preservation Office
USACE	U.S. Army Corps of Engineers
USDA	U.S. Department of Agriculture
USFWS	U.S. Fish and Wildlife Service
USGS	U.S. Geological Survey

## **1.0 NY Rising Bulkhead Repair Initiative: Environmental Assessment for Residential Properties in Nassau County, NY**

---

### **1.1 Background**

In 2011, Nassau County received extensive damage from the winds and flood waters caused by Hurricane Irene. The ninth named storm and first hurricane of the 2011 Atlantic hurricane season, Irene originated east of the Lesser Antilles in the Caribbean Sea as a well-defined Atlantic tropical wave. Having formed a closed center of circulation, on August 20, 2011 the system was designated as Tropical Storm Irene. Growing in intensity, Tropical Storm Irene made landfall in the island of St. Croix the same day, then a second landfall in Puerto Rico early on August 21, 2011. While crossing Puerto Rico, Irene strengthened into a Category 1 hurricane. Shortly before making four landfalls in the Bahamas, Irene peaked as a 120 mph (195 km/h) Category 3 hurricane. Hurricane Irene lessened in intensity as it crossed the Bahamas and struck North Carolina as a Category 1 hurricane on August 27, 2011. With Hurricane Irene's path projected to strike much of the East Coast, states of emergency and hurricane warnings were declared for several states, including New York State (NYS). Governor Andrew Cuomo declared a state of emergency on August 26, 2011. Shelters were prepared, and hundreds of thousands of people across NYS were evacuated from their homes.

Rain associated with Hurricane Irene began in Nassau County on the afternoon of August 27, 2011 with flooding beginning the next morning. On August 28, 2011, Hurricane Irene made landfall in NYS with tropical storm force winds and causing disastrous flash flooding, especially in the eastern part of Upstate New York (NY). Winds were estimated to have topped 70-90 mph at about 10 a.m. on August 28, when the eye of the 300-mile wide storm moved through Long Island. Hurricane Irene lashed Long Island, submerging some beaches entirely and leaving hundreds of thousands of people without electricity. There was one reported fatality in Nassau County of a man who went windsurfing as the storm arrived, and there were no reports of serious injuries.

In total for the United States, Hurricane Irene caused widespread destruction, 49 confirmed fatalities, and according to Federal Emergency Management Agency (FEMA) estimates, nearly \$15.6 billion in damage, making it the seventh costliest hurricane in United States history.

In 2012, Nassau County was again devastated by impacts of Hurricane Sandy. On October 24, 2012, the National Oceanographic and Atmospheric Administration (NOAA) predicted that there was a 90% chance that Superstorm Sandy would impact the Mid-Atlantic and New England states, including NYS. In response to this prediction, Governor Andrew Cuomo proactively requested federal emergency assistance prior to Superstorm Sandy's landfall, and President Obama signed an emergency declaration for NYS. New York City (NYC) issued the second mandatory evacuation on record on October 28th, evacuating residents in flood zones A and V. NYC also opened 76 public shelters.

Superstorm Sandy, one of the largest Atlantic hurricanes to reach the United States on record, resulted in great devastation along the NYS coast on October 29, 2012. Flooding and high winds

along the coast and overland flooding damaged communities throughout NYS. Fourteen counties, including Nassau County, were declared federal disaster areas.

Two million customers in NYS lost power, with some blackouts lasting up to three weeks. The storm damaged or destroyed as many as 300,000 housing units in NYS, affected or closed over 2,000 miles of roads, produced catastrophic flooding in subways and tunnels, and damaged major power transmission systems. Sixty New Yorkers died as a result of Superstorm Sandy. This destruction came in the wake of Hurricane Irene, which had damaged Nassau County only one year prior to Superstorm Sandy, and was particularly devastating to an economy just recovering from the financial crisis.

In southwestern Nassau County, southern Queens and lower Manhattan, Superstorm Sandy came ashore as a storm expected once in about 300 years. The Long Island Power Authority (LIPA) reported more than 940,000 customers without power. Following the storm, residents in Long Beach and Mill Neck were instructed to avoid drinking tap water due to potential contamination. In Nassau County, one death was reported when an 84-year-old man died after being struck by a falling tree. Cars floated along the streets of Long Beach, which was under a mandatory evacuation order.

A few miles northwest of Freeport, the Bay Park Sewage Treatment Plant in East Rockaway, which treats 40% of Nassau County's waste, completely shut down for two days after it was hit with a nine-foot wave. It released hundreds of millions of gallons of raw and partially treated sewage into nearby waterways and streets.

In total for the United States, Superstorm Sandy caused catastrophic damage, 73 direct and 87 indirect fatalities, and at least \$68 billion in damage, making it the second costliest hurricane in United States history.

## **1.2 Community Development Block Grant-Disaster Recovery**

Superstorm Sandy was the catalyst for the allocation of disaster relief funds under the Community Development Block Grant—Disaster Recovery (CDBG-DR). These funds are being used to assist not only counties that were devastated by Superstorm Sandy, but also counties that were severely impacted by Hurricane Irene and/or Tropical Storm Lee in 2011. Nassau County incurred severe damage from Superstorm Sandy, as well as damage from Hurricane Irene the previous year.

Following damage assessments performed by the FEMA, President Obama also signed into law the “Disaster Relief Appropriations Act, 2013” (Public Law 113-2, approved January 29, 2013), which included \$16 billion in funding for necessary expenses related to disaster relief, long-term recovery, restoration of infrastructure and housing, as well as economic revitalization in the most impacted and distressed areas resulting from recent storm events.

The U.S. Department of Housing and Urban Development (HUD) is responsible for administration of the CDBG-DR program pursuant to the Disaster Relief Appropriations Act of 2013. The CDBG-DR program is designed to address the needs of NYS communities devastated by Superstorm Sandy, Hurricane Irene, and Tropical Storm Lee. This funding was disbursed in two phases. On Tuesday, March 5, 2013, HUD published Federal Register Notice 5696-N-01, which established the requirements and processes for \$1.7 billion in Federal CDBG-DR aid appropriated by the United States Congress and allocated to NYS for disaster relief. On Monday, November 18, 2013, HUD published Federal Register Notice 5696-N-06, which established the requirements and processes for \$2.097 billion in Federal CDBG-DR aid to NYS.

The Disaster Relief Appropriations Act requires grantees to submit an action plan to the HUD Secretary “detailing the proposed use of all funds, including criteria for eligibility and how the use of these funds will address long-term recovery and restoration of infrastructure and housing and economic revitalization in the most impacted and distressed areas.”

As required by the CDBG-DR program, NYS submitted to the HUD Secretary the *State of New York Action Plan for Community Development Block Grant Program Disaster Recovery* (Action Plan) (issued April 25, 2013; amended August 13, 2013, August 16, 2013; August 19, 2013, November 15, 2013, December 18, 2013; draft amendment February 18, 2014). The Action Plan is supplemented by the *NY Rising Housing Recovery Program Homeowner Guidebook* (Guidebook) (revised December 12, 2013). The Action Plan describes the proposed use of HUD CDBG-DR funding to meet the unmet housing, economic development, community planning, and infrastructure needs of impacted communities. In the Action Plan, NYS identified more than \$6 billion in damage to residential structures in the areas most impacted by Superstorm Sandy and other recent eligible disaster events, such as Hurricane Irene and Tropical Storm Lee.

The Action Plan is being used as a guide by NYS Homes and Community Renewal (HCR), through its Office of Community Renewal (OCR) and the Housing Trust Fund Corporation (HTFC), for the distribution of CDBG-DR funding. The Action Plan helps to define how NYS will effectively use any available funding to recover and rebuild, and just as importantly, to stimulate economic growth in every affected community through a community-driven planning process.

The plan is based on six key principles:

1. *Building back better and smarter* – As New Yorkers repair the significant damage wrought by Superstorm Sandy, the State will use the opportunity not to replace damaged buildings with the same structures, but to invest in additional mitigation to prevent similar damage from recurring.
2. *State-led, community-driven recovery* – NYS is collaborating closely with local governments and other organizations to ensure a coordinated and holistic response, while looking to individual communities to develop forward-looking local recovery plans that meet their specific needs.
3. *Recovery from Irene and Lee* – The recovery efforts will also extend to those communities still recovering from Hurricane Irene and Tropical Storm Lee.

4. *Leveraging private dollars* – NYS will undertake programs that will help unlock capital markets and increase the amount of low-interest financing of key projects by reducing the risk for private sector lenders.
5. *Spending accountability and transparency* – To make certain that funds are spent appropriately and responsibly, NYS will put rigorous spending accountability systems in place and employ an independent auditing firm.
6. *Urgency in action* – The recovery is a long-term endeavor but people need help today, so the projects and programs have been shaped to achieve the fastest delivery and best support possible.

To meet these objectives, NYS has established a number of individual programs to provide assistance for housing, economic development, resilience and retrofit, community planning and redevelopment, and public infrastructure. The NY Rising Single Family Housing (SFH) Program assists owners of 1- and 2-unit, owner-occupied homes to repair or reconstruct their homes. The NY Rising Multifamily Program assists owners of rental and multifamily buildings to repair their properties. The Bulkhead Repair Initiative for Residential Properties is an integral component to the success of both these housing programs. It is designed to provide assistance for repairing and/or replacing or reconstructing damaged bulkheads on both owner-occupied and rental residential properties with any number of housing units, and to reimburse homeowners who have already begun repairing and/or replacing or reconstructing or have completed repairs or reconstruction of bulkheads.

HCR is acting as the Responsible Entity (RE) under 24 CFR Part 58—Environmental Review Procedures For Entities Assuming HUD Environmental Responsibilities. As the RE, HCR will complete environmental reviews for all NY Rising Programs in compliance with the National Environmental Policy Act (NEPA) and HUD environmental review standards. For the purposes of environmental reviews and in compliance with HUD rules, HCR will conduct Tier 1 Programmatic Environmental Assessments (PEAs) for the NY Rising Programs on a county-by-county basis as follows:

- 1-4 unit residential properties
- 5+ unit residential properties
- Buyouts and acquisitions<sup>1</sup>
- Bulkhead repairs or reconstruction for residential properties

This Tier 1 PEA evaluates the potential environmental impacts of the Bulkhead Repair Initiative of the SFH and Multifamily Programs in Nassau County (also referred to as the “proposed action”). For purposes of this Tier 1 PEA, residential properties include properties that are comprised of 1-4 and 5+ dwelling units that have a bulkhead on the property that was impacted by Hurricane Irene and/or Superstorm Sandy.

---

<sup>1</sup> The Tier 1 PEAs for Buyouts and Acquisitions will be completed separately for the counties within NYC: Bronx, Kings, New York, Queens, and Richmond Counties.

### **1.3 Proposed Action Location**

The geographic scope for the NY Rising Bulkhead Repair Initiative for Residential Properties described herein is the jurisdictional area of Nassau County, covering approximately 289,900 acres, of which 104,368 acres are located within floodplains. Construction activities are expected to take place on the waterfront of residential properties scattered throughout the communities in Nassau County, especially those most affected by Hurricane Irene and Superstorm Sandy – the Towns of Hempstead and Oyster Bay, the City of Long Beach, and the Villages of Island Park and Freeport. Property owners (referred to as the “Applicant” throughout this Tier 1) of any location within the county that sustained damage from Hurricane Irene and/or Superstorm Sandy are able to apply for the bulkhead repair initiative.

The number of residents in Nassau County most impacted by Superstorm Sandy’s storm surge is approximately 25% of the county’s total population, distributed across the most impacted communities (see Table 1: Nassau County Most Impacted Communities on page 6).

The number of potential bulkheads impacted is subject to updates and refinements as more detailed information becomes available. The actual property addresses would not be verified until applications for assistance are reviewed and determined eligible for the bulkhead repair initiative. As of May 2014, there are approximately 1,300 Applicants to the Housing Recovery Program in Nassau County that have residential bulkheads. Based on preliminary estimates, it is expected that approximately 300 to 400 of these residential bulkheads are in need of repair as a result of Superstorm Sandy and/or Hurricane Irene and may apply for funding under the proposed action.

**Table 1**  
**Nassau County Most Impacted Communities**  
Source: U. S. Census Bureau (census.gov) 2010 Census

	Nassau County		Town of Hempstead		Town of Oyster Bay		Village of Freeport		Village of Island Park		City of Long Beach	
	Total	Storm Surge Area	Total	Storm Surge Area	Total	Storm Surge Area	Total	Storm Surge Area	Total	Storm Surge Area	Total	Storm Surge Area
Population	1,339,532	336,058 25.0%	759,757	226,376 29.7%	293,214	39,980 13.6%	42,860	31,772 74.1%	4,655	4,655 100%	33,275	33,275 100%
Average Household Size	2.94	2.75	3.03	2.89	2.89	2.88	3.18	3.03	2.78	2.78	2.17	2.18
Elderly 65+	15.3%	15.3%	14.2%	15.5%	16.9%	15.9%	12.0%	12.4%	632	13.6%	16.1%	16.1%
Below Poverty	5.0%	7.5%	6.3%	4.6%	3.0%	3.2%	12.7%	13.4%	8.3%	8.3%	7.9%	7.9%
<b>Race</b>												
White Non-Hispanic	65.5%	74.0%	59.9%	77.5%	80.0%	81.8%	23.6%	40.1%	68.1%	72.8%	75.5%	77.9%
Black Non-Hispanic	10.5%	9.0%	15.7%	7.9%	2.1%	6.6%	30.9%	22.0%	1.4%	1.7%	5.9%	6.0%
Hispanic	14.6%	13.5%	17.4%	10.6%	7.5%	9.5%	41.7%	35.6%	26.5%	23.1%	14.1%	13.2%
Asian Non-Hispanic	7.6%	3.2%	5.1%	3.8%	9.1%	1.8%	1.6%	1.6%	2.5%	2.2%	2.6%	2.5%
American Indian & Alaska Native	0.1%	0.2%	0.1%	0.2%	0.1%	0.2%	0.2%	0.6%	0.1%	0.2%	0.1%	0.3%
Native Hawaiian & Pacific Islander	0.0%	0.1%	0.0%	0.0%	0.0%	0.1%	0.0%	0.1%	0.0%	0.0%	0.0%	0.1%
Other	0.4%		0.4%		0.2%		0.4%		0.5%		0.5%	
<b>Housing</b>												
Total	468,346	26.9%	256,734	32.1%	102,849	14.2%	13,865	78.5%	1,715	100.0%	16,450	100.0%
Occupied	448,528	26.6%	246,456	31.8%	99,419	14.2%	13,279	78.4%	1,603	93.5%	14,809	90.1%
Owner-Occupied	358,300	25.4%	197,173	32.4%	86,410	13.2%	8,886	74.9%	954	55.6%	8,250	50.2%
Renter-Occupied	90,228	31.3%	49,283	29.6%	13,009	21.0%	4,393	85.5%	649	37.9%	6,559	39.9%
Vacant	19,818	33.5%	10,278	37.6%	3,430	15.9%	586	79.7%	112	6.5%	1,641	9.9%
5+ Unit Housing	53,023		27,958		5,360		4,142		195		6,222	
1-4 Unit Housing	415,323		228,776		97,489		9,723		1,520		10,228	

## 1.4 Current Conditions and Trends

Nassau and Suffolk Counties comprise the geographic region commonly referred to as Long Island and lie immediately to the east of NYC. Nassau County occupies 453 square miles, of which 287 square miles are land. The geography of Nassau County is generally flat, with hilly areas on the north shore. Because of its location on the Atlantic Ocean, the climate in Nassau County is warm and humid in the summer, with cool, wet winters.

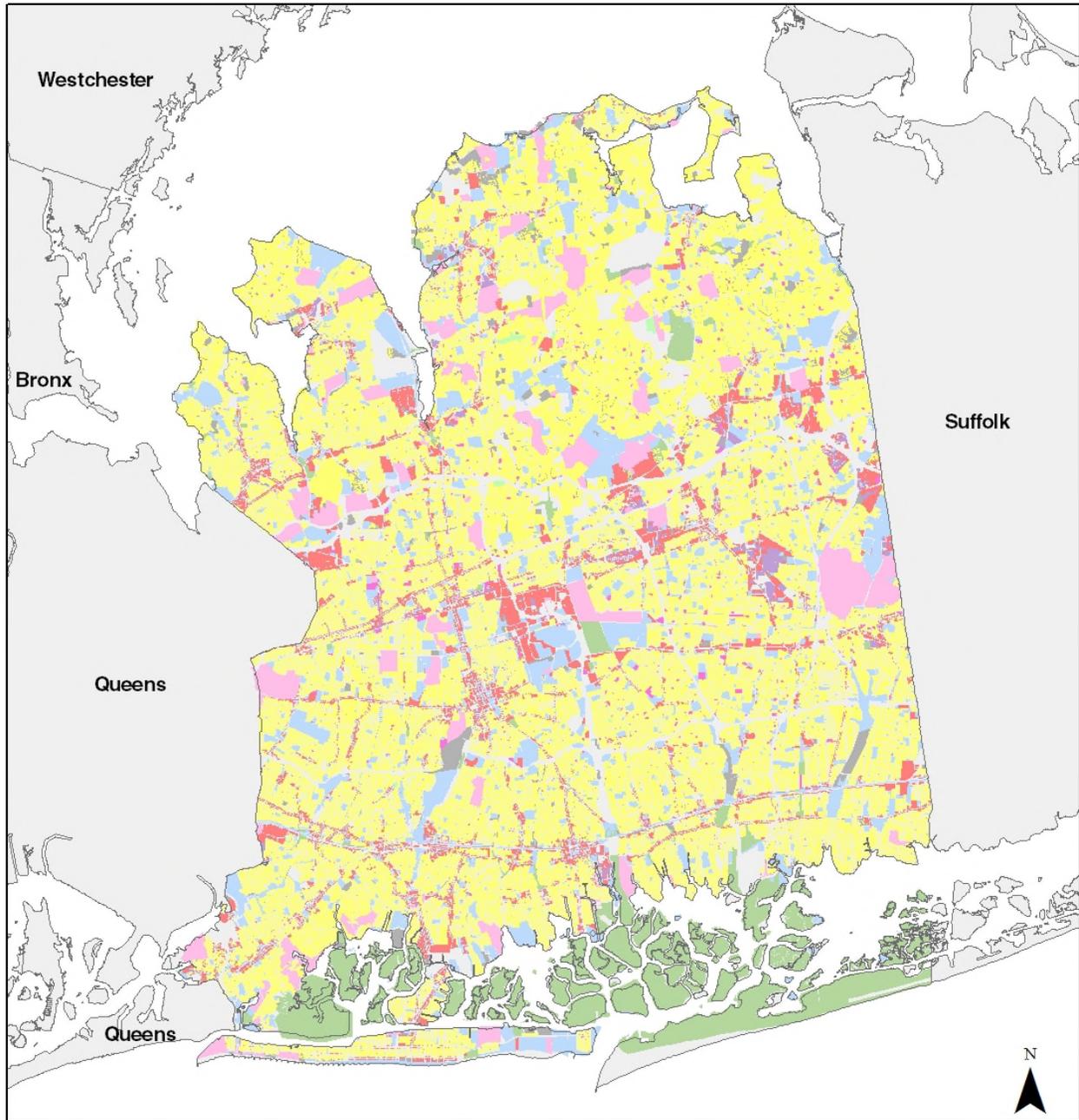
According to the 2010 U. S. Census, the population of Nassau County was 1,339,532. Recent 2012 Census data estimates an increase in population to 1,349,233. Approximately 65.5% of the population identifies as White Non-Hispanic, 14.6% identifies as Hispanic, 10.5% identifies as Black or African-American Non-Hispanic, 7.6% identifies as Asian Non-Hispanic, 0.2% identifies as American Indian or Alaska Native, and 0.4% identifies as “other”. (See Table 1: Nassau County Most Impacted Communities on page 6.) In Nassau County, 15.3% of the population is the age of 65 or older. Between 2007 and 2011 (the latest data available), the average median household income of Nassau County was \$95,823, and the median value of owner-occupied housing units is \$478,600.

The predominant land use in Nassau County is residential, comprising approximately 60% of the land area. (See Figure 1: Nassau County Land Use Map on page 8 and Appendix E: Nassau County Land Use and Zoning Maps) About 95.8% of Nassau County’s housing is occupied. Of this approximately 20.1% is renter-occupied and 79.9% is owner-occupied. About 75.4% of all housing is single-family detached housing; 8.3% had 20 units or more; and 7.6% were 2-unit structures (2012 American Community Survey, 1-Year Estimates). The median monthly rent for renter-occupied units is \$1,462, and the largest percentage of renters paid between \$1,000 and \$1,499 per month (29.4%), followed by the range of \$1,500 and \$1,999 (24.3%); and 20.8% paid \$2,000 or more. Approximately 46% of renters pay 35% or more of their household income in rent in Nassau County.

Parks, recreation, open space, and agricultural uses make up about 17% of land area, and occur throughout the county. Nassau County manages more than 70 parks, preserves, museums, historic properties and athletic facilities, with recreational and open space comprising 6,000 acres throughout the county. This recreational and open space includes the 930-acre Eisenhower Park, several golf courses, and beaches on the ocean.

Institutional uses, including schools and government facilities, comprise about 11% of the total land area, and are widely dispersed throughout the county. Retail development, approximately 4% of the land area, is concentrated in the established downtown centers and along arterial roadways in local and regional-based shopping centers. About 4% of the county can be classified as vacant or unspecified land use and office uses comprise about 2%. Industrial uses comprising about 2% of land area are concentrated in the central and southern portions of the county near rail lines and major transportation corridors.

**Figure 1: Nassau County Land Use Map**



- AGRICULTURE
- COMMERCIAL
- COMMUNITY SERVICES
- INDUSTRIAL
- PUBLIC SERVICES
- RECREATION AND ENTERTAINMENT
- RESIDENTIAL
- VACANT LAND
- WILD, CONSERVATION LANDS AND PUBLIC PARKS



Source: Long Island Index, Nassau County Planning Department.

## 1.5 Damage Assessments and Need

In 2011, Hurricane Irene caused flooding, fallen trees, property damage, and power outages in Nassau County. Severe winds blew through the county, with wind speeds of 67 miles per hour recorded in the Town of Oyster Bay. The LIPA stated that more than 450,000 customers of the 1.1 million on Long Island were without power. On August 27, 2011, at least 30 families whose homes were in low-lying sections of Kings Point took refuge at the Great Neck North High School.

At Long Beach, churning waves drove over the boardwalk and onto city streets. A two-story lifeguard tower came loose and was smashed against the boardwalk by the ferocious surge before the structure was pushed up onto the boardwalk. Among the worst-hit towns were Long Beach and Freeport, both with serious flooding, as well as Oyster Bay, and Hempstead. Heavy flooding was also reported in Southampton. Waves from Hurricane Irene's storm surge crashed onto roads and surrounded homes along the coastline. Boats from the marinas washed ashore. In Long Beach, strong winds and heavy rains knocked down trees and flooded streets. Elevators and the lobby in an area hotel were also completely flooded with knee-deep water.

On October 29, 2012, Superstorm Sandy made landfall over the NYS coastline. Flooding and high winds along the coast and overland flooding damaged communities throughout NYS, adding to damage suffered the year before from Hurricane Irene and Tropical Storm Lee. In particular, communities within Nassau, Suffolk, Rockland, and Westchester Counties suffered substantial damage. These four counties were identified by HUD as the most impacted and distressed counties within NYS, excluding NYC.

During Superstorm Sandy, Nassau County's wastewater infrastructure systems failed. The Bay Park Waste Water Treatment Plant, which services approximately 40% of Nassau County, was flooded with twelve feet of water from Superstorm Sandy's storm surge. Water filled the engines of the plant's main pumping station and forced the Bay Park Waste Water Treatment Plant off-line. With the pumps of the treatment facility off-line, sewage backed up and overflowed into low-lying streets, flooding many communities with untreated wastewater. More than 50 hours passed before service was restored, resulting in approximately 200 million gallons of raw sewage flooding channels and waterways.

Another source of damage from Superstorm Sandy was the electrical shortages caused by saltwater flooding. Electrical shortages caused 32 homes to set fire within Nassau County. The electrical shortages caused fatalities from carbon monoxide poisoning and electrocution. Flooding and wind damaged residential buildings and other structures. According to data that FEMA provided to the public after Superstorm Sandy, a total of 74,736 structures in Nassau County were flooded, damaged or destroyed. Approximately 30,036 structures in Nassau County had damage totaling more than 50% of their value and 117 structures were completely destroyed.

A total 3,312,311 cubic yards of debris was left behind in the county from Superstorm Sandy, and structural debris was estimated to make up 90% of the debris in Nassau County. The debris included damaged bulkheads, pilings, marine structures, unmoored boats, and building fragments

carried by the storm surge. Fallen trees accounted for about 172,980 cubic yards of the total amount.

According to FEMA Individual Assistance (FEMA IA) estimates from April 2013, 38,391 owner-occupied homes were damaged, and 9,143 rental properties suffered damage or were destroyed in Nassau County by Hurricane Irene and/or Superstorm Sandy. More recent FEMA IA data from November 2013 estimates that as many as 79,802 residential properties in total sustained damage from Hurricane Irene and/or Superstorm Sandy in Nassau County.

As of May 2014, there are approximately 1,300 Applicants to the Housing Recovery Program in Nassau County that have residential bulkheads. Based on preliminary estimates, it is expected that approximately 300 to 400 of these residential bulkheads are in need of repair as a result of Superstorm Sandy and/or Hurricane Irene and may apply for funding under the proposed action. Approximately 395 Applicant addresses have been verified and mapped in Nassau County for the NY Rising Bulkhead Repair Initiative (see Figure 2: Nassau County Verified Applicant Address Map on page 11).

NYS recognizes that without federal assistance through the CDBG-DR program, residents of storm-damaged communities would be unable to repair, rehabilitate, or replace the bulkheads on their residential properties. If damaged bulkheads are not addressed, residential properties would remain vulnerable to future storm damage and the bulkheads would remain vulnerable to structural deterioration and weathering.

As allocated to Nassau County, the CDBG-DR funds available are considered essential to recovering the county's overall vitality. For the NY Rising Bulkhead Repair Initiative for Residential Properties in Nassau County addressed in this Tier 1 PEA, the CDBG-DR funds would facilitate the repair, rehabilitation, replacement, and reimbursement for completed repairs to bulkheads on residential properties.

The purpose of the proposed action is to assist owners of residential properties in Nassau County whose bulkheads were damaged or destroyed by Hurricane Irene and Superstorm Sandy. The NY Rising Bulkhead Repair Initiative is needed to help provide adequate protection to the homes of these residents through the repair and/or replacement or reconstruction of damaged bulkheads.

**Figure 2: Nassau County Bulkhead Applicants & Floodplain**



## 1.6 Recovery Measures

In January, and subsequently in April of 2013, FEMA released its Advisory Base Flood Elevation (ABFE) Maps for some counties affected by Superstorm Sandy. These maps were created to provide the “best available data” on flood risk for areas impacted by the storm and assist homeowners with decision making on how best to rehabilitate their homes. These were to be replaced by Preliminary Flood Insurance Rate Maps (P-FIRMS) once they were updated by FEMA. However, the P-FIRMS have not yet been published. In light of this fact, HUD issued its newest “best available data” as preliminary work maps, which advise that reconstruction program sites be elevated to one foot above the Base Flood Elevation (BFE).

Also in response to Superstorm Sandy, Hurricane Irene, and Tropical Storm Lee, NYS developed the Action Plan to help define how the State will effectively use all available funding to recover and rebuild. Part of the Action Plan describes the need to help affected families to rebuild and return to their homes as soon as possible by addressing unmet housing rehabilitation and repair needs and incorporating mitigation measures in order to reduce impacts of future disasters. In Nassau County, rehabilitating bulkheads located at residential properties and helping homeowners to mitigate future storm damage is of particular concern, as a majority of housing in Nassau County is located adjacent to a water body and bulkheads and are necessary to protect property and prevent erosion of soils into the water bodies.

Although there was some assistance granted to the county immediately after the storms, including \$3.2 million in federal funding granted to municipalities after Hurricane Irene and \$332 million in FEMA Public Assistance for infrastructure repairs after Superstorm Sandy, there still remains a great need for housing recovery assistance in Nassau County. Reimbursements for bulkhead repairs and replacements are also being offered as part of the initiative, as they are an important part of the recovery and resiliency efforts.

In addition to funding housing recovery for bulkhead residential properties, under the Action Plan, NYS is also allocating CDBG-DR funding for rehabilitation of one to four unit residential properties, 5+ unit multi-family residential properties, buyout and acquisition of substantially damaged properties, and economic development for businesses damaged by the aforementioned storms. These actions are important in assisting NYS in making a more complete recovery after being devastated by three severe storm events in a short time span.

The action covered by this PEA is to provide assistance for repair, rehabilitation, replacement and reimbursement for completed repairs to owners of residential properties in Nassau County whose bulkheads were damaged or destroyed by Hurricane Irene and Superstorm Sandy. The initiative is needed to help maintain or restore properties impacted by these storms through repair and replacement of damaged bulkhead structures, and to help prevent future damage.

Where practicable, this initiative intends to facilitate the repair and/or replacement or reconstruction of bulkheads. If an Applicant to the NY Rising Bulkhead Repair Initiative opts to undertake bulkhead work other than repair and/or replacement or reconstruction, either to achieve compliance with local building codes or to provide greater resiliency measures, such work would be considered; however, it would likely be subject to a longer permitting process due to the need for individual permits from NYSDEC and USACE, as discussed in Section 1.9 below. All Applicants would be responsible for obtaining all required permits for bulkhead repair activities.

After these storms, Nassau County updated its Hazard Mitigation Action Plan. This plan represents the collective efforts of private citizens, elected and appointed government officials, business leaders, and volunteers of non-profit organizations to initiate programs for rebuilding and increasing the resiliency of communities in the event of future extreme weather events.

One of the primary objectives of this plan update is to help prioritize mitigation projects for the county, as the impact and future implications of Superstorm Sandy events are becoming better understood. The goal in this undertaking is to strengthen facilities, infrastructure, and individual residences to the potential damage caused by natural disasters in the future. Under the Disaster Mitigation Act of 2000 (Public Law 106-390), state and local governments that maintain an approved Hazard Mitigation Plan will be eligible for certain pre- and post-disaster project funding to help protect their communities. These types of recovery measures taken by Nassau County will complement the repair and resiliency efforts to individual homes under the NY Rising Programs, making the repair and mitigation efforts more effective, leading to a better recovery of the county.

## **1.7 Bulkheads Definitions and Descriptions**

Bulkheads are defined as vertical structures constructed parallel to the shoreline or banks of a waterway, with retaining walls for the purpose preventing overtopping and flooding of the adjacent properties. Bulkheads are usually placed along an eroding bank or escarpment to hold back the land and prevent erosion. Bulkheads are a long-lasting hardy structure that can stand up to moderate to high wave energy.

Residential bulkheads protect the banks and bluffs on a residential property by completely separating land from water. These bulkheads act as retaining walls, keeping the earth or sand behind them from crumbling or slumping. They also are used to resist wave action and protect property.

Bulkheads can be built in three basic types of design. They may consist of:

- 1) Thin, interlocking sheet piles driven deeply into the ground;
- 2) Individual piles used to support an aboveground structure; or
- 3) Massive gravity construction resting on the shore bottom or embedded slightly into it, supported by its own weight rather than by piling.

From these three basic design types, a wide variety of bulkhead designs have been developed. Common and uncommon types of bulkheads include:

- Common bulkheads:
  - Cantilever wall – typically used where there is no room for the installation of an anchor wall
  - Anchored wall with single layer of anchorage – most commonly used
    - Relieving platforms may be added to reduce lateral pressure
    - Batter piles may be driven to use as anchors behind the wall, but should only be considered if there is insufficient room for an anchor and the height of the walls exceeds the design parameters for a cantilever wall
  - Soldier pile wall, also known as a “King” pile wall, consisting of piles added to the front of an anchored wall to help prevent deflection
  - Soldier beams and lagging
  - Close pile wall
  - Double wall
  - Various combinations can be used of the above general designs to meet the conditions of the site

Some uncommon bulkhead types are listed below. They are unlikely to be encountered, but are listed for reference only.

- Railroad ties and steel H-piles
- Treated timber
- Untreated log
- Hogwire fencing and sandbags
- Used rubber tire and timber post
- Timber cribbing
- Stacked rubber tires
- Used concrete pipes
- Longard tubes
- Stacked bags
- Gabbions

Some of these types of bulkheads, such as those using rubber tires, are listed for informational purposes only. If an Applicant to the NY Rising Bulkhead Repair Initiative has a bulkhead that is comprised of a material that is not in compliance with local, state, and/or federal laws and regulations, that bulkhead would be replaced with one made from materials that comply with all applicable laws and regulations.

#### Damage to Bulkheads

Bulkheads are susceptible to various forms of damage due to their presence in the interface between land and water. The action of water, both in front of the wall and behind it, can cause bulkhead damage. Waves that lap over the top can erode the land behind the structure as if the wall were not there, so the structure must be built high enough to prevent such overtopping. Groundwater and rain percolating through the soil may build up pressure behind the wall, eventually pushing it over. Scour at the toe of the bulkhead can undermine the structure and tip it

over. Water flowing around the sides of the bulkhead can also cause severe erosion damage, so the structure should cover the entire surface that could be eroded.

Typical storm damage that has been seen from Superstorm Sandy and other similar events has included erosion of the toe of the bulkhead, washout of fill behind the bulkheads, impact damage to sheet piling or other sheeting, and the loss of decking and sheeting from flooding. Most references to historical storm events indicate that the damage incurred was an acceleration of typical wear to bulkheads.

## **1.8 Repair and Rehabilitation Activities**

Residential property owners in disaster-declared counties who sustained damage to bulkheads will be invited to submit an application for assistance to repair damage caused by any of the storms identified in the Action Plan. Funding for repair and mitigation would include costs for the repair/replacement of damaged bulkheads. It would cover costs for unmet repair or replacement needs after accounting for all federal, state, local and/or private sources of disaster-related assistance. Assistance for repair, rehabilitation, replacement, and reimbursement funding would be capped at the lesser of a specified dollar amount to be determined by NYS, or the unmet repair, rehabilitation, replacement, and reimbursement need as described above. To direct sufficient levels of assistance to those most in need, especially low- or moderate-income and minority households, a higher overall dollar cap amount may be applied to those households of low- or moderate-income, where the need is justified.

The discussion below outlines the activities that would be carried out under the NY Rising Bulkhead Repair Initiative to address storm-related damage to bulkheads. The following steps would be implemented:

### Inspection and Reporting

The condition of the existing bulkhead would be inspected by a professional engineer licensed in the State of New York (a licensed engineer) retained by the Applicant to determine whether to repair or replace the damaged structure. The inspector would provide photographs, sketches, and a detailed narrative of the existing site conditions and proposed method of repair or replacement, including a cost estimate.

### Documentation

Documentation must be developed, by the Applicant and/or their licensed engineer, sufficient to acquire all required permits and authorizations from the United States Army Corps of Engineers (USACE), New York State Department of Environmental Conservation (NYSDEC), New York State Department of State (NYSDOS), and any local agency having jurisdiction over the work.

### Activity Summary

Bulkhead repair and/or replacement or reconstruction activities would be conducted in accordance with the federally issued design criteria documents.

All bulkhead replacements would be in the existing footprint. Bulkheads may be constructed to be up to 18 inches higher than the currently existing bulkhead. Material upgrades would be

permitted when deemed advisable by a licensed engineer. Alternatives to in-kind and in-place repair would be considered only when recommended by a licensed engineer.

Reimbursement for work already initiated or completed would be allowed for Applicants who have obtained all necessary permits and authorizations. Applicants for reimbursement must also demonstrate compliance with the requirements of all permits and authorizations as well as construction in accordance with approved plans, as required.

The following basic program eligibility requirements apply to the NY Rising Housing Recovery Programs:

- The property must have been occupied as a primary year-round residence at the time of one of the three storms by a renter or an owner-occupant. In the case of owner-occupied properties, the Applicant must be the owner at the time of the storm. Ownership is defined as holding fee simple title supported by a deed recorded with the County Recorder.
- The home must be located in one of the counties designated a disaster area.
- The residential property was damaged as a direct result of one of these storms:
  - Hurricane Irene: (8/26/2011)
  - Tropical Storm Lee: (9/7/2011)
  - Superstorm Sandy: (10/29/2012)
- Second homes and vacation properties are not eligible.
- Homeowners of individual condo and co-op units are eligible program Applicants. Associations governing the common spaces of such buildings are also eligible Program Applicants.
- If a rental property was between tenants at the time of the storm, the property must have been offered for lease on a full-time, year-round basis in order to be eligible.

As project activity begins, certain portions of the existing bulkhead that could not previously be inspected may be exposed and/or accessible, and should be assessed for additional damage. While most of these materials are unlikely to have been damaged during a storm event, depending on the age of the bulkhead, there is the potential for wear. These previously inaccessible features include:

- Tiebacks
- Anchor walls
- Batter piles
- Relieving platforms
- Backfill
- Scour protection materials

The applicability of the existing bulkhead design to the local conditions would be reviewed. It is expected that the Applicant's licensed engineer would consider the following factors in the design of repairs or replacement bulkheads under the initiative:

- Exposure to wave attack
- Foundation condition
- Scour, in particular wave reflection from vertical walls for bulkheads
- Overtopping by wave action (in particular during storm events)

During storm events, excessive waves may cause increased scour and overtopping, while debris carried in the storm event may damage bulkheads and piles. To ensure protection during storm events, it is expected that the Applicant's licensed engineer would review existing bulkheads and the design of replacements or repairs would include assessment of:

- Compartmentalization: The design of the bulkhead should be such to allow for repair only of the area damaged rather than the entire bulkhead.
- The potential for inundation of the backfill of the bulkhead, which could cause wash out or subsidence, should be reviewed, and if necessary adequate drainage should be provided.
- Impact to the bulkhead, including storm debris.

Methods for construction or repairs of the bulkheads would vary based on site conditions. An example of construction methods for a sheet pile bulkhead is provided below:

- Where removal of soft material is contemplated, such activities should precede the driving of sheet piling. USACE's Nationwide Permit 3, discussed in detail in Section 1.9, authorizes the removal of accumulated sediments and debris in the vicinity of existing structures, provided that the removal extends no more than 200 feet in any direction from the structure and 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.
- Where existing material behind the bulkhead is to remain in place, it is advisable to remove material in front of the bulkhead after completion of the structure. This emphasizes arching in the material behind the bulkhead and reduces bending stresses. Removal of material adjacent to sheet piling after completion should be done in two or three vertical stages to avoid rapid changes and load differentials.
- Add fill behind the bulkhead in areas of broad extent so that the concentration of lateral pressure does not cause differential alignment along the length of the bulkhead.
- Consider compaction pressure due to the driving of support piles (relieving platform or track supports) behind the face of the bulkhead. If removal of material in front of the bulkhead is done after the piles are driven, deflection of the bulkhead will tend to relieve these pressures. Specify the driving sequence for such piles to avoid a progressive increase of the wedging effect.
- Concrete walls and anchor walls should be reinforced on both faces and not simply in accordance with the theoretical moment diagram. The use of high tensile steel in tie rods should be approached with caution to assure that the steel is capable of several percent elongation without fracture.
- All concrete must be placed in sealed forms that prevent loss of cementitious materials to the adjacent waterway.
- Tie rods should be pre-tensioned as uniformly as is practicable.
- Where the anchorage depends on passive earth pressure, place and compact backfill around the anchorage before filling against the bulkhead.
- In a hard bottom with shallow impenetrable material, consider using soldier piles for support or trenching for the base of the bulkhead.
- Various materials are available for construction of the face of the bulkhead. For the majority of the materials, such as steel, timber, and concrete, standard pile and sheet

piling techniques, as well as the manufacturer's recommendation, would insure proper installation. More recently, newer materials, including galvanized corrugated sheet metal, corrugated fiberglass, and corrugated aluminum have become available on the market. The use of these materials at existing locations should be reviewed by the Applicant's licensed engineer based on:

- Freeze thaw cycles
  - Corrosion
  - Marine borers
  - Ultraviolet light reactions
  - Abrasion
  - Wave and ice forces
- It is recommended that regardless of the materials selected, the manufacturer should be consulted for proper installation techniques.
  - The anchorages of all tie-backs should be properly designed for site conditions by the Applicant's licensed engineer.

## 1.9 Permitting

As noted above, documentation must be developed, by the Applicant and/or their licensed engineer, sufficient to acquire all required permits and authorizations from USACE, NYSDEC, NYSDOS, and any local agency having jurisdiction over the work. The documents that should be consulted for guidance during the repair and rehabilitation process include those discussed below. As noted below, certain permits may apply only to Applicants seeking reimbursement for completed work.

### Federally Issued Design Criteria Documents

Typically, federally funded projects are required to follow federal criteria (criteria are typically set forth by the USACE or the Department of Defense). These references include the typical construction specifications for bulkheads; however, some of the designs may exceed the necessary requirements for the replacement of the existing structures.

Consideration should be given to the existing conditions and uses when selecting the appropriate design. The following documents may be utilized in determining design specifications for the repair or replacements of bulkheads under the NY Rising Bulkhead Repair Initiative:

- EM 1110-2-1614: Design of Coastal Revetments, Seawalls, and Bulkheads (USACE)
- MIL-HDBK1025/4: Seawalls, Bulkheads and Quay wall
- UFC 4-150-06: Military Harbors and Coastal Facilities
- NYSDEC Website "Tidal Wetlands Permit Program: List of Sample Plans and Diagrams."
  - Provides sample plan and crossview diagram for typical bulkhead repair/replacement
  - Located at <http://www.dec.ny.gov/permits/6342.html>

The scope of work for repairing or replacing damaged or destroyed bulkheads in Nassau County would meet the requirements of and use the appropriate general or individual permits listed below:

### NYSDEC General Permits GP-0-12-006 and GP-0-13-006

General Permit GP-0-13-006 covers multiple permitting requirements for in-kind/in-place repair or reconstruction of bulkheads and shoreline erosion protection structures. This permit replaces General Permit GP-0-12-006, which expired on September 30, 2013. Projects that were completed during the active period for GP-0-12-006 are still eligible for the program; unfinished projects that were started under GP-0-12-006 would require coverage under GP-0-13-006. This General Permit (GP) is only applicable in Nassau and Suffolk Counties, and a Notice of Intent for work under this permit must have been submitted by April 30, 2014 and work must be completed by October 31, 2014. GP-0-13-006 lays out the natural resource mitigation requirements for the repair and reconstruction of bulkheads that were damaged during Superstorm Sandy, and covers the certification requirements for the following regulations: Tidal Wetlands under Environmental Conservation Law (ECL) Article 25, Excavation & Fill in Navigable Waters under ECL Article 15 Title 5, Water Quality Certification under Section 401 of the Clean Water Act, and Coastal Erosion Management under ECL Article 34. All Applicants must submit a Notice of Intent (NOI) prior to conducting work that would fall under a GP. No retroactive permits will be issued. Because the Notice of Intent date for work under this general permit has passed, it would apply only to Applicants seeking reimbursement, unless the Notice of Intent date is extended in the future.

### NYSDEC General Permit GP-1-13-001

GP-1-13-001 covers multiple permitting requirements for the removal and replacement of functional and lawfully existing bulkheads, and if required, maintenance dredging. The replacement bulkhead may be up to 18 inches higher in elevation than the existing bulkhead. This General Permit applies only in areas on the south shore of Long Island, west of the Robert Moses Causeway to the Queens County border. This permit covers the certification requirements for the following regulations: Tidal Wetlands under Environmental Conservation Law (ECL) Article 25, Excavation & Fill in Navigable Waters under ECL Article 15 Title 5, and Water Quality Certification under Section 401 of the Clean Water Act.

Areas excluded from this General Permit include: areas of vegetated tidal wetlands; any ocean shore; the ocean front of Long Beach Island; and all of the Jones Beach State Park and Robert Moses State Park Barrier Islands, including:

- Oak Beach
- Oak Island
- Captree State Park
- Gilgo State Park
- Gilgo Beach State Park
- Gilgo Beach
- West Gilgo Beach
- Tobay Beach Town Park
- Jones Beach State Park
- Cedar and Over Look Town Parks
- Robert Moses State Park

An individual permit, discussed below, is required for projects in these excluded areas.

## USACE NYDGP-15<sup>2</sup>

In NYS, the USACE regional general permit for storm damage repair or replacement activities is NYDGP-15. NYDGP-15 expired on April 21, 2014. If this permit is not reissued, there will no longer be a Superstorm Sandy-related USACE general permit. The regular permitting process must be followed for all coastal erosion structures or structures in water with the USACE at that time.

## USACE Nationwide Permit 3 – Maintenance

The USACE NWP3, which covers maintenance, repair, and replacement of currently existing, serviceable bulkheads, would be the appropriate permit for many Applicants to the NY Rising Bulkhead Repair Initiative (see Appendix T: USACE Coordination and Permits). A permit application must be completed for each program site, and all permit conditions must be met. Any program sites that do not qualify for the NWP3 must complete an individual permit application for the program site. Some program sites would also require a PCN to be submitted to the USACE in addition to the NWP3 permit application. NYSDEC has granted blanket Section 401 Water Quality Certification in NYS provided that the project complies with all the General Conditions listed for NWP3. Any activities authorized by NWP3, but that do not comply with all these conditions, must obtain an individual Section 401 Water Quality Certification from NYSDEC.

## Individual Permits

An individual permit would be required if the project activities are not eligible for a NYSDEC General Permit. In New York, authorizations for in-water work are issued through the Joint Application for Permit process, which is used to apply for permits from several agencies. If a project is eligible for a USACE nationwide or regional permit, but is not eligible for a NYSDEC general permit, a Joint Application for Permit would need to be filed.

If a project is not eligible for a USACE Regional or Nationwide Permit, a USACE individual permit would be required. Individual permits issued by the USACE include Standard Permits, which are generally more complex in nature and involve notification of the public and commenting agencies, and Letters of Permission, which are issued through an abbreviated processing procedure that coordinates with appropriate agencies but does not require the publishing of a public notice. Both are issued for projects in compliance with Section 404 of the Clean Water Act and Section 10 of the Rivers and Harbors Act.

Individual permits and authorizations issued through NYSDEC include: Tidal and Freshwater Wetlands permits under 6 NYCRR Part 661 and Parts 663-665, respectively; Coastal Erosion Management permit under 6 NYCRR Part 505; Wild, Scenic and Recreational Rivers permit under 6 NYCRR Part 666; and Excavation and Fill in Navigable Waters permit, Stream Disturbance permit, and Section 401 Water Quality Certification under 6 NYCRR Part 608. Depending on the specific type of permit required through NYSDEC, supplemental information

---

<sup>2</sup> NYDGP-15 expired on April 21, 2014; however, the USACE proposed a re-issuance of NYDGP-15 on February 13, 2014. The re-issued permit would be valid until July 14, 2015, to coincide with the expiration date of a similar regional general permit that is in effect within the boundaries of the Buffalo District of the USACE. The comment period on the proposed re-issuance expired on March 14, 2014. If the general permit is reissued, additional activities under the proposed action may be eligible for authorization under this permit. If it is not reissued, this permit would only apply to work previously completed and seeking reimbursement under the proposed action.

may be required. Tidal and Freshwater Wetlands permits, Protection of Waters permits and Coastal Erosion Management permits are discussed in more detail below.

If the Applicant requires coastal consistency concurrence, a Federal Consistency Assessment Form must be submitted to HCR and NYSDOS with the Joint Application.

#### NYSDEC Tidal or Freshwater Wetlands Permit

Many areas that are not eligible for NYSDEC General Permits GP-0-13-006 or GP-1-13-001 may need to apply for a Tidal or Freshwater Wetlands Permit under 6 NYCRR Parts 661 or 663, respectively. Tidal wetlands include salt marshes, vegetated and non-vegetated flats, and shorelines subject to tides, as well as adjacent areas extending up to 300 feet inland from the wetland boundary. Freshwater wetlands are comprised of lands and submerged lands supporting aquatic or semi-aquatic vegetation and include adjacent areas extending up to 100 feet from the wetland boundary. Tidal Wetland Permits cover construction, reconstruction, and/or expansion of structures, including bulkheads, and Freshwater Wetland Permits include excavation or the placement of fill; if a permit from the USACE is required, a Water Quality Certification may also be required. Water Quality Certifications for this initiative would be granted through a USACE NWP3; if a project does not meet the conditions of NWP3, it would require an individual permit through USACE and a separate Water Quality Certification through NYSDEC.

#### NYSDEC Protection of Waters Permit

Areas and/or activities that are not eligible for NYSDEC General Permits GP-0-13-006 or GP-1-13-001 would need to apply for an individual permit under the Protection of Waters Program (6 NYCRR Part 608). Permits issued under the Protection of Waters Program regulate five different categories of activities including, among other, Excavation and Placement of Fill in Navigable Waters, Stream Disturbance, and Section 401 Water Quality Certification under 6 NYCRR Part 608. This permit authorizes in-water work according to site-specific conditions. Depending on which permit is appropriate for the site, supplemental information may be required.

#### NYSDEC Coastal Erosion Management Permit

Some program sites may be within a NYSDEC designated Coastal Erosion Hazard Area (CEHA) and would therefore require a NYSDEC Coastal Erosion Management (CEM) Permit. There are 86 coastal communities in NYS that currently fall under CEHA jurisdiction. Under the Environmental Conservation Law Article 34, local communities are allowed to administer their own CEHA program. Forty-two communities have been certified by NYSDEC and administer their own CEHA program; the remaining 44 communities are managed by NYSDEC. Program sites within CEHA jurisdiction may be required to obtain a CEM permit before any site-altering work can commence.

#### Other Permitting Requirements

Additional permitting, such as construction document review and obtaining construction/building permits, is typically required at a municipal or county level (or at least notifying the local authority that the work is to commence).

## 1.10 Alternatives to the Proposed Action

After a consideration of the following alternatives, NYS has determined that the best practicable alternative is the Proposed Action. The alternatives considered herein are limited to the repair and/or replacement or reconstruction of residential bulkheads, which may be the only feasible alternative for redevelopment in these waterfront locations. However, soft edge options such as natural based features and nonstructural measures are not precluded by this Tier 1 analysis. Rather, these features would need to be considered by the Applicant, the Applicant's licensed engineer, regulatory government agencies, and the local municipality. The bulkhead repair initiative is intended to facilitate the repair and/or replacement or reconstruction of residential bulkheads.

The alternative actions considered are as follows:

- No Action Alternative
- Limited Action Alternative – No Reimbursement Funding
- Limited Area Alternative

### No Action Alternative

Under the No Action alternative, the funding for the proposed repair and rehabilitation of bulkheads on residential properties in Nassau County would not be authorized. Without the repair and rehabilitation of the protective residential bulkheads, the associated residences would be more susceptible to future flooding.

Under the No Action alternative, the residential property owners would be responsible for the repair and rehabilitation of the residential bulkheads. Depending on the motivations of owners and their willingness and/or ability to access resources to repair and upgrade these bulkheads, there is potential that repairs would be limited, work would progress slowly or remain incomplete, creating additional hazards, or work would not be completed to current building codes.

The effects of leaving bulkheads unrepaired or repaired insufficiently include:

- Slumping or falling over of the bulkhead due to water pressure not being relieved through weep holes
- Slumping or falling over of the bulkhead due to undermining by erosion
- Erosion behind the bulkhead due to waves overtopping the structure; and
- Water flowing around the bulkhead.

The failure of the bulkheads would leave the property vulnerable to erosion, flooding, and wave damage from storms and high water levels.

The property owners may apply to other programs for financial assistance in the repair and rehabilitation of their residences that were damaged or destroyed by the storms. While these assistance programs include financial support, they also include requirements for resiliency upgrades for the residences (e.g., elevating the homes) that would reduce the potential damage

from future storms. These resiliency measures may be rendered ineffective due to the reduced protection of the damaged bulkheads.

Under the No Action Alternative, reimbursements would not be made available for eligible homeowners who have already engaged in repairs to the residential bulkheads prior to applying for the initiative. Some of these residents undertook repairs with the understanding that reimbursements would eventually be made available. If relief is not granted, homeowners in future storm events may be dissuaded from making immediate and necessary repairs to their bulkheads, and instead wait for a possible recovery program. This would further delay the recovery of neighborhoods and communities, and place these areas further at risk during future storm events.

The rehabilitation of these communities, and the stabilization and resiliency of existing residential infrastructure is essential to the affected communities' economies, which are critical to the economic health of the state. Unlike the Proposed Action, the No Action Alternative would negatively impact the recovery of the affected communities. Small residential buildings close to the shore are an integral part of the county's culture. These residents support the affected communities' economies, which are critical to the economic health of the state. The No Action alternative would negatively impact the recovery of the affected communities.

The No Action alternative would neither address NYS's need for safe, decent, and affordable housing, nor would it comply with the other programs' efforts to increase the resiliency of the homes being repaired and rehabilitated.

Overall, the No Action Alternative would be less consistent with State and local land use, zoning, and public policy objectives than the Proposed Action. Compared with the Proposed Action, it would have the potential for adverse impacts to economic conditions, community character, cultural and visual resources, natural resources, and water resources. Similar to the Proposed Action, the No Action Alternative is not anticipated to result in potential impacts to air quality, energy consumption, noise, or hazardous materials.

#### Limited Action Alternative – No Reimbursement Funding

Under the Limited Action Alternative – No Reimbursement Funding, the funding for the proposed repair and rehabilitation of bulkheads on residential properties in Nassau County would be authorized. However reimbursement for repairs and improvements that have already been implemented would not be authorized. Reimbursements would not be made available for eligible homeowners who have already engaged in repairs to and/or replacement or reconstruction of the bulkheads prior to applying for the initiative, resulting in a negative effect on the local economy.

Funding for the repair and rehabilitation of residential bulkheads would help prevent repetitive loss from future storms and aid the affected communities' efforts to increase resiliency to climate change and mitigation of severe storm risk. However, this alternative would only partially accomplish the goals of providing safe and adequate housing for residents of these homes, retaining neighborhood character over the long-term, and improving the communities' resiliency to future storms. Unlike the Proposed Action, reimbursements would not be made available for eligible owners who have already engaged in repairs and/or replacement or reconstruction prior to applying for the initiative. Some of these residents undertook repairs with the understanding that reimbursements would eventually be made available. If relief is not granted, homeowners in future storm events may be dissuaded from making immediate and necessary repairs to their bulkheads, and instead wait for a possible recovery program. This would further delay the recovery of neighborhoods and communities, as delaying repairs and rehabilitation would prolong the impacts related to community character, and take longer to restore normal conditions in affected communities.

Compared with the Proposed Action, the Limited Action Alternative – No Reimbursement Funding would have the potential for adverse impacts to land use, zoning, and public policy, economic conditions, community character, cultural and visual resources, natural resources, and water resources, as additional properties could remain in disrepair. Similar to the Proposed Action, the Limited Action Alternative – No Reimbursement Funding is not anticipated to result in potential impacts to air quality, energy consumption, noise, or hazardous materials, as it would likely be subject to the same conditions for approval as the Proposed Action.

#### Limited Areas Alternative

In certain limited areas with high flood risk, additional programs have been proposed for funding and are being assessed in forthcoming environmental assessments.

Under the Limited Area Alternative – Buyout Option, funds would be authorized to purchase severely damaged residential properties, demolish any structures, and restore the properties to natural conditions within Nassau County. This would help restore large parts of the floodplain to their natural state. Under this option, the bulkheads would be removed, reduced, or in other ways be made part of the natural conditions for that site.

Under the Limited Area Alternative – Acquisition Option, funding would be authorized to acquire damaged residential properties for the purpose of future resilient redevelopment within Nassau County. Following acquisition of a property, the responsible entity would make any required temporary repairs to the bulkheads prior to redevelopment. The future redevelopment would have to include long-term repair and rehabilitation of the bulkhead associated with the properties.

Both of these options would involve relocating populations to less vulnerable areas away from the shore. This would result in a dramatic change to neighborhoods and communities, with associated local economies also being affected. Thus, the cost of the Limited Area Alternative Buyout and/or Acquisition options could be far greater than the cost of repairing and rebuilding in a more resilient manner in the existing developed parcel.

By themselves, these options do not satisfy the purpose and need of providing safe and adequate housing for residents of these homes and retaining neighborhood character. Therefore, these options have been eliminated from further consideration except in limited areas for certain counties.

NYS is evaluating the high risk flood areas where the benefits of these options outweigh the impacts to the communities. The benefits include reduced cost of future storm recovery efforts in areas with potential for severe damage, even to homes with resiliency measures incorporated, or where larger scale community resiliency measures are needed. The state would determine where these options are presented.

Overall, the Limited Area Alternative, which involves buyout and acquisitions, could result in greater economic impacts to local communities than the Proposed Action. However, since the Limited Area Alternative would involve either the restoration of land to its natural condition, or the redevelopment of land in accordance with resiliency standards, and would likely be subject to the same conditions for approval as the Proposed Action, potential impacts to local land use, zoning, and public policy; cultural and visual resources; natural resources; water resources; air quality; energy consumption; noise; and hazardous materials would be comparable to those of the Proposed Action.

### Summary

The rehabilitation activities proposed by the NY Rising Bulkhead Repair Initiative would take place on residential properties throughout Nassau County. The exact locations of these properties are not yet fully known, as the initiative is still accepting applications. After considering the alternatives, NYS has determined that there is no practical alternative other than to proceed with the Proposed Action. While there are some inherent risks to living in a floodplain or area which experiences severe weather that cannot be completely avoided, the individual actions undertaken by the described NY Rising Bulkhead Repair Initiative would contribute to a safer and more secure environment for a substantial number of its low- to moderate-income households still recovering from recent severe storms. The Proposed Action would provide a positive financial impact on neighborhoods, communities, and Nassau County.

## **1.11 Cumulative Effects**

### Introduction

The federal Council on Environmental Quality's regulations implementing the procedural provisions of the National Environmental Policy Act (NEPA), set forth at 40 CFR Part 1500-1508, require federal agencies to consider the environmental consequences of their actions, including not only direct and indirect effects, but also cumulative effects. This section summarizes the Proposed Action's cumulative effects when considered with other planned programs in the area. For the purposes of this assessment of cumulative effects, reasonably foreseeable future actions include activities that may be authorized under other NY Rising Housing Recovery Programs within Nassau County.

Cumulative impacts result from the incremental consequences of an action (the Proposed Action) when added to other past, present, and reasonably foreseeable future actions (40 CFR 1508.7). The cumulative effects of an action may be undetectable when viewed in the individual context

of direct and even indirect impacts, but nevertheless can eventually lead to a measurable environmental change.

### Flood Risk

Many of the existing bulkheads in Nassau County are more than 50 years old and, therefore, the materials may have weakened over time. In addition they were likely not to have been built to current standards and codes. The areas which experienced flood damage from the recent storms, are at risk for flooding in future storms. Climate change poses increasing risk of flooding as sea levels rise and storms become more intense.

Flood risk maps have been, and are being revised to account for the projected increasing flooding due to climate change. Building codes have been and are being changed to reflect these changes in flood risk. The NY Rising Housing Recovery Programs for residential repair and rehabilitation would result in the upgrade of the damaged homes to new standards and would also include resiliency measures that would mitigate the flood risk of future storms. The repair and rehabilitation of the residential bulkheads is fundamental to the mitigation of future storm damage and would complement the resiliency measures being incorporated into the residential buildings. Together, these measures would reduce the risk of flood damage from future storms.

### Construction Impacts

While there is the potential for a cumulative impact from the generation of construction debris from the rehabilitation and reconstruction of the residential bulkheads and the repair and rehabilitation of the residential buildings through the NY Rising Housing Recovery Program, most of the impact would be mitigated. Strict requirements for the disposal of debris are in place to prevent, to the extent possible, any negative impacts to the environment. The handling and disposal of demolition and construction debris, control of stormwater runoff, and noise impacts resulting from the NY Rising Bulkhead Repair Initiative for residential properties in Nassau County would be in accordance with all local and state regulations as part of the acceptance of assistance funding. The Proposed Action would increase the compliance with these regulations over the piecemeal rehabilitation that would take place without the initiative. Furthermore, the inclusion of resiliency measures in rehabilitation projects is expected to reduce the amount of reconstruction required from future storm events.

### Land Use, Zoning, and Public Policy

Land use, zoning, and public policies are also changing with regards to development along shorelines and within floodplains. Nassau County and affected community land use policies and plans regarding mitigation of flood risk have been considered as part of this assessment. Municipalities are revising building codes to incorporate requirements for flood and storm mitigation measures along shorelines and riverbanks. These resiliency measures should lead to less debris caused by storms as the rebuilt bulkheads are more able to withstand the impacts of future storms. In addition, through comprehensive planning and rezoning efforts, municipalities are also reducing the development potential of areas prone to flooding.

Furthermore, many New York communities are subject to Municipal Separate Storm Sewer Systems (MS4) regulations and are actively implementing policies to minimize and mitigate stormwater runoff. Rehabilitation activities under the NY Rising Bulkhead Repair Initiative would comply with all applicable erosion, sediment control, and stormwater management practices as regulated by NYSDEC and/or the local municipality. Since unmanaged stormwater runoff can increase the volume and rate at which water moves across the land and into lakes and streams, leading to erosion and flooding, the application of these practices would mitigate stormwater runoff from future storm events and there would be no significant adverse impacts due to cumulative effects.

#### Growth Inducement

The Proposed Action involves the repair, replacement, and rehabilitation of existing residential bulkheads damaged during significant storm events. It would not alter regional growth patterns, change residential settlement patterns, displace any public or publicly funded community facilities, or significantly affect the growth in employment centers. Therefore, the Proposed Action would not be expected to generate significant secondary or induced effects, or induce any significant development activity that would otherwise not occur in the region or study area.

## **2.0 Tiering of Environmental Review**

---

The NY Rising Bulkhead Repair Initiative for Residential Properties is tiered for the environmental review process in accordance with HUD tiering regulations found at 24 CFR Part 58.15. A tiered approach is used when actual site locations have not yet been determined and allows the environmental review process to be streamlined by evaluating impacts from functionally and geographically aggregated activities. This Tier 1 PEA review provides guidelines for Tier 2 reviews to ensure that no extraordinary circumstances exist beyond the issues identified and evaluated in this document. Tier 2 reviews document environmental impacts on a site-specific level. In accordance with 24 CFR Part 58.22, no choice-limiting actions would take place at a particular site until a Tier 2 Checklist is completed for that site.

### **2.1 Tier 1 Environmental Review**

Tier 1 PEAs assess the individual and cumulative environmental impacts of program activities on a specific geographical area. Tier 1 PEAs may also be prepared when the environmental impacts are generic or common to a class of actions, or to other activities that are not location specific. The PEA can serve as a foundation and reference document to allow the efficient completion of Supplemental or Individual Environmental Assessments for the individual actions described in the PEA.

This Tier 1 PEA was specifically designed to evaluate the environmental impacts of disaster recovery activities, including repair, rehabilitation, and mitigation on residential bulkheads in Nassau County that would be included in the NY Rising Bulkhead Repair Initiative. With the PEA in place, the environmental review process required by NEPA and its associated environmental laws would be streamlined.

Under the Tier 1 environmental assessment for reimbursements, the following laws and authorities referenced under HUD's regulations at 24 CFR Part 58.5 have been fully considered and do not require a Tier 2 site-specific review:

- Sole Source Aquifers (42 USC 201, 300(f) et seq., and 21 U.S.C. 349) as amended; particularly section 1424(e)(42 USC 300h-3(e))
- Wild and Scenic Rivers (16 U.S.C. 1271, Sec. 7(b), (c))
- Clean Air Act (40 CFR Parts 6, 51, 93)
- Farmland Policy Act (7 CFR Part 658)
- Environmental Justice (Executive Order 12898)
- Noise Abatement and Control (24 CFR Part 51, Subpart B)
- Explosive and Flammable Operations (24 CFR Part 51 C)
- Airport Clear Zones and Accident Potential Zones (24 CFR Part 51D)

Based upon completion of this Tier 1 PEA, environmental review of the proposed initiative indicates there would be no significant changes to existing environmental conditions across the impact categories implemented by HUD in response to NEPA, with the possible exception of the subject areas listed below.

## 2.2 Tier 2 Environmental Review

Based on the completion of this environmental assessment, the following subject areas require Tier 2 site-specific analysis before it can be concluded that the specific site would have no significant environmental impacts on an individual site. These authorities are referenced under HUD's regulations at 24 CFR Part 58.5:

- Floodplain Management (Executive Order 11988; 24 CFR Part 55)
- Excavation and Fill In Navigable Waters (Section 404; Article 15, Title 5)
- Clean Water Act Water Quality Certification (Section 401)
- Wetland Protection (Executive Order 11990)
- Historic Preservation (36 CFR Part 800)
- Endangered Species Act (50 CFR Part 402)
- Toxic Chemicals and Radioactive Materials (24 CFR Part 58, Sec 5(i)(2))
- Coastal Zone Management (Coastal Zone Management Act, 1972)

Tier 2 site-specific reviews would include desktop evaluation of the application, the proposed site activity, and its location relative to the above compliance factors. Reviews would also include direct field observation with photographs and notes for the file, as well as possible resource agency consultations. If there are no impacts identified, or if impacts would be fully mitigated through individual site actions, then the proposed program planned for a residential site would proceed without further notice to the public. If impacts cannot be identified and mitigated during the site-specific reviews, then that site may be subject to further studies, treated as a separate program, subject to agency consultations, and the environmental review process may require the publishing or posting of notices for that individual site. Each completed Tier 2 site-specific checklist and supporting documents would be submitted to HCR for review and approval before individual activity site work or construction begins. A sample Tier 2 site-specific checklist and template have been included with this Tier 1 PEA.

### **3.0 Conditions for Approval and Mitigation**

---

The following mitigation measures are required as conditions for approval of the initiative. Most of the required reviews discussed below would be completed in the Tier 2 site-specific reviews.

#### **3.1 General**

The Applicant would acquire all required federal, state and local permits before beginning construction and would comply with all permit conditions. If the scope of work of a proposed activity changes significantly, the application for funding must be revised and resubmitted for reevaluation under NEPA.

#### **3.2 Historic Preservation**

All activities must comply with Section 106 of the National Historic Preservation Act (NHPA) per the implementing regulations at 36 Code of Federal Regulations (CFR) Part 800. Compliance with Section 106 is achieved through the procedures in the Programmatic Agreement among FEMA, the NYS Historic Preservation Office, the NYS Office of Emergency Management, the Delaware Nation, the Delaware Tribe of Indians, the Shinnecock Nation, the Stockbridge-Munsee Community Band of Mohicans, the NYC Landmarks Preservation Commission, and the Advisory Council On Historic Preservation.

In the event that archeological deposits, including any Native American pottery, stone tools, bones, or human remains are uncovered on a specific site, the work on that site must be halted, and the Applicant would take reasonable measures to avoid or minimize harm to the finds. All archeological findings would be secured and access to the sensitive area restricted. HCR would consult with the State Historic Preservation Office (SHPO), Tribal Historic Preservation Office (THPO), and Tribes, and work in sensitive areas cannot resume until consultation is completed and appropriate measures have been taken to ensure that the initiative is in compliance with the NHPA.

The qualified Historic Preservation professional is staff at NYS Office of Parks, Recreation and Historic Preservation (OPRHP). If the primary reviewer is not able to determine compliance for a site based on the Programmatic Agreement (See Appendix P: NY Historic Preservation Programmatic Agreement), the site would be sent for further review to OPRHP and all recommendations made by OPRHP would be incorporated into the program design. Each site would be reviewed for compliance with the Programmatic Agreement.

If the homeowner has requested reimbursement for work done prior to the homeowner entering the Bulkhead Repair Initiative, the work would be evaluated to determine compliance with the Programmatic Agreement. If the work conducted by the homeowner did not comply with the Programmatic Agreement, the homeowner must provide documentation that the OPRHP had been consulted prior to the work starting. If the homeowner cannot provide the documentation, the application would not be eligible for reimbursement until it has been sent for further review to OPRHP and all recommendations made by OPRHP have been completed.

### 3.3 Water Quality

The Section 404 of the Clean Water Act (CWA) authorizes the USACE to prohibit or regulate, through a permitting process, the discharge of dredged or fill material, or excavation within U.S. Waters, particularly from bulkhead repairs or replacements. In NYS, the regional general permit is NYDGP-15. NWP3 is also used by USACE to ensure compliance with Section 404 of the CWA. There would be short-term discharges of sediment to the waters, particularly associated with the removal of material and shoreline stabilization components for restoring or rebuilding of bulkheads. NWP3 authorizes the removal of accumulated sediments and debris in the vicinity of existing structures, provided that the removal extends no more than 200 feet in any direction from the structure and 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.

Currently, General Permit GP-0-13-006 (see Appendix U: NYSDEC General Permit Application for Bulkhead Repairs) exists for backfilling and “in-kind/in-place repair or reconstruction of bulkheads and shoreline erosion structures” that are storm-damaged but were functional before Superstorm Sandy. This permit applies to Nassau and Suffolk Counties. NYSDEC has also issued General Permit GP-1-13-001, applicable to the south shore of Long Island, for the removal and replacement of a functional and lawfully existing bulkhead (including returns and parallel capping boardwalks) in the same location as the existing bulkhead. The replacement bulkhead may be up to 18 inches higher in elevation than the existing bulkhead. GP-1-13-001 also authorizes maintenance dredging of limited areas and depths associated with replacement of the functional bulkhead. This General Permit is available for use on the south shore of Nassau County and Suffolk County west of the Robert Moses Causeway, excluding areas of vegetated tidal wetlands, any ocean shore, the ocean front of Long Beach Island, and all of the Jones Beach State Park and Robert Moses State Park barrier islands. This area has a high density of individually owned bulkheads, many of which have existed for 50 years or more. For areas not covered by these General Permits, project activities would be authorized by the appropriate NYSDEC individual permit; if a permit from the USACE is required, a Water Quality Certification may also be required. Water Quality Certifications for this initiative would be granted through a USACE NWP3; if a project does not meet the conditions of NWP3, it would require an individual permit and a separate Water Quality Certification through NYSDEC.

USACE’s NWP3 is available in order to ensure compliance with Section 404 of the CWA for projects involving generally minor and less complex reviews. NWP3 would be issued by USACE for proposed and completed projects whose impacts are within the standards set by the permit, and which have been completed within the eligible time period for the regional general permit NYDGP-15. Projects whose impacts are beyond the standards of the nationwide and regional general permits (NWP3 and NYDGP-15, respectively), or which would be completed outside the time frame provided for NYDGP-15, would require an individual permit (see Appendix T: USACE Coordination and Permits).

The initiative would implement and maintain erosion and sedimentation control measures to prevent deposition of sediment and eroded soil in on-site and off-site wetlands and waters. Soil compaction would be controlled by minimizing program activities in vegetated areas, including lawns.

No bulkhead repairs or replacements would use unsuitable material (trash, debris, car bodies, asphalt, etc.) and all materials used in construction would be free from toxic pollutants in toxic amounts in accordance with Section 307 of the CWA.

In compliance with NWP3, no activities would occur along a component of the National Wild and Scenic River System (NWSRS), or in a river officially designated by Congress as a “study river” for possible inclusion in the NWSRS unless the appropriate federal agency has determined in writing that the proposed activity would not adversely affect the Wild and Scenic River designation or study status. There are no Wild and Scenic Rivers within Nassau County as designated by the U.S. Department of the Interior National Park Service (NPS) or NYSDEC (see Appendix I: Nassau County Wild, Scenic, and Recreational Rivers).

If a program site is located within a critical resource water, including NOAA-managed marine sanctuaries, marine monuments, and National Estuarine Research Reserves, or in wetlands adjacent to those waters, a PCN would be required and the USACE district engineer would only authorize activities under NWP3 after it is determined that the impacts to the critical resource waters would be no more than minimal.

No activities would take place in the proximity of a public water supply intake, except where the activity is necessary for adjacent bank stabilization.

On May 23, 2014, the NYSDOS determined in writing that the NY Rising Bulkhead Repair Initiative would be generally consistent with the policies and purposes of the NYS Coastal Management Program (NYSCMP) (see Appendix N: NYSDOS Coastal Consistency Consultation and NYS Coastal Assessment Form). The consistency concurrence finds that the following activities of the bulkhead initiative would meet NYSDOS’s general consistency concurrence criteria:

- Installation of temporary structures to facilitate installation and/or retain fill repairs;
- Installation of new fill comprised entirely of material substantially equivalent to adjacent native material within the footprint of pre-storm conditions; and
- Restoration may include a change in materials or minor change in height of approximately 12 to 18 inches.

In conjunction with the State’s general concurrence determination, in cases where the project is located within the jurisdiction of a Local Waterfront Revitalization Program (LWRP), the Tier II reviewer would conduct an assessment in accordance with 19 NYCRR Part 600 to determine whether the project is likely to affect the achievement of the policies and purposes of such approved LWRP and State agency programs. Project activities would be undertaken in a manner which complies with the policies of the approved LWRP.

All of Nassau County lies over the Nassau-Suffolk Sole Source Aquifer. Bulkhead repair and/or replacement or reconstruction activities would be reviewed in accordance with the Memorandum of Understanding between HUD and the EPA (see Appendix J: Nassau County Sole Source Aquifer Map and Memorandum of Understanding).

Homeowners requesting reimbursement for work completed prior to the homeowner applying for and being approved for funding under the Bulkhead Repair Initiative must provide documentation that the work was completed pursuant to the applicable permitting requirements discussed above. If the work done prior to the homeowner entering the Bulkhead Repair Initiative does not meet these standards, that work would not be eligible for reimbursement until compliance with these standards is documented through an appropriate permit, which are required eligibility documents.

### **3.4 Wetlands Protection**

All sites would be evaluated for the presence of wetlands in accordance with NYSDEC and the U.S. Fish and Wildlife Service (USFWS) National Wetlands Inventory (NWI) maps (see Appendix D: Nassau County Wetlands Maps). On-site wetlands inspection would occur in the Tier 2 site-specific assessment, and if program work on a specific site would impact a wetland, the eight-step decision making process outlined in 24 CFR Part 55.20, modified for wetlands, would be completed. If the wetland impacts cannot be avoided, appropriate permits would be obtained in compliance with Executive Order 11990. These include permits under Sections 401 and 404 of the Clean Water Act, as well as any applicable local or state permits.

In accordance with the general conditions of NWP3, all heavy equipment working in wetlands or mudflats would be placed on mats, or other measures would be taken to minimize soil disturbance. The Applicant may also be required under NWP3 to compensate all wetland losses that exceed one-tenth of an acre and a PCN and/or mitigation plan may be required.

If the work that was completed prior to the homeowner entering the Bulkhead Repair Initiative is determined to have impacted a wetland, the homeowner must provide documentation that the appropriate permit was obtained prior to the work taking place. If the appropriate permits were not obtained prior to the work taking place, a Tier 2 site-specific review would determine if a program site is located within 300 feet of a tidal wetland and 100 feet of a freshwater wetland. If a program site is located within those boundaries, then a qualified environmental professional (QEP) would perform on-site visits to determine if the work impacted a wetland.

### **3.5 Aquatic Wildlife and Endangered Species**

The NYSDEC NY Natural Heritage Program, the USFWS, and the NOAA National Marine Fisheries Service (NMFS) have been contacted to initiate consultation for Bulkhead Repair Initiative compliance with state and federal threatened and endangered species laws (see Appendix O: NY Natural Heritage Program Consultation; Appendix S: USFWS Consultation Letters; and Appendix R: NMFS Consultation Letters).

The Endangered Species Act (ESA) requires the action agency (HCR) to make a determination of effect on any federally listed species or designated critical habitat that may occur as a result of an action that is funded, authorized, or carried out by the action agency. HCR is acting as HUD's designated representative for this initiative.

In accordance with the August 7, 2013 and September 25, 2013 letters, and the February 10, 2014 email from the USFWS (See Appendix S: USFWS Consultation Letters), each site would be reviewed to determine the level of effect. Further consultation with the USFWS would be conducted if a program may affect a listed species. In accordance with the September 19, 2013, March 14, 2014, and April 16, 2014 letters from NMFS, each site would be reviewed for proximity to aquatic species to determine the level of effect of the bulkhead repair and/or replacement or reconstruction activities (see Appendix R: NMFS Consultation Letters). HCR would determine if there are areas of multiple sites in close proximity that may result in an effect so that those sites can be reviewed together. Mitigation measures may include time limits for when the work may be completed, for example, work occurring in open, sandy beach areas may be required to cease by a certain time in the spring to protect potential habitat for roseate tern and piping plover, unless otherwise authorized.

Bulkhead repair and/or replacement or reconstruction activities which are 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 ESA, or which would directly or indirectly destroy or adversely modify the critical habitat of such species, are not authorized by NWP3. If the bulkhead repairs and/or replacement or reconstruction result in a “may affect” determination by HCR, a Section 7 consultation must be completed for that site, and a PCN must be filed with the district engineer.

Bald eagles are known to occur in Nassau County (Appendix S: USFWS Consultation Letters). HCR would contact the USFWS for assistance in complying with the Bald and Golden Eagle Protection Act if a bald eagle is found on a site. The USFWS would be contacted to provide technical assistance to HCR to avoid and minimize impacts to birds, or their breeding areas, protected under the Migratory Bird Treaty Act. In accordance with the general conditions of NWP3, the permittee would obtain any “take” permits required under the USFWS regulations governing compliance with the Migratory Bird Treaty Act and the Bald and Golden Eagle Protection Act.

Consultation is not required under Section 7 of the ESA when CDBG-DR assistance is provided for costs incurred because physical activities were undertaken before HCR could review programs with the potential to affect biological resources. However, all properties, including reimbursement applications, would be reviewed for compliance with Section 7 of the ESA at the Tier 2 site-specific level. All parcels that may have endangered species present or provide habitat for endangered species would be sent to the USFWS for further consultation.

Essential Fish Habitat (EFH) has been designated within the program area by the New England and Mid-Atlantic Fishery Management Councils. In accordance with permit conditions given by the USACE, Applicants would be required to identify and implement measures which would avoid and minimize adverse effects of program activities to EFH resources (see Appendix R: NMFS Consultation Letters). Activities which do not meet regional conditions set forth by the USACE would require additional EFH consultation with NMFS.

As noted above, where practicable, this initiative is intended to facilitate the repair and/or replacement or reconstruction of residential bulkheads. This work would likely be conducted pursuant to a NWP3 authorization. In compliance with the general conditions of NWP3, no bulkhead repair or replacement activities would substantially disrupt the necessary life cycle movements of species of aquatic life indigenous to the water body, including those species that normally migrate through the area. Bulkhead repair and/or replacement or reconstruction activities that are not covered by NWP3 would likely be required to seek an individual permit as discussed in Section 1.9. As part of that process, measures would be required to avoid and minimize impacts to protected species. Bulkhead repair and replacement activities would be conducted outside of spawning seasons to avoid adverse effects to the maximum extent practicable. The potential for impacts to managed aquatic species, including shellfish, would be determined through consultation with NMFS in accordance with the guidance provided by NMFS; any program sites where there is potential for adverse effects would undergo further consultation with NMFS to avoid adverse effects to indigenous aquatic species.

### **3.6 Soil Erosion**

Best management practices (BMPs), such as silt fence and erosion prevention, may be implemented, if required by permits or agency discretion. All synthetic erosion control features, 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 may be abandoned in place.

Work in areas of soils with high wind erosion potential may have to occur only during calm weather conditions or include additional watering and other dust suppression mitigations. Thorough planning, engineering review, and design, through the local permitting process, would minimize soil erosion that could result from program activities on sites with marginal soil properties.

In particular, sediments should be controlled using erosion and sedimentation control measures (e.g., hay bales, filter fabric, silt fence) and seeding and mulching after work completion to prevent its release into any on-site or off-site wetlands and waters. Soil compaction would be controlled by minimizing program activities in vegetated areas, including lawns. Any exposed soil or fill, as well as any work completed below the ordinary high water mark or high tide line, would be permanently stabilized at the earliest practicable date.

Additionally, some program sites may be located within one of the 86 communities that are under Coastal Erosion Hazard Area (CEHA) jurisdiction. These communities are located along Lake Erie, Lake Ontario, Long Island Sound, and the Atlantic Ocean coastlines. The Coastal Erosion Hazard Areas Law (Environmental Conservation Law Article 34) gives NYSDEC the authority to identify and map coastal erosion hazard areas and adopt regulations to control activities and development in those areas. Coastal Erosion Hazard Areas are regulated under Title 6 of the New York codes, Rules and Regulations Part 505 (Coastal Erosion Management Regulations). The purpose of the law and regulations are to minimize shore erosion and its impacts to natural protective features, other natural resources, people, and infrastructure within the identified and mapped CEHAs along NYS's coastline.

These coastlines are especially vulnerable to erosion from both natural causes, such as waves, wind, and storms, and human activities, such as construction, removal of vegetation, and runoff from impermeable surfaces. These coastlines also play an important role in providing protection from flood and erosion to inland communities.

NYS aims to reduce coastal erosion and its associated impacts by regulating the placement and construction of coastal erosion protection structures and promoting the preservation of natural protective features, which include dunes, bluffs, beaches, nearshore areas, and the vegetation associated with these features.

Each site would be reviewed during the Tier 2 Site-Specific Assessment for its location with regard to CEHAs using maps provided by NYSDEC. If it cannot be determined by the maps whether a program site is within a CEHA, a survey of the property would need to be completed before a determination can be made. All activities of the NY Rising Bulkhead Repair Initiative that take place within CEHAs would be in compliance with the laws and regulations governing activities in these areas and applicable permits would be obtained. BMPs would be implemented to prevent erosion due to program activities in CEHAs as well as other areas.

### **3.7 Stormwater**

All sites would be evaluated for the need to comply with stormwater permitting requirements, including NYSDEC general permits or local Municipal Separate Storm Sewer Systems (MS4) permits. If multiple adjacent sites are involved, the sites would be aggregated for construction stormwater compliance.

If the owner has requested reimbursement for work done prior to the homeowner entering the Bulkhead Repair Initiative, the work would be evaluated to determine if it required a NYSDEC general permit or MS4 permit. If it is determined that either permit was required, the owner must provide documentation that the permit had been obtained prior to the work being conducted, or evidence as to why the permit was not required for the work conducted. If the permit was required but was not obtained prior to the work conducted, that work would not be eligible for reimbursement. Such permitting requirements would apply only to sites requiring more than one acre of land disturbance.

### **3.8 Noise**

Temporary increases in noise levels due to bulkhead repair and/or replacement or reconstruction activities would be minimized through compliance with local noise ordinances, including time-of-day work limitations and construction of temporary noise barriers as appropriate or required. During repair or replacement work, all equipment would be outfitted with operating mufflers.

HCR has determined that noise regulations under 24 CFR Part 51 Subpart B do not apply to disaster recovery programs which meet the definition under Part 51.101(a)(3) (see Appendix Q: HUD Noise Abatement and Explosive Operations Email). Part 51.101(a)(3) states:

“The policy does not apply to research demonstration projects which do not result in new construction or reconstruction, flood insurance, interstate land sales registration, or any action or emergency assistance under disaster assistance provisions or appropriations which are provided to save lives, protect property, protect public health and safety, remove debris and wreckage, or assistance that has the effect of restoring facilities substantially as they existed prior to the disaster.”

The NY Rising Bulkhead Repair Initiative provides disaster assistance using CDBG-DR funding for the purpose of saving lives and protecting property, public health, and public safety. The Bulkhead Repair Initiative would repair or replace storm-damaged bulkheads, protecting public safety and property by ensuring that these important storm-mitigation structures are functioning properly. These activities meet the definition under 24 Part 51.101(a)(3) for exempt activities and no further assessment would be required.

### **3.9 Air Quality**

As demonstrated in the conformity screening analysis for the proposed action, emissions from construction activities would be less than de minimis levels above which a general conformity analysis or determination would be required (see Appendix M: NYSDEC Air Quality Consultation and Conformity with State Implementation Plans), and therefore a conformity assessment is not warranted. All activities would comply with applicable federal, state, and local laws and regulations regarding construction emissions, including but not limited to NY Codes, Rules and Regulations (NYCRR), NYSDEC Air Quality Management Plan, and the NY State Implementation Plan (SIP).

### **3.10 Hazardous Materials**

HCR is charged with the overall inspection for hazardous materials (with the exception of commonly found household hazardous materials such as automotive batteries or used motor oil) for this program. HCR in conjunction with designated agencies or consultants under HCR’s direction would provide qualified environmental professionals (QEP) to perform on-site visits as necessary; QEP are experienced persons with the skills to look for and recognize hazardous materials and their conditions generally as well as the most common types of residential contamination found within this geographic area. The reports generated by the QEPs with environmental assessment experience would be reviewed by HCR or consultant under HCR direction to confirm that all items on the checklist are appropriately addressed. HCR would review the checklists as part of the creation and endorsement of the Tier 2 forms. Phase I Environmental Site Assessments would not be necessary for this initiative as property ownership would not change.

Site-specific inspection would likely identify the presence of toxic or radioactive substances on, adjacent to, or near target residential properties. Where site-specific inspection does not adequately reveal past land use in the vicinity of target residential properties, site-specific environmental review would include screening of historical land use to assess the potential hazard to occupants of the property.

When the target residential property is on or within 3,000 feet of a potentially hazardous site, a QEP would determine if the potential hazard requires remediation. If remediation is required, it would be appropriately scheduled and coordinated with any building rehabilitation activities. There may be some residential properties with improper storage and excessive accumulation of toxic substances (i.e. petroleum products, pesticides, cleaning substances). Initial site inspection of residential properties may document the presence of abandoned and otherwise non-working vehicles with the potential for leakage of toxic materials. Barrels or tanks with petroleum products or other potentially toxic substances may be identified.

Depending on the site-specific environmental assessment of the degree and extent of the hazard, the Applicant may be responsible for the removal of such items before the initiative can proceed.

Asbestos-containing materials (ACM) are not likely to be encountered in bulkheads. However, if asbestos is identified based on a visual survey, it would be abated by certified professionals in accordance with the applicable laws discussed below. Program activities at structures that include ACM would conform to Part 56 of Title 12 of the Official Compilation of Codes, Rules and Regulations of the State of New York Department of Labor (12 NYCRR Part 56); the National Emission Standard for Asbestos—Standard for demolition and renovation (40 CFR Part 61.145); and National Emission Standard for Asbestos—Standard for waste disposal for manufacturing, fabricating, demolition, and spraying operations (40 CFR Part 61.150).

Lead-based paint is not likely to be encountered on bulkheads. However, if lead-based paint is identified, all activities must comply with applicable federal, state, and local laws and regulations regarding lead-based paint, including but not limited to, Environmental Protection Agency (EPA) Repair, Renovation, and Painting (RRP) Rule (40 CFR 745.80 Subpart E), HUD’s lead-based paint regulations in 24 CFR Part 35 Subparts A, B, H, J, and R, and HUD “Guidelines for the Evaluation and Control of Lead-Based Paint Hazards in Housing.” The Guidelines complement regulations that have been issued by HUD, the EPA, and the Occupational Safety and Health Administration (OSHA), and policies from the Centers for Disease Control and Prevention (CDC).

### **3.11 Solid Waste**

All solid waste must be properly segregated and disposed of at any of NYS’s 80 registered and regulated (permitted) construction and demolition (C&D) debris processing facilities and 280 registered C&D debris processing facilities and in accordance with applicable regulations. All hazardous waste must be segregated and disposed of at an appropriately licensed facility. Materials would be separated from C&D waste to be recycled or to be reused for a specific use. Material that is not recovered would be sent to a municipal solid waste landfill or to a C&D debris landfill.

### **3.12 Transportation**

HCR would coordinate with local transportation authorities to identify alternate routes and/or time of day mitigations to reduce potential temporary increases in vehicular traffic during construction and/or demolition.

### **3.13 Airport Clear Zones and Accident Potential Zones**

Based on guidance provided by HUD in Fact Sheet #D1, the National Plan of Integrated Airport Systems was reviewed for civilian, commercial service airports within the vicinity of the program area, as program sites located within 2,500 feet of a civil airport would require consultation with the appropriate civil airport operator (See Appendix H: Airport Clear Zone Maps). No known military airports are located within 15,000 feet of the program area. Furthermore, this initiative does not involve assistance to purchase residential properties, including bulkheads. Accordingly, this requirement is not applicable to any potential activities to be funded by the proposed action.

### **3.14 Coastal Barrier Resources**

Portions of Nassau County lie within the federally protected John C. Chaffee Coastal Barrier Resources System (CBRS). Under the Coastal Barrier Resources Act of 1982 (CBRA), project sites in these areas (system units) are ineligible for most new federal expenditures and financial assistance. The Coastal Barrier Improvement Act of 1990 expanded the CBRS and added a new category of otherwise protected areas (OPAs).

Most Federal expenditures are prohibited for program sites lying within a system unit of the CBRS, unless the action is consistent with CBRA. Activities that would be consistent with the CBRA include actions that would revert the land back to a natural state. Rehabilitation activities are not consistent with the CRBA, and no federal money would be used on structures that lie within a CBRS system unit.

Most Federal expenditures, with the exception of federal assistance for flood insurance, are allowed in OPAs. If a program site is located within an OPA, the program Applicant would be eligible for assistance; however, the Applicant must provide proof of private flood insurance.

Each site would be reviewed during the Tier 2 Site-Specific Assessment for its proximity to the CBRS, and sites within a 150 foot buffer zone would undergo further coordination with USFWS. If a site is near a CBRS, mitigation measures would be taken to ensure that there are no adverse effects to the CBRS.

### **3.15 Explosive and Flammable Operations**

Acceptable Separation Distance (ASD) requirements under 24 CFR part 51 subpart C do not apply to the elevation, rehabilitation, or reconstruction of housing that existed prior to the disaster where the number of dwelling units is not increased because the definition for HUD assisted programs at 24 CFR Part 51.201 is predicated on whether the HUD program increases the number of people exposed to hazardous operations (See Appendix Q: HUD Noise Abatement and Explosive Operations Email). If the program would increase population density, 24 CFR Part 51 is applicable, and ASD assessment must be completed. Repair and/or replacement or reconstruction of existing bulkhead structures would not increase the number of people being exposed to hazardous operations, therefore, 24 CFR Part 51 is not applicable.

### **3.16 Farmland Policy Act**

The Farmland Protection Policy Act of 1981 (7 U.S.C. 4201 et seq.) discourages federal activities that would convert farmland to nonagricultural purposes. This initiative is designed to repair and reconstruct bulkheads that existed prior to Superstorm Sandy, Hurricane Irene, and Tropical Storm Lee. Rehabilitation and reconstruction of existing bulkhead structures would not convert farmland to nonagricultural purposes and would not violate the Farmland Policy Protection Act. (See Appendix L: Farmland Protection Checklist.)

### **3.17 Environmental Justice**

According to the U.S. Environmental Protection Agency (EPA), environmental justice (EJ) is the fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies. The goal behind EJ is for all people to enjoy the same degree of protection from environmental and health hazards and to have a healthy environment in which to live, learn, and work. Applicants to the CDBG-DR program would be treated equally, regardless of origin, race, or age, etc. This initiative may have a positive impact on EJ as priority may be given to Applicants whose income is below 80% of the median income, or in the case of multi-family housing, where at least 51% of tenants are of low- or moderate-income. Approximately 45.7% of all NY Rising applications have been from low- and moderate-income individuals. These individuals are most in need of assistance in rehabilitating or reconstructing their living environment, and the initiative would help to remedy the environmental and health hazards caused by the recent storms.

HCR would pay particular attention to the needs of the most vulnerable populations: the elderly and disabled, minority populations, low- or moderate-income residents, and others. NYS and its partners would be conducting extensive outreach to ensure that available resources are made available to the populations with the greatest needs.

## **4.0 Eight-Step Decision Making Process**

---

Under 24 CFR Part 55.20, an eight-step decision making process must be completed for proposed actions taking place in a floodplain. 24 CFR part 55.20 implements Executive Order 11988—Floodplain Management. The Order requires federal agencies (or a state agency implementing a federal funding program) to reduce the loss of life and property caused by floods, minimize impacts of floods on human safety, health, and welfare, and preserve the natural and beneficial functions of floodplains. Under this Order, federal agencies should first look at avoiding all actions in or adversely affecting floodplains unless no practicable alternatives exist. If no practicable alternatives exist, then federal agencies must evaluate the potential effects of the proposed action. In addition, federal agencies are required to demonstrate that all practicable alternatives have resulted in the reduction or elimination of the long- and short-term adverse impacts associated with occupancy and modifications of the floodplain. This eight-step process includes assessing all practicable alternatives and incorporating public review.

Under Executive Order 11990—Protection of Wetlands, an agency must find “that there is no practicable alternative to such construction, and that the proposed action includes all practicable measures to minimize harm to wetlands which may result from such use.” Furthermore, the “agency shall also provide opportunity for early public review of any plans or proposals for new construction in wetlands.” HUD’s current wetland protection policy to comply with Executive Order 11990 is to use the eight-step decision making process provided in 24 CFR Part 55.22 modified for wetlands.

This section demonstrates how the eight-step decision making process is applied to the NY Rising Bulkhead Repair Initiative for Residential Properties for proposed actions in the wetlands.

### **4.1 Eight-Step Decision Making Process for Proposed Action in a Floodplain**

Floodplain management plans for all NY Rising Housing Applicants wishing to participate in the NY Rising Bulkhead Repair Initiative for Residential Properties in Nassau County will meet the requirements of 24 CFR Part 55.20 and Executive Order 11988—Floodplain Management. These floodplain management plans will document the eight-step decision making for the Initiative and pertains to activities within the Special Flood Hazard Area (SFHA) as defined by the FEMA, or its successors, pursuant to the National Flood Insurance Program (NFIP), or a successor program, whether advisory, preliminary, or final.

#### **Description of Proposed Activities in the SFHA**

NYS was awarded HUD CDBG-DR funding, to be administered by HCR, to provide financial assistance to homeowners whose primary residences were substantially damaged by Superstorm Sandy, Hurricane Irene, and Tropical Storm Lee within various NYS counties, including Nassau County. HCR is awarding this funding in accordance with the Action Plan. The Action Plan provides for, among other things, assistance to owners of damaged residential properties in Nassau County, NY within the 100-year floodplain to repair those properties and mitigate against damage by future storms. The proposed activities include repair or replacement of damaged bulkheads on residential properties and reimbursement to owners who have already completed repairs.

## **Executive Order 11988 and 24 CFR Part 55**

Projects located within a floodplain SFHA are subject to Executive Order 11988 as implemented by 24 CFR Part 55. Under 24 CFR Part 55, an eight-step decision making process must be completed for proposed actions taking place in the floodplain. Information on where SFHAs are located is available on Flood Insurance Rate Maps (FIRM) published by FEMA. FEMA uses engineering studies to determine the delineation of these areas or zones subject to flooding. The relevant data source for the SFHA is the latest issued FEMA data or guidance, which includes advisory data (such as ABFEs) or preliminary and final FIRMs.

The SFHA is the area that would be inundated by a 100-year flood: an area that has a one percent or greater chance of experiencing a flood in any single year. SFHAs are shown on FIRMs, as shaded areas labeled with the letter “A” or “V”.

- “V” zones are coastal flood hazard zones subject to wave run-up in addition to storm surge.
- “A” zones include all other SFHAs.
- “VE” zones, “AE” zones, “V” zones, or “A” zones followed by a number are areas with specific flood elevations, known as BFEs.
- A zone with the letter “A” or “V” by itself is an appropriately studied flood hazard area without a specific flood elevation.
- Within an “AE” zone or a numbered “A” zone, there may be an area known as the “regulatory floodway,” which is the channel of a river and adjacent land areas which must be reserved to discharge a 100-year flood without causing a rise in flood elevations.

The floodplain (FEMA Zones “A”, “AE”, “AH”, “V”, & “VE”) covers large areas of Nassau County (see Appendix C: Nassau County FEMA Flood Insurance Rate Map). A total of 104,368 acres of floodplain (including surface waters) is mapped within the County boundary. A total of 66,179 acres of floodplain (excluding surface waters) is mapped within the County (source: Base GIS review of FEMA BFE data).

### **24 CFR Section 55.1 (c)**

Under 24 CFR Section 55.1 (c), except with respect to actions listed in Section 55.12(c), no HUD financial assistance (including mortgage insurance) may be approved after May 23, 1994 with respect to:

- (1) Any action, other than a functionally dependent use, located in a floodway;
- (2) Any critical action located in a coastal high hazard area (“V zone”) (a “critical action” is an action such as storage of volatile materials, irreplaceable record storage or construction of a hospital or nursing home); or
- (3) Any non-critical action located in a coastal high hazard area, unless the action is designed for location in a coastal high hazard area or is a functionally dependent use and complies with the construction standards outlined in HUD Regulations 24 CFR Section 55 (c)(3).

## **24 CFR Section 55.11 and 55.20**

According to 24 CFR Sections 55.11 (including Table 1) and 55.20, non-critical actions are allowed in A or V zones only if the actions are reviewed in accordance with the eight-step process outlined in 24 CFR Section 55.20. An eight-step process would be conducted for the activities of the NY Rising Bulkhead Repair Initiative for Residential Properties in Nassau County, as detailed below. This eight-step decision making process includes examination of practical alternatives and public notices. A floodplain management plan detailing the eight-step decision making process would be completed for each site, or group of adjacent sites, once the site is known and determined to be in a floodplain.

### **Step One: Determine if a Proposed Action is in a 100-Year Floodplain.**

The geographic scope for the NY Rising Bulkhead Repair Initiative for Residential Properties described herein is the jurisdictional area of Nassau County, covering approximately 289,900 acres, of which 104,368 acres are located within floodplains. Construction activities are expected to take place on residential properties scattered throughout the communities in Nassau County, especially those most affected by Superstorm Sandy – the Towns of Hempstead and Oyster Bay, the City of Long Beach, and the Villages of Island Park and Freeport. Property owners of any location within the county that sustained damage from recent Hurricane Irene or Superstorm Sandy are able to apply for the initiative.

At this time, the exact locations of the homeowner properties that would participate in this assistance program are unspecified. As noted above, based on preliminary estimates it is expected that approximately 300 to 400 residential bulkheads in Nassau County are in need of repair as a result of Superstorm Sandy and/or Hurricane Irene and may apply for funding under the proposed action. It is assumed that all of these bulkheads are located in the 100-year floodplain. There are approximately 104,368 acres of floodplains in Nassau County. Based on the FEMA IA data from November 2013, approximately 79,802 residential properties in Nassau County have reported damage. It is expected that these residences are within the SFHA.

Once an Applicant applies for funding, HCR or its authorized representative will determine if the project parcel is located within the SFHA by viewing the FEMA BFE Map link at [www.msc.fema.gov](http://www.msc.fema.gov).

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

Because the Action Plan Activities are located in the floodplain, HCR must publish an early notice that allows the public input into the decision to provide funding for bulkhead repairs and/or replacement or reconstruction in this area. Once the early public notice and comment period is complete, HCR will assess, consider, and respond to the comments received individually and collectively for the project file, then proceed to Step Three.

A 15-day "Notice for Early Public Review of a Proposed Activity in a 100-Year Floodplain" will be published in a widely read local newspaper for each activity site determined to be in a floodplain. A sample "Notice for Early Public Review of a Proposed Activity in a 100-Year Floodplain" has been included in Appendix V: Sample Floodplain Management Public Notices. The notice will target local residents, including those in the floodplain.

The notice will also be sent to the following state and federal agencies: FEMA; the USFWS; the EPA; the USACE; the NPS; NOAA; NMFS; NYSDEC; the OPRHP; NYS Department of Transportation (NYSDOT); and the NYS Office of Emergency Management. The notice will also be sent to Nassau County and the towns and villages within Nassau County.

HCR will document and respond to all public comments received on this notification. These comments will be included in the final floodplain management plan.

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

The proposed action of the NY Rising Bulkhead Repair Initiative for Residential Properties in Nassau County would provide grant awards to eligible residential property owners for activities necessary to restore their storm-damaged bulkheads, including repair, reconstruction, and reimbursement.

The proposed activities are necessary to restore storm damaged bulkheads, including repairs and reconstruction of bulkheads within the disturbed area of the previously developed parcel. The Initiative would benefit owners of rental properties and homeowners whose primary residences included a bulkhead that sustained substantial damage from Superstorm Sandy, Hurricane Irene, and Tropical Storm Lee. The residence must be located in Nassau County.

The alternatives to the proposed action that would be considered are as follows:

#### No Action Alternative

Under the No Action alternative, the residential property owners would be responsible for the repair and rehabilitation of the residential bulkheads. Depending on motivations of owners and their willingness and/or ability to access resources to repair and upgrade these bulkheads, there is the potential that repairs would be limited, work would progress slowly or remain incomplete, creating hazards, or work would not be completed to current building codes.

The effects of leaving bulkheads unrepaired or repaired insufficiently include:

- Slumping or falling over of the bulkhead due to water pressure not being relieved through weep holes
- Slumping or falling over of the bulkhead due to undermining by erosion
- Erosion behind the bulkhead due to waves overtopping the structure; and
- Water flowing around the bulkhead.

The failure of the bulkheads would leave the property vulnerable to erosion and flooding and wave damage from storms and high water levels.

### Limited Action Alternative – No Reimbursement Funding

Under this alternative, the funding for the repair or reconstruction of bulkheads on residential properties in Nassau County would be authorized; however reimbursement for repairs or reconstruction that have already been completed would not be authorized. This alternative could cause homeowners and occupants to be dissuaded from making immediate and necessary repairs. Delaying repairs and reconstruction would delay clean-up of debris from damaged bulkheads and leave the properties vulnerable to further damage while the bulkhead remains unrepaired.

### Limited Areas Alternative

In certain limited areas with high flood risk, additional programs have been proposed for funding and are being assessed in forthcoming environmental assessments.

Under the Limited Area Alternative – Buyout Option, funds would be authorized to purchase severely damaged residential properties, demolish any structures, and restore the properties to natural conditions within Nassau County. This would help restore large parts of the floodplain to their natural state. Under this option, the bulkheads would be removed, reduced, or in other ways be made part of the natural conditions for that site.

Under the Limited Area Alternative – Acquisition Option, funding would be authorized to acquire damaged residential properties for the purpose of future resilient redevelopment within Nassau County. Following acquisition of a property, the responsible entity would make any required temporary repairs to the bulkheads prior to redevelopment. The future redevelopment would have to include long-term repair and rehabilitation of the bulkhead associated with the properties.

Both of these options would involve relocating populations to less vulnerable areas away from the shore. This would result in a dramatic change to neighborhoods and communities, with associated local economies also being affected. Thus, the cost of the Limited Area Alternative Buyout and/or Acquisition options could be far greater than the cost of repairing and rebuilding in a more resilient manner in the existing developed parcel.

### Conclusion

These alternatives would be re-evaluated in response to any public comments received.

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

HCR has evaluated the alternatives to the taking the proposed Initiative activities in the floodplain, and have determined that the proposed activities must take place in the floodplain.

Potential impacts associated with the occupancy or modification of the floodplain include some degree of ongoing risk to residents who choose to live in the floodplain. While there are some inherent risks to living in a floodplain or area which experiences severe weather that cannot be completely avoided, the individual actions undertaken by the described NY Rising Bulkhead Repair Initiative for Residential Properties would have a positive impact on Nassau County

communities by ensuring that residents are able to make repairs to or reconstruct their bulkheads, increasing the storm-resiliency of their properties.

While there is the potential for a cumulative impact from the generation of construction debris from the repair and replacement of a large number of bulkheads through the proposed action in conjunction with the other NY Rising Programs, most of the impact would be mitigated. Direct and indirect impacts on the floodplain from repair and reconstruction activities under the NY Rising Bulkhead Repair Initiative for Residential Properties would be minimal as these sites are already developed and the bulkheads on these properties are already in existence.

The Initiative would facilitate the removal of debris and wreckage of damaged bulkheads on Applicant properties, and would protect public safety through the repair and/or replacement or reconstruction of bulkheads, making the properties less likely to damage the floodplain with debris during future storm events.

Because the Initiative is for repair or replacement of only existing bulkheads, it is extremely unlikely that there would be a net increase in floodplain development in comparison to pre-hurricane conditions as a result of this initiative. In addition, the proposed activities would not likely increase floodplain occupancy, as the proposed activities would be completed by the current residents.

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

Homeowners participating in this Initiative would be required to adhere to the following conditions to minimize the threat to property, minimize losses from flooding and high-wind events, and benefit floodplain values:

- The replacement of a functional and lawfully existing bulkhead (including returns and parallel capping boardwalks) must be done in the same location as the existing bulkhead.
- The bulkhead must (1) be designed and built to control long-term erosion and (2) have a reasonable probability of controlling erosion for at least 30 years (6 NYCRR Part 505.9(b)). A permit application must include a long-term maintenance program and specifications for (1) maintenance of degradable materials and (2) periodic replacement of removable materials. Materials must be strong enough to withstand waves, weathering, and storm conditions (6 NYCRR Part 505.9(c)).
- Constructing, modifying, or restoring the bulkhead structure must (1) not increase erosion and (2) minimize or prevent adverse effects to natural protective features, existing erosion protection structures, and natural resources such as significant fish and wildlife habitats. Variances from the requirements may be granted if certain criteria are met (6 NYCRR Part 505.9(e)).

**Step Six: Reevaluate the proposed action to determine: (1) Whether it is still practicable in light of its exposure to flood hazards in the floodplain, the extent to which it will aggravate the current hazards to other floodplains, and its potential to disrupt floodplain values; and (2) Whether alternatives preliminarily rejected at Step Three are practicable in light of the information gained in Steps Four and Five.**

HCR has reevaluated the proposed action and determined that the NY Rising Bulkhead Repair Initiative for Residential Properties is still practicable in light of its exposure to flood hazards in the floodplain. As the properties already contain a bulkhead, the Initiative would not aggravate current hazards to the floodplain, nor would the Initiative disrupt floodplain values.

HCR also reconsidered the alternatives discussed in Step Three and determined the best practicable alternative is the proposed action. The alternative actions considered are as follows: No Action and Limited Action Alternative—Rehabilitation without Reimbursements. These alternatives do not meet the goals of the NY Rising Bulkhead Repair Initiative. Because the proposed action is specifically designed to repair and reconstruct bulkheads on residential properties, all of which are anticipated to be in the floodplain, there is no practicable alternative than locating the proposed action in the floodplain.

An award under the Action Plan would require all proposed reconstruction and repair of substantially damage bulkheads in the floodplain to acquire all required permits and authorizations from USACE, NYSDEC, NYSDOS, and any local agency having jurisdiction over the work. This process would ensure that properties with damaged bulkheads are not left vulnerable to erosion, flooding and wave damage from storms and high water levels.

The impacts of these alternatives would be re-evaluated in response to any public comments received.

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

It is HCR's determination that there is no better alternative than to provide funding for the Action Plan Activities in the floodplain. This is due to: 1) the need to protect current housing; 2) the desire to avoid displacing residents; and 3) the ability to mitigate and minimize impacts on human health, public property, and floodplain values.

In accordance with 24 CFR 55, a 7-day "Notice for Final Public Review of a Proposed Activity in a 100-Year Floodplain" will be published in widely read local newspaper. A sample "Notice for Final Public Review of a Proposed Activity in a 100-Year Floodplain" has been included in Appendix V: Sample Floodplain Management Public Notices. The ad will target local residents, including those in the floodplain.

The notice will also be sent to the following state and federal agencies: FEMA; the USFWS; the EPA; the USACE; the NPS; NOAA; NMFS; NYSDEC; the OPRHP; the NYSDOT; and the NYS Office of Emergency Management. The notice will also be sent to Nassau County and the towns and villages within Nassau County. The notice will describe the reasons why the project must be located in the floodplain, alternatives considered, and mitigation measures to be taken to minimize adverse impacts and preserve natural and beneficial floodplain values. All comments received will be considered.

### **Step Eight: Implement the Action**

Step eight is implementation of the proposed action. HCR would ensure that all mitigation measures prescribed in the steps above would be adhered to. Furthermore, HCR would conduct a NEPA review in accordance with 24 CFR Part 58 and a NY State Environmental Quality Review Act (SEQR) review in accordance with 6 NYCRR Part 617.

## **4.2 Eight-Step Decision Making Process for Proposed Action in a Wetland**

It is HUD's current policy to use the same eight-step process for proposed action in a floodplain, modified for wetlands, to comply with Executive Order 11990 - Protection of Wetlands. This eight-step process will take place on a site-specific basis if a site is determined to be in a wetland, as defined by HUD and Executive Order 11990. Under Executive Order 11990, wetlands are defined as "those areas inundated by surface or ground water with a frequency sufficient to support and, under normal circumstances, do or would support a prevalence of vegetative or aquatic life that requires saturated or seasonally saturated soil conditions for growth and reproduction. Wetlands generally include swamps, marshes, bogs, and similar areas such as sloughs, potholes, wet meadows, river overflows, mud flats, and natural ponds".

Rehabilitation, reconstruction, and mitigation of bulkheads located at residential properties in Nassau County may take place in or next to wetlands. All sites would be evaluated during the Tier 2 site-specific environmental assessment for location with regard to wetlands using NYSDEC and the USFWS NWI maps. On-site wetlands delineation and coordination with NYSDEC and the USACE would take place for all sites determined to be in or near a wetland. If the on-site inspection determines that the program site would impact a wetland, the eight-step decision making process outlined in 24 CFR Part 55.20, modified for wetlands would be completed, including public notices about proposed program activities of the NY Rising Bulkhead Repair Initiative for Residential Properties that are in a wetland.

## **5.0 Summary of Findings and Conclusions and Evaluation of Effects**

---

In 2011, Nassau County was impacted by Hurricane Irene and was again impacted by Superstorm Sandy in 2012. This Tier 1 PEA has resulted in a Finding of No Significant Impact (FONSI) for the NY Rising Bulkhead Repair Initiative: Environmental Assessment for Residential Properties in Nassau County, NY. In accordance with the December 11, 2012 HUD memorandum regarding Environmental Review Processing During Emergencies and Following Disasters under 24 CFR Part 58, the FONSI and Notice of Intent to Request Release of Funds (NOIRROF) public notices would be published together on the same date in order to combine public comment periods and facilitate the efficient review of this environmental assessment (see Appendix W: Draft Combined Finding of No Significant Impact and Notice of Intent to Request Release of Funds (FONSI/NOIRROF)).

Programmatic compliance for certain environmental factors has been evaluated at the Tier 1 level so that further review for these factors is not necessary at the Tier 2 site-specific level. This Tier 1 PEA has also identified the environmental compliance factors which must be evaluated during the Tier 2 site-specific environmental assessments, and laid out the criteria and procedures for ensuring compliance.

Certain categories evaluated in the NEPA Checklist and Environmental Assessment Worksheet may have the potential for adverse effects. Program sites would be evaluated on the Tier 2 level to determine any potential adverse effects for that site. If adverse impacts are found to exist, appropriate mitigation measures would be required in order to comply with NEPA and HUD Environmental Standards. These mitigation measures are laid out in Section 3 and may include: 1) modification of site-specific project scope to avoid or minimize effects on historic or cultural resources, 2) flood hazard prevention and mitigation, 3) wetland protection, 4) modification of site-specific project scope to avoid or minimize effects on threatened or endangered species, 5) and standard construction BMPs to minimize project generated noise.

The environmental assessment checklists used to complete this Tier 1 assessment are included in the Statutory and Environmental Assessment Checklists section. Maps, agency consultations, and research supporting the Tier 1 environmental assessment are presented in the Appendices.

The rehabilitation activities proposed by the NY Rising Bulkhead Repair Initiative for Residential Properties would take place on individual residential properties throughout Nassau County. The exact locations of these properties are not yet fully known, as the initiative is still accepting applications; however, based on preliminary estimates it is expected that approximately 300 to 400 residential bulkheads in Nassau County are in need of repair as a result of Superstorm Sandy and/or Hurricane Irene and may apply for funding under the proposed action. After considering the alternatives, NYS has determined that there is no practical alternative other than to proceed with the proposed initiative. While there are some inherent risks to living in an area which experiences severe weather that cannot be completely avoided, the individual actions undertaken by the described NY Rising Bulkhead Repair Initiative for Residential Properties would contribute to a safer and more secure environment for a substantial number of its low- to moderate-income households still recovering from Hurricane Irene and Superstorm Sandy. The initiative would provide a positive financial impact on neighborhoods, communities, and Nassau County.

## 6.0 List of Sources, Agencies and Persons Consulted

---

1. City of Long Beach Police Department. Internet Website: <http://www.lbpd.com/>.
2. Federal Aviation Administration. National Plan of Integrated Airport Systems (NPIAS). Internet Website: [http://www.faa.gov/airports/planning\\_capacity/npias/](http://www.faa.gov/airports/planning_capacity/npias/).
3. Federal Aviation Administration. Report to Congress - National Plan of Integrated Airport Systems (NPIAS). Internet Website: [http://www.faa.gov/airports/planning\\_capacity/npias/reports/media/2013/npias2013Narrative.pdf](http://www.faa.gov/airports/planning_capacity/npias/reports/media/2013/npias2013Narrative.pdf).
4. Long Island Regional Planning Council. Long Island 2035 – Visioning Initiative Final Report. Internet Website: <http://www.lirpc.org/ADFiles/Final%202035%20Visioning%20Report.pdf>.
5. Nassau County. Department of Public Works. Sewage Treatment in Nassau County. Internet Website: <http://www.nassaucountyny.gov/agencies/DPW/WasteWater.html>.
6. Nassau County. Department of Public Works. Nassau County Storm Water Management. Internet Website: <http://www.nassaucountyny.gov/agencies/DPW/stormwater.html>.
7. Nassau County. Fire Commission. Internet Website: <http://www.nassaucountyny.gov/agencies/FireComm/firecom.html>.
8. Nassau County. Health Department. Internet Website: <http://www.nassaucountyny.gov/agencies/Health/>.
9. Nassau County. Nassau County Comprehensive Plan. Internet Website: <http://www.nassaucountyny.gov/agencies/Planning/documents/1998ComprehensiveMasterPlanCompletereducd.pdf>.
10. Nassau County Police Department. Internet Website: <http://www.police.co.nassau.ny.us>.
11. Nassau County. Public Transportation. Internet Website: <http://www.nassaucountyny.gov/agencies/seniors/transportation/pubctransportation.html>.
12. New York State. Directory of Public and Non-Public Schools and Administrators in New York State. Internet Website: <http://www.p12.nysed.gov/irs/schoolDirectory/>.
13. New York State Department of Agriculture & Markets. Agricultural Districts. <http://www.agriculture.ny.gov/AP/agsservices/agricultural-districts.html>.
14. New York State Department of Environmental Conservation, Region 2 Office. Long Island Landfills. Internet Website: <http://www.dec.ny.gov/chemical/23698.html>.
15. New York State Department of Environmental Conservation, Region 2 Office. Federally Protected Plants. Internet Website: <http://www.dec.ny.gov/animals/7133.html>.
16. New York State Department of Environmental Conservation, Region 2 Office. List of Endangered, Threatened and Special Concern Fish & Wildlife Species of New York State. Internet Website: <http://www.dec.ny.gov/animals/7494.html>.
17. New York State Department of Environmental Conservation, Region 2 Office. Outdoor Activities. Places To Go. Long Island – Region 1. Internet Website: <http://www.dec.ny.gov/outdoor/7809.html>.
18. New York State Department of Environmental Conservation, Region 2 Office. Unique Geologic Features. Internet Website: <http://www.dec.ny.gov/permits/53826.html>.
19. New York State Department of Environmental Conservation, Region 2 Office. Critical Environmental Areas in Nassau County. Internet Website: <http://www.dec.ny.gov/permits/25131.html>.
20. New York State Department of Environmental Conservation, Region 2 Office. List of New York State Wildlife Management Areas. Internet Website: <http://www.dec.ny.gov/outdoor/8297.html>.
21. New York State Department of Environmental Conservation, Region 2 Office. Wild, Scenic and Recreational Rivers. Internet Website: <http://www.dec.ny.gov/permits/32739.html>.
22. New York State Department of State, Office of Communities and Waterfronts. Coastal Boundary Map. Internet Website: <http://www.dos.ny.gov/communitieswaterfronts/atlas/index.html>.

23. United States Census Bureau. 2011 American Community Survey. Internet Website: [http://www.census.gov/acs/www/data\\_documentation/summary\\_file/](http://www.census.gov/acs/www/data_documentation/summary_file/).
24. United States Census Bureau. State and County Quick Facts. Internet Website: <http://quickfacts.census.gov/qfd/states/36/36059.html>.
25. United States Department of Agriculture. Natural Resources Conservation Service Soils Website. Internet Website: <http://soils.usda.gov/>.
26. United States Department of Agriculture. Natural Resources Conservation Service. NY059 – Nassau County, New York. Internet Website: <http://soildatamart.nrcs.usda.gov/Report.aspx?Survey=NY059&UseState=NY>.
27. United States Department of Agriculture. Natural Resources Conservation Service. Prime and Other Important Farmlands. Internet Website: [www.nrcs.usda.gov/wps/portal/nrcs/detail/ak/soils/surveys/?cid=nrcs142p2\\_035988](http://www.nrcs.usda.gov/wps/portal/nrcs/detail/ak/soils/surveys/?cid=nrcs142p2_035988).
28. United States Department of Agriculture. Natural Resources Conservation Service. Dwellings and Small Commercial Buildings. Internet Website: [http://soildatamart.nrcs.usda.gov/ReportViewer.aspx?File=76d08a11-bf29-4860-b9beight-2393bb313299.PDF&Name=Dwellings\\_and\\_Small\\_Commercial\\_Buildings&Wait=8](http://soildatamart.nrcs.usda.gov/ReportViewer.aspx?File=76d08a11-bf29-4860-b9beight-2393bb313299.PDF&Name=Dwellings_and_Small_Commercial_Buildings&Wait=8).
29. United States Department of Housing and Urban Development. Community Development Block Grant Program – CDBG. Internet Website: [http://portal.hud.gov/hudportal/HUD?src=/program\\_offices/comm\\_planning/communitydevelopment/programs](http://portal.hud.gov/hudportal/HUD?src=/program_offices/comm_planning/communitydevelopment/programs).
30. United States Department of Housing and Urban Development. Noise Abatement and Control. Internet Website: <http://portal.hud.gov/hudportal/documents/huddoc?id=noiseabatement.pdf>.
31. United States Department of Housing and Urban Development. Farmlands Protection. Internet Website: <http://portal.hud.gov/hudportal/documents/huddoc?id=farmland.pdf>.
32. United States Department of Housing and Urban Development. Wild and Scenic Rivers. Internet Website: <http://portal.hud.gov/hudportal/documents/huddoc?id=wildnarr.pdf>.
33. United States Department of Housing and Urban Development. Sole Source Aquifers – Checklist for HUD or Responsible Entity. Internet Website: [http://portal.hud.gov/hudportal/documents/huddoc?id=23388\\_solesourceaquifers.pdf](http://portal.hud.gov/hudportal/documents/huddoc?id=23388_solesourceaquifers.pdf).
34. United States Environmental Protection Agency. Nassau –Suffolk Aquifer System. Sole Source Aquifers in Region 2. Internet Website: <http://www.epa.gov/region02/water/aquifer/nasssuff/nassau.htm>.
35. United States Environmental Protection Agency. Green Book. Currently Designated Nonattainment Areas for All Criteria Pollutants. Internet Website: <http://www.epa.gov/oaqps001/greenbk/ancl.html>.
36. United States Fish and Wildlife Service. National Wetlands Inventory. Internet Website: <http://www.fws.gov/wetlands>.
37. United States Fish and Wildlife Service. Coastal Barrier Resources Act. Internet Website: <http://www.fws.gov/CBRA/Maps/index.html>.
38. United States Fish and Wildlife Service. National Wildlife Refuge System. Internet Website: <http://www.fws.gov/refuges/>.
39. United States Fish and Wildlife Service. Federally Listed Endangered and Threatened Species and Candidate Species in New York (By County). Internet Website: <http://www.fws.gov/northeast/nyfo/es/CoListCurrent.pdf>.
40. United States Fish and Wildlife Service. New York Field Office. Seabeach Amaranth. Internet Website: <http://www.fws.gov/northeast/nyfo/info/factsheets/amaranth.pdf>.
41. United States Fish and Wildlife Service. The Atlantic Coast Piping Plover. Internet Website: <http://www.fws.gov/northeast/pipingplover/pdf/plover.pdf>.
42. United States Fish and Wildlife Service. Roseate Tern: North American Subspecies (*Sterna dougallii dougallii*). Internet Website: <http://www.fws.gov/northeast/pdf/Roseatetern0511.pdf>.
43. United States Fish and Wildlife Service. Critical Habitat. Internet Website: <http://criticalhabitat.fws.gov/crithab/>.
44. United States Fish and Wildlife Service. Oyster Bay National Wildlife Refuge. Internet Website: <http://www.fws.gov/northeast/longislandrefuges/oysterbay.html>.
45. United States Fish and Wildlife Service. New York. Delaware River (Upper). Internet Website: <http://www.rivers.gov/new-york.php>.

46. United States Geological Survey. The National Map Viewer. Internet Website:  
<http://viewer.nationalmap.gov/viewer/>.
47. Newsday. "Hurricane Sandy Long Island: Report Says Storm Ruined 95,534 Buildings In Nassau, Suffolk Counties." 08 January 2013. Internet website:  
[http://www.huffingtonpost.com/2013/01/08/hurricane-sandy-long-island-storm-95000-buildings-nassau-suffolk-counties\\_n\\_2429495.html](http://www.huffingtonpost.com/2013/01/08/hurricane-sandy-long-island-storm-95000-buildings-nassau-suffolk-counties_n_2429495.html)
48. NY Rising Intake Summary. 27 November 2013.
49. New York State. New York Rising Community Reconstruction Program. Internet Website:  
<http://www.stormrecovery.ny.gov/community-reconstruction-program>
50. Nassau County Website. Internet Website:  
<http://www.nassaucountyny.gov/agencies/oem/hurricane/documents/HistoryofHurricanes.pdf>
51. "Long Island Pounded By Irene But Residents Feel Lucky." *Reuters*. Internet Website:  
<http://www.reuters.com/article/2011/08/28/us-storm-irene-longisland-idUSTRE77R2FG20110828>
52. Zielenziger, David. "Hurricane Irene: After Landfall, Trees Down, Power Off in Nassau County." 28 Aug 2011. *International Business Times*. Internet Website: <http://www.ibtimes.com/hurricane-irene-after-landfall-trees-down-power-nassau-county-305880>
53. Nassau County Economic and Demographic Profile. Internet Website:  
[http://www.nassauida.org/Public/Page/Files/36\\_Demographic%20Economic%20Profile.pdf](http://www.nassauida.org/Public/Page/Files/36_Demographic%20Economic%20Profile.pdf)
54. Nassau County Emergency Services. Internet Website:  
[www.nassaucountyny.gov/website/lw/emergency/emergency\\_services.html](http://www.nassaucountyny.gov/website/lw/emergency/emergency_services.html).

**Exhibit 1:**  
**NEPA Environmental Assessment Checklist**

---

**NEPA Environmental Assessment Checklist**

[Environmental Review Guide HUD CPD 782, 24 CFR 58.40; Ref. 40 CFR 1508.8 &1508.27]

HCR has evaluated the significance of the effects of the proposal on the character, features and resources of the project area. Relevant base data and verifiable source documentation to support the findings have been included in the reference section. The appropriate impact code from the following list has been incorporated to make a determination of impact. **Impact Codes: (1)** - No impact anticipated; **(2)** - Potentially beneficial; **(3)** - Potentially adverse; **(4)** - Requires mitigation; **(5)** - Requires project modification. Additional materials have been attached as appendices, and conditions or mitigation measures required have been noted.

<b>Land Development</b>	<b>Code</b>	<b>Source or Documentation</b>
Conformance with Comprehensive Plans and Zoning	1	<p>The Nassau County Planning and Development Agency is responsible for county-wide land use planning and assisting municipalities in comprehensive planning. Additionally, many of the individual communities in Nassau County have their own comprehensive plans and zoning laws.</p> <p>The initiative would not require zoning changes or amendments, and would consist of repairing and/or replacing or reconstructing existing bulkheads damaged by Superstorm Sandy, Hurricane Irene consistent with current local plans. Contractors would obtain appropriate permits.</p> <p><b>Reimbursement</b> Work conducted prior to the homeowner entering the Bulkhead Repair Initiative would not be eligible for reimbursement if appropriate permits were not obtained or a zoning change or amendment was necessary.</p> <p><b>Source: 9 (list of sources starts on Page 66)</b></p>
Compatibility and Urban Impact	2	<p>CDBG-DR funding would result in the rebuilding of storm damaged bulkheads located at residential properties in Nassau County. The rebuilding of these sites would provide an urban design and compatibility benefit by revitalizing the appearance and sustainability of these bulkhead structures and stabilizing the shoreline.</p> <p><b>Source: 4, 9</b></p>
Slope	1	<p>The initiative would consist mainly of repair and reconstruction of bulkheads, and adverse effects to slope are not anticipated. Minor adjustment to soil slope may result for properties requiring soil amendment or preparation for bulkhead repairs or reconstruction. However, impacts to slope within a localized area on a property would be considered negligible.</p> <p>According to the U.S. Geological Survey (USGS) topographic maps (See Appendix A: Nassau County USGS Topographic Maps), Nassau County is generally flat with slopes of less than 10%. The initiative would rebuild on existing footprints. Adjustment to soil slope may result from properties requiring soil amendment or filling behind bulkheads. This would preclude significant expansion of existing construction; therefore, adverse effects to slope are not anticipated.</p> <p><b>Source: 25</b></p>

Land Development	Code	Source or Documentation
Erosion	1	<p>According to the USGS topographic maps (See Appendix A: Nassau County USGS Topographic Maps) Nassau County is generally flat with slopes of less than 10%. Adjustment to soil slope may result from properties requiring soil amendment or preparation for bulkhead repairs or reconstruction. Existing development tends to exist in flatter areas between the hills.</p> <p>Adjustment to soil slope may result from properties requiring soil amendment or preparation for bulkhead repairs or reconstruction. BMPs, such as silt fence and erosion prevention, would be implemented, if required by permits or agency discretion.</p> <p>State and local permitting requirements, such as CEHA permits, would incorporate BMPs (erosion blanketing, phasing and sequencing of construction) to eliminate erosion impacts for program locations that require excavation or soil modification; therefore, impacts from erosion are not anticipated as a result of this initiative.</p> <p><b>Source: 25</b></p>
Soil Suitability	1	<p>The initiative involves the reconstruction or rehabilitation of existing, storm-damaged, bulkheads located on residential properties. Reconstruction at specific properties would include using fill to fix the damaged bulkheads. Bulkheads repairs and replacements that would require fill would require a soil suitability analysis in accordance with NYS and local construction codes and regulations. The U.S. Department of Agriculture (USDA) Natural Resources Conservation Service (NRCS) provides map information regarding soil types and their properties that can influence the development of building sites and is intended for land use planning, evaluating land use alternatives, and for planning site investigations prior to design and construction (See Appendix B: Nassau County USDA Soil Survey Maps).</p> <p>Rating class terms designated by the NRCS indicate the extent to which the soils are limited by all of the soil features that affect building site development and include "Not limited", "Somewhat limited", and "Very limited".</p> <p>According to review of the NRCS soils map data for "Dwellings and Small Commercial Buildings" ratings for the 54 soil types mapped within Nassau County, 16 soil types have ratings of very limited, 16 somewhat limited, and 17 not limited. Reasons for the assigned ratings include flooding, slope, depth to saturated zone, depth to thick cemented pan, ponding, organic matter content, and subsidence, or lack thereof. Some soil types are not rated (e.g., beaches, duneland, etc.).</p> <p>Although several soil types with unfavorable soil suitability ratings exist within Nassau County, thorough planning and engineering review and design, through the local permitting process, would mitigate the potentially adverse effects that could result from marginal soil properties, as they relate to rehabilitation and reconstruction. Soil texture amendments and/or anchoring stilts to subsurface bedrock would enable raising residences above the flood elevation at locations with limited building site ratings soil types. In addition, the initiative would incorporate the Soil Erosion Conditions of Approval, which include BMPs such as silt fencing and erosion prevention, to address potential impacts to soil suitability.</p> <p><b>Source: 25, 26, 28</b></p>

Land Development	Code	Source or Documentation
Hazards and Nuisances including Site Safety	3	<p>Typical effects of repair and/or replacement or reconstruction activities may include sidewalk closures and fugitive dust and noise, which would be addressed under existing regulations governing construction activity in NYS, Nassau County, and local municipalities. If a site is determined to have hazardous materials, measures would be implemented to minimize the exposure of workers and the public (See Conditions for Approval section).</p> <p><b>Source: 10, 30</b></p>
Energy Consumption	1	<p>Fossil fuel energy consumption would occur via the use of construction equipment and the shipment of materials required for the repair and/or replacement or reconstruction. However, project activities would not increase long-term energy consumption.</p> <p><b>Source: 9</b></p>
Noise - Contribution to Community Noise Levels	4	<p>The repair and/or replacement or reconstruction of bulkheads located at residential properties would result in the same amount of development that existed at pre-Hurricane Irene and Superstorm Sandy levels, and would not result in any significant increase in ambient noise levels. The proposed activities would cause temporary increases in noise levels due to construction activities and truck traffic. Temporary increases in noise levels would be mitigated by compliance with local noise ordinances including time-of-day work limitations (See Conditions for Approval section).</p> <p><b>Source: 30</b></p>
Air Quality Effects of Ambient Air Quality on Project, and Contribution to Community Pollution Levels	4	<p>The proposed action would be located in Nassau County, which is within a maintenance area for inhalable particulate matter (PM<sub>2.5</sub>), a marginal nonattainment area for the eight-hour ozone standard, and a carbon monoxide maintenance area. Section 176(c) of the Clean Air Act (CAA) requires a federal agency that funds any activity in a nonattainment or maintenance area to conform to the NY SIP.</p> <p>Conforming to a SIP means that an action will not:</p> <ul style="list-style-type: none"> <li>• Cause or contribute to a new violation of any standard in any area;</li> <li>• Increase the frequency or severity of any existing violation of any standard in any area; or</li> <li>• Delay timely attainment of any standard or any required interim emission reduction or other milestones in any area.</li> </ul> <p>As demonstrated in the conformity screening analysis for the proposed action, emissions from construction activities would be less than de minimis levels above which a general conformity analysis or determination would be required (see Appendix M: NYSDEC Air Quality Consultation and Conformity with State Implementation Plans), and therefore a conformity assessment is not warranted. Construction activities as a result of the proposed action may result in temporary increases in emissions from on-site equipment, construction-related vehicles and nonroad engines, and fugitive dust. However, all activities under the proposed action would comply with applicable federal, state, and local laws and regulations regarding construction emissions, as discussed in Section 3.0, “Conditions for Approval and Mitigation.” Overall, construction activities would occur at scattered sites under the proposed action, and air pollutant concentration increments from construction activities are highly localized, i.e., almost entirely due to construction activity in close proximity to receptor locations and not due to cumulative impacts from the larger area.</p> <p><b>Source: 35</b></p>

<b>Land Development</b>	<b>Code</b>	<b>Source or Documentation</b>
Environmental Design Visual Quality - Coherence, Diversity, Compatible Use and Scale	2	Bulkheads would be repaired and replaced and would be compatible with the surrounding land uses in both visual and scale aspects. The vast majority of applicable housing stock is single family. Generally, no significant changes are proposed in the footprint or height (no greater than 18 inches) for the rehabilitation of bulkheads. In some instances, repair or replacement materials may be upgraded or similar alternative stabilization methods employed. The proposed use of CDBG-DR funding would provide a benefit by improving visual appearance of neighborhoods destroyed by the recent disasters. <b>Source: 4, 9</b>

<b>Socioeconomic</b>	<b>Code</b>	<b>Source or Documentation</b>
Demographic Character Changes	1	<p>According to the 2010 U.S. Census, the population of Nassau County was 1,339,532. Approximately 65.5% of the population identifies as White Non-Hispanic, 14.6% identifies as Hispanic, 10.5% of the population identifies as Black or African-American Non-Hispanic, 7.6% identifies as Asian Non-Hispanic, 0.1% of the population considers themselves to be American Indian or Alaskan Native. In Nassau County, 15.3% of the population is over the age of 65. The proposed use of CDBG-DR funds for the repair and/or replacement or reconstruction of storm damaged bulkheads would not alter the demographic character of the area. The occupants of properties would most likely be the same occupants that resided in the area prior to Superstorm Sandy and Hurricane Irene. No significant impacts would occur to the demographic character of Nassau County.</p> <p><b>Source: 23, 24</b></p>
Displacement	2	<p>One of the primary objectives of the State's response to Superstorm Sandy, Hurricane Irene, and Tropical Storm Lee, and CDBG-DR funding is to avoid the permanent displacement of residents. Rehabilitation of storm damaged bulkheads helps provide adequate protection to the homes of these residents displaced by the recent disasters so they can return to their communities.</p> <p><b>Source: 23, 24</b></p>
Employment and Income Patterns	2	<p>According to the 2008-2012 American Community Survey, 43.1% of the population in Nassau County is employed in management, business, science, and arts occupations. Another 27.1% of the population is employed in sales and office occupations. Educational services, and health care and social assistance industries employ approximately 28% of Nassau County residents, while professional, scientific, management, and administrative, and waste management service industries employ 12.4% of the county's population. The rehabilitation of the county's bulkheads would not have a long-term impact on employment and income patterns. In addition, the proposed activities would benefit the affected areas by generating employment for the construction industry.</p> <p><b>Source: 23, 24</b></p>

<b>Community Facilities and Services</b>	<b>Code</b>	<b>Source or Documentation</b>
Educational Facilities	2	<p>There are approximately 308 public schools operated by the 56 school districts in Nassau County, including 191 non-public schools and three charter schools. The repair and replacement of residential bulkheads using the proposed CDBG-DR funding would not result in adverse effects on these schools in Nassau County. In most cases, students displaced by Hurricane Irene and Superstorm Sandy would be able to return to their local school. There would be no significant adverse effects on educational facilities as new residences are not being added only existing structures being repaired or replaced.</p> <p><b>Source: 12</b></p>
Commercial Facilities	2	<p>The repair and/or replacement or reconstruction of residential bulkheads using the proposed CDBG-DR funding would not result in a significant effect on existing commercial establishments. Returning residents would frequent commercial establishments in the neighborhood. This would be an economic benefit to all local businesses that experienced a loss in revenue since the storms.</p> <p><b>Source: 29</b></p>
Health Care	1	<p>As of 2010, Nassau County boasted 12 hospitals, with a total of 4,349 certified hospital beds. Among these hospitals are the Nassau University Medical Center, St. Francis Hospital, the Winthrop-University Hospital, and Mercy Medical Center. The county is served by approximately 9,500 medical doctors, 2,017 dentists, and 21,043 registered nurses. Repairing, reconstructing, or rehabilitating residential properties with five (5) or more units would not result in an increase in demands on the health care system. The repair or replacement of residential bulkheads using the proposed CDBG-DR funding would not result in a large increase in demands on the health care system in Nassau County. There would be no adverse effects on health care facilities as new residences are not being added and only bulkheads are being repaired or replaced.</p> <p><b>Source: 8</b></p>
Social Services	2	<p>The Nassau County Department of Social Services provides temporary assistance and skills for families and individuals to become self-sufficient. Services include child support enforcement and collection, child protective services, child preventive services, foster care, adoption services, adult protective services, guardianships, adult residential placement, personal care, and adult group homes. The Department also administers several federal and state programs, such as temporary assistance to needy families (TANF), food stamps, Medicaid, and the home energy assistance program (HEAP).</p> <p>The repair and/or replacement or reconstruction of residential bulkheads using the proposed CDBG-DR funding would not result in a new demand for social services and may, in fact, reduce demand as people move back into their homes. Social services are provided by a range of non-profit, state, and federal agencies. There would be no significant adverse effects on social services as new residences are not being added and only bulkheads are being repaired or replaced.</p> <p><b>Source: 29</b></p>

<b>Community Facilities and Services</b>	<b>Code</b>	<b>Source or Documentation</b>
Solid Waste	3	<p>The Long Island Landfill Law, ECL 27-0704, placed additional requirements and restrictions on Long Island Landfills. This refers to all landfills in Nassau and Suffolk Counties. As of February 2012, there were five landfills operating on Long Island, two of which collect construction and demolition (C&amp;D) waste. All solid waste must be properly segregated and disposed of at any of these landfills.</p> <p>The proposed initiative would result in generation of construction and demolition waste. All solid waste must be properly segregated and disposed of at a regulated (permitted) C&amp;D processing facility and in accordance with applicable regulations. As of May 2012, there were 79 regulated (permitted) C&amp;D processing facilities and 279 registered C&amp;D processing facilities in New York. Materials would be separated from C&amp;D debris to be recycled or to be reused for a specific use. Material that is not recovered would be sent to a municipal solid waste landfill or to a C&amp;D landfill. Facilities and landfills would be determined based on proximity to specific properties (See Conditions for Approval section).</p> <p><b>Source: 14</b></p>
Waste Water	1	<p>Nassau County's Sewer and Stormwater Authority collects and treats most of the waste water and sewage generated in the county. The reconstruction or repair of residential bulkheads using the proposed CDBG-DR funding would not result in a significant demand on waste water disposal/treatment services. No significant impact would occur as a result of reconstructing the bulkheads, as the housing stock would not be increased beyond pre disaster conditions.</p> <p><b>Source: 5</b></p>
Stormwater	1	<p>Stormwater in Nassau County is managed by the Nassau County Stormwater Management Program (NCSWMP).</p> <p>Reconstruction or rehabilitation including repair of bulkheads would not involve a change in the existing structures footprint and should have no significant impact on stormwater systems. All sites would be evaluated for the need to comply with stormwater permitting requirements, such as NYSDEC general permits or local MS4 permits. If multiple adjacent sites are worked on, the sites would be aggregated for the purposes of construction stormwater compliance.</p> <p><b>Reimbursement</b></p> <p>If the homeowner has requested reimbursement for work done prior to the homeowner entering the Bulkhead Repair Initiative, the work would be evaluated to determine if it required a NYSDEC general permit or local MS4 permit. If it is determined that either permit was required, the homeowner must provide documentation that the permit had been obtained prior to the work being conducted, or evidence as to why the permit was not required for the work conducted. If the permit was required but was not obtained prior to the work conducted, that work would not be eligible for reimbursement.</p> <p><b>Source: 6</b></p>

<b>Community Facilities and Services</b>	<b>Code</b>	<b>Source or Documentation</b>
Water Supply	1	<p>Water supply is managed by the Nassau County Department of Health that oversees the 51 public water supply systems operating in Nassau County.</p> <p>No additional demands would be placed on the Nassau County water supply as no new residences are being built. The reconstruction or rehabilitation of residential bulkheads using the proposed CDBG-DR funding would not result in a significant impact on water supplies.</p> <p><b>Source: 8</b></p>
Police	1	<p>Police services in Nassau County are provided by the eight police precincts in Nassau County and the City of Long Beach Police Department.</p> <p>The proposed initiative would not result in additional housing units and, thus, would not increase the demand on the local police departments. The proposed use of CDBG-DR funding for the reconstruction or repair of residential bulkheads would help displaced homeowners return to their neighborhoods, stabilizing those neighborhoods and helping restore public safety. Debris from construction activities would be managed as to not impede response time. It is possible debris or trucks may temporarily block access, though these hindrances would be minor and temporary.</p> <p><b>Source: 1, 10</b></p>
Fire	1	<p>Fire services in Nassau county are provided by nine fire battalions throughout the county. The Nassau County 911 Center dispatches all fire emergency calls.</p> <p>The proposed initiative would not result in additional housing units and, thus, would not increase the demand on the local fire departments. The proposed use of CDBG-DR funding for the reconstruction or repair of residential bulkheads would help displaced homeowners return to their neighborhoods, which would stabilize those neighborhoods and restore public safety. Debris from construction activities would be managed as to not impede response time. It is possible debris or trucks may temporarily block access, though these hindrances would be minor and temporary. Redevelopment activities would ultimately provide potential benefits by reducing the amount of derelict properties, which pose potential fire hazards.</p> <p><b>Source: 7</b></p>
Emergency Medical	1	<p>Nassau County has 17 emergency response squads; 15 volunteer, one career, and one private.</p> <p>The proposed use of CDBG-DR funding for the reconstruction or repair of storm damaged residential bulkheads would not result in additional housing units and, thus, would not increase the demand on the local emergency medical departments. Debris from construction activities would be managed as to not impede response time. It is possible debris or trucks may temporarily block access, though these hindrances would be minor and temporary.</p> <p><b>Source: 54</b></p>

<b>Community Facilities and Services</b>	<b>Code</b>	<b>Source or Documentation</b>
Open Space	1	<p>In 2003, Nassau County created the Open Space Fund, which receives 5% of the proceeds from county land sales for open space land acquisition purposes. The purpose of the Open Space Fund is to preserve open space and natural and scenic resources. The proposed use of CDBG-DR for the reconstruction or repair of storm damaged residential bulkheads would not introduce a new population to neighborhoods impacted by Hurricane Irene and Superstorm Sandy; therefore, no new demand on open space would be generated. No significant negative impacts would occur.</p> <p><b>Source: 9</b></p>
Recreation	1	<p>Much of the recreation in the affected area takes place on the local beaches, such as the Boardwalk in Long Beach, Jones and Tobay Beaches, as well as ball fields, playgrounds, golf courses, preserves and open space which provide passive and active recreational activities. Nassau County is also home to many high-profile professional sporting venues events, such as the Bethpage Golf Course, the Belmont Racetrack, as well as hosting the U.S. Open in 2002 and 2009.</p> <p>The proposed use of CDBG-DR for the reconstruction or repair of storm damaged residential bulkheads would not introduce a sizeable new population to neighborhoods impacted by Hurricane Irene and Superstorm Sandy; therefore, no new demand on recreational facilities would be generated. No significant negative impacts would occur.</p> <p><b>Source: 9, 17</b></p>
Cultural Facilities	1	<p>There are many cultural/historic resources in the county that have retained their historic significance, architectural characteristics, and archaeological connections to historic events. Nassau County boasts eleven museums, including the Cradle of Aviation Museum and the Long Island Children's Museum. Historical sites in the county include the Old Bethpage Village and Theodore Roosevelt's estate at Sagamore Hill. Venues such as the 11,200 seat Jones Beach Theater performing arts center attracts world-class musical talent.</p> <p>The proposed use of CDBG-DR for the reconstruction or repair of storm damaged residential bulkheads would have no increased demand on cultural facilities, as there would be no increase in population.</p> <p><b>Source: 50</b></p>
Transportation	1	<p>The Metropolitan Transportation Authority (MTA) operates the Long Island Bus (LIB), Nassau County's primary public transit provider. The MTA also operates the Long Island Rail Road, which has 46 stations in Nassau County. The county's highway system consists of more than 4,000 miles of paved roads that include highways, major arteries, and local streets.</p> <p>CDBG-DR funds for the reconstruction and repair of storm damaged residential bulkheads would not generate significant levels of traffic or place a significant demand on transportation systems in the area. Population density is not expected to increase compared to pre-storm levels, since no additional housing stock is being constructed.</p> <p><b>Source: 11</b></p>

Natural Features	Code	Source or Documentation
Water Resources	1	<p>All of Nassau County is located over the Nassau-Suffolk Sole Source Aquifer. (See Appendix J: Nassau County Sole Source Aquifer Map and Memorandum of Understanding.) Bulkhead repair and/or replacement or reconstruction activities would be reviewed in accordance with the Memorandum of Understanding between HUD and the EPA. Most of Nassau County is connected to municipal water supplies; however, some areas have private wells and are not connected to community systems. No significant impacts are expected to occur to the aquifers.</p> <p><b><u>Reimbursement</u></b>  The total impervious area of a parcel would not be increased significantly, which is considered to be 30% for Safe Drinking Water Act purposes in Region II. This authority would not be triggered since these activities would not increase the pre-existing footprint of structures, sidewalk, driveway, parking lot, or other developed area.</p> <p><b>Source: 33, 34</b></p>
Surface Water	1	<p>Nassau County includes Long Island Sound, including several bays and harbors on the north shore, and the Atlantic Ocean, including several bays and harbors, on the south shore. There are numerous freshwater ponds inland. Because the initiative is defined to repair and reconstruction of bulkheads, adverse effects to surface water resources must be addressed. Program activities are anticipated to remain within the general footprint of the affected bulkhead and avoid impacts to surface water resources. All sites would be evaluated for the presence of wetlands in accordance with NYSDEC and USFWS NWI maps, and if necessary, an on-site wetlands inspection and delineation would occur (See Appendix D: Nassau County Wetlands Maps and/or USFWS website). If project work on a specific site would impact a wetland, appropriate permits would be obtained, in compliance with Executive Order 11990. If Executive Order 11990 is triggered, the eight-step decision making process under 24 CFR Part 55.20 modified for wetlands would be completed. The Wetlands and Water Quality and the Soil Erosion Conditions for Approval would be implemented during soil disturbing activities associated with construction. These measures would minimize deposition of sediment and eroded soil in onsite and offsite wetlands and waters and minimize erosion in onsite and offsite wetlands and waters. Earthwork associated with construction would have the potential for short-term adverse impacts on surface waters from erosion, sedimentation, and hazardous materials. Implementation of BMPs would minimize these impacts. There are no Wild and Scenic Rivers within Nassau County as designated by the U.S. Department of the Interior or NYSDEC (see Appendix I: Nassau County Wild, Scenic, and Recreational Rivers).</p> <p><b><u>Reimbursement</u></b>  If the work that was completed prior to the homeowner entering the Bulkhead Repair Initiative is determined to have impacted a wetland, the homeowner must provide documentation that the appropriate permit was obtained prior to the work taking place. If the appropriate permits were not obtained prior to the work taking place, a Tier 2 site-specific review would determine if a project site is located within 300 feet of a tidal wetland and 100 feet of a freshwater wetland. If a project site is located within those boundaries, then a qualified environmental professional (QEP) would perform on-site visits to determine if the work impacted a wetland.</p> <p><b>Source: 9, 21, 22, 32, 36, 45</b></p>

Natural Features	Code	Source or Documentation
Unique Natural Features and Agricultural Lands	1	<p>The <i>Environmental Review Guide for Community Development Block Grant Programs</i> defines unique natural features as "primarily geological features which are unique in the sense that their occurrence is infrequent or they are of special social, cultural, economic, educational, aesthetic or scientific value. Development on or near those features may render them inaccessible to investigators or visitors, or otherwise limit potential future use and appreciation of these resources. Examples of unique natural features include: sand dunes, waterfalls, unique rock outcroppings, caves, canyons, and petrified forests. Also included are unique stands of trees, such as Redwoods, or unique colonies of animals, such as "Prairie Dog Town."</p> <p>The NYSDEC indicates Jamaica Bay Tributaries, Tidal Wetlands and Regulated Adjacent Areas as the only designated Critical Environmental Area (CEA) in Nassau County. There are no NYSDEC-designated Unique Geologic Features in the County.</p> <p>Given the unknown exact locations of potential repair and reconstruction bulkhead sites, there is potential for adverse impacts to Unique Natural Features. However, the initiative would be compatible with current land use of the surrounding urban upland areas. Repair and reconstruction is expected to occur within the same footprint of the affected bulkhead.</p> <p>The USDA NRCS provides map information regarding soil types that are considered Prime Farmland and Farmland of Statewide Importance. According to NRCS soils data, there are 12 mapped soil types in Nassau County that are defined as Prime Farmland. There are five mapped soil types defined as Farmland of Statewide Importance These soils are listed in Appendix B: Nassau County USDA Soil Survey Maps. Although these soil types exist throughout the county, none of the rehabilitation properties are expected to be identified as farmlands. If rehabilitation activities do occur on agricultural land, the rehabilitation activities would not result in agricultural land use conversion. There are no NYS agricultural districts in Nassau County.</p> <p><b>Source: 13, 18, 19, 26, 27, 29, 31, 46</b></p>

Natural Features	Code	Source or Documentation
Vegetation and Wildlife	1	<p>Information has been received from NYSDEC NY Natural Heritage Program, the USFWS NY Field Office, and NMFS (See Appendix O: NY Natural Heritage Program Consultation, Appendix S: USFWS Consultation Letters, and Appendix R: NMFS Consultation Letters).</p> <p>The ESA requires the Action Agency (HCR) to make a determination of effect to any federally listed species or designated critical habitat that may occur as a result of an action that is funded, authorized, or carried out by the Action Agency. The determination(s) of effect would be completed in the Tier 2 site-specific reviews.</p> <p>In accordance with the USFWS program coordination, each site would be reviewed to determine the level of adverse effect in accordance with USFWS 7-Step Project Review Process and/or other compliance review tools as directed by USFWS. Further consultation with USFWS would be conducted in the event that an adverse effect is determined. Additionally, HCR would determine if there are areas of multiple sites in close proximity that may result in an adverse effect so that those sites can be reviewed together, if necessary.</p> <p>There are four (4) federally listed species known to occur in Nassau County. Locations and habitats of these species are described in Appendix S: USFWS Consultation Letters and Appendix R: NMFS Consultation Letters. There are also two species proposed for listing. No program sites are anticipated to include habitat for these species in their footprint. The most likely situation where a program action could trigger the necessity for Section 7 consultation is if a site is immediately adjacent to an Atlantic Ocean beach, where piping plovers are known to occur, and if work would be done between March and September.</p> <p>Several species of listed sea turtles and Atlantic sturgeon occur in the coastal waters of Long Island; sturgeon also occur in the Hudson River. The presence of sea turtles and sturgeon in shallow waters adjacent to the shoreline where bulkheads are typically installed would be rare (see Appendix R: NMFS Consultation). Measures to minimize impacts to these species include use of silt or turbidity curtains, construction at low tide, use of wood or vinyl piles instead of steel, use of the smallest diameter pile practicable, use of vibratory pile drivers, and avoidance of the May-October time period.</p> <p><b><u>Reimbursement</u></b></p> <p>Consultation is not required under Section 7 of the ESA when CDBG-DR assistance is provided for costs incurred, because physical activities were undertaken before HCR could review projects with the potential to affect biological resources. However, all properties would be reviewed for compliance with Section 7 of the ESA at the Tier 2 site-specific level.</p> <p><b>Source: 16, 20, 38, 39, 40, 41, 42, 43, 44</b></p>

**Exhibit 2:**  
**Environmental Assessment Worksheet**

---

**Tier 1 Environmental Review Record**  
**Environmental Assessment Work Sheet**

**Program Name and Description:**

**Program Name:** NY Rising Bulkhead Repair Initiative

**Location:** Scattered Sites, Nassau County, New York

**Activities included in the project:** Rehabilitation of bulkhead residential properties in Nassau County damaged during Hurricane Irene and Superstorm Sandy.

**Directions:** New York State Homes & Community Renewal (HCR) has determined whether the activities affiliated with the project will affect the resource under consideration and trigger formal compliance consultation procedures with the appropriate oversight agency and/or subsequent mitigation, as described below. If the activity affects the resource, “A” is indicated in the Status Determination Column below, and a site-specific Tier 2 review will be conducted for the category. “B” is indicated in the column if the activity does not affect the resources under consideration. The compliance documentation column indicates what source documentation was used to make the compliance determination and copies of all necessary documentation are attached in the Environmental Review Record (ERR).

---

Statutes, Executive Orders, and Regulations listed at 24 CFR Sec. 58.5 and 58.6	Status Determination (A or B)	Compliance Documentation
Section 404 of the Clean Water Act	A	<p>There may be short-term discharges of sediment to the waters, particularly associated with the removal or deposition of material and shoreline stabilization components for restoring or rebuilding of bulkheads. Section 404 of the Clean Water Act authorizes the USACE to prohibit or regulate, through a permitting process, the discharge of dredged or fill material, or excavation within U.S. Waters, particularly with bulkhead repairs or replacements. USACE’s Nationwide Permit 3 (NWP3) is applicable to bulkhead work and ensures Section 404 compliance. In NYS, the regional general permit for storm damage repairs and replacement is NYDGP-15. NYSDEC has issued several general permits. For example, General Permit GP-0-13-006 (see Appendix U: NYSDEC General Permit Application for Bulkhead Repairs) exists for backfilling and “in-kind/in-place repair or reconstruction of bulkheads and shoreline erosion structures” that are storm-damaged but were functional before Superstorm Sandy. This permit applies to Nassau and Suffolk Counties.</p> <p>NYSDEC has also issued a General Permit GP-1-13-001, applicable to the south shore of Long Island, for the removal and replacement of a functional and lawfully existing bulkhead (including returns and parallel capping boardwalks) in the same location as the existing bulkhead. The replacement bulkhead may be up to 18 inches higher in elevation than the existing bulkhead. GP-1-13-001 also authorizes maintenance dredging of limited areas and depths associated with replacement of the functional bulkhead. The General Permit is available for use on the south shore of Nassau County and Suffolk County west of the Robert Moses Causeway, excluding areas of vegetated tidal wetlands, any ocean shore, the ocean front of Long Beach Island, and all of the Jones Beach State Park and Robert Moses State Park barrier islands. This area has a high density of individually owned bulkheads, many of which have existed for 50 years or more. For areas not covered by these General Permits, project activities would be authorized by the appropriate NYSDEC individual permit; if a permit from the USACE is required, a Water Quality Certification may also be required. Water Quality Certifications for this initiative would be granted through a USACE NWP3; if a project does not meet the conditions of NWP3, it would require an individual permit and a separate Water Quality Certification through NYSDEC.</p> <p>USACE’s NWP3 is available in order to ensure compliance with Section 404 of the CWA for projects involving general minor and less complex reviews. NWP3 authorizes the removal of accumulated sediments and debris in the vicinity of existing structures, provided that the removal extends no more than 200 feet in any direction from the structure and 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. NWP3 would be issued by USACE for proposed and completed projects whose impacts are within the standards set by the permit, and which have been completed within the eligible time period for the regional general permit NYDGP-15. Projects whose impacts are beyond the standards of the nationwide and regional general permits (NWP3 and NYDGP-15, respectively), or which would be completed outside the time frame provided for NYDGP-15, would require an individual permit (see Appendix T: USACE Coordination and Permits).</p> <p>Homeowners requesting reimbursement for work completed prior to the homeowner entering the Bulkhead Repair Initiative must provide documentation that the work was completed under a permit discussed above. If the work that has been done prior to the homeowner entering the Initiative does not meet these standards, that work would not be eligible for reimbursement until compliance with these standards is documented through an appropriate permit, which are required eligibility documents under this Bulkhead Repair Initiative.</p>

Statutes, Executive Orders, and Regulations listed at 24 CFR Sec. 58.5 and 58.6	Status Determination (A or B)	Compliance Documentation
Coastal Barrier Resources Act/Coastal Barrier Improvement Act [§58.6(c)]	A	<p>Portions of Nassau County are within the CBRS (see Appendix G: Coastal Barriers Resources Map). Each site would be checked with regard to its location within the CBRS. No HUD funding would be used in within a system unit of the CBRS. HUD funding may be used for program activities within OPAs, with the exception of funding for flood insurance.</p> <p>Compliance requirements would be determined in a Tier 2 environmental review.</p>
Airport Runway Clear Zone or Clear Zone Disclosure [§58.6(d)]	B	<p>The initiative would not be proposing any site acquisitions, therefore, §58.6(d) is not applicable (see Appendix H: Airport Clear Zone Maps).</p>
Wetland Protection [Executive Order 11990]	A	<p>All sites would be evaluated for the presence of wetlands in accordance with NYSDEC, and the USFWS NWI maps, and if necessary, an on-site wetlands inspection and delineation would occur (See Appendix D: Nassau County Wetlands Maps and/or USFWS website). If project work on a specific site would impact a wetland, appropriate permits would be obtained in compliance with Executive Order 11990. If Executive Order 11990 is triggered, the eight-step decision making process under 24 CFR Part 55.20 modified for wetlands would be completed.</p> <p><b><u>Reimbursement</u></b></p> <p>If the work that was completed prior to the homeowner entering the Bulkhead Repair Initiative is determined to have impacted a wetland, the homeowner must provide documentation that the appropriate permit was obtained prior to the work taking place. If the appropriate permits were not obtained prior to the work taking place, a Tier 2 site-specific review would determine if a project site is located within 300 feet of a tidal wetland and 100 feet of a freshwater wetland. If a project site is located within those boundaries, then a qualified environmental professional (QEP) would perform on-site visits to determine if the work impacted a wetland.</p>

Statutes, Executive Orders, and Regulations listed at 24 CFR Sec. 58.5 and 58.6	Status Determination (A or B)	Compliance Documentation
<p><b>Coastal Zone Management [Coastal Zone Management Act, 1972]</b></p>	<p>A</p>	<p>On May 23, 2014, the NYSDOS determined in writing that the NY Rising Bulkhead Repair Initiative would be generally consistent with the policies and purposes of the NYS Coastal Management Program (NYSCMP) (see Appendix N: NYSDOS Coastal Consistency Consultation and NYS Coastal Assessment Form). The consistency concurrence finds that the following activities of the bulkhead initiative would meet NYSDOS's general consistency criteria:</p> <ul style="list-style-type: none"> <li>• Installation of temporary structures to facilitate installation and/or retain fill repairs;</li> <li>• Installation of new fill comprised entirely of material substantially equivalent to adjacent native material within the footprint of pre-storm conditions; and</li> <li>• Restoration may include a change in materials or minor change in height of approximately 12 to 18 inches.</li> </ul> <p>In conjunction with the State's general concurrence determination, in cases where the project is located within the jurisdiction of a Local Waterfront Revitalization Program (LWRP), the Tier 2 reviewer would conduct an assessment in accordance with 19 NYCRR Part 600 to determine whether the project is likely to affect the achievement of the policies and purposes of such approved LWRP and State agency programs. Project activities would be undertaken in a manner which complies with the policies of the approved LWRP.</p>
<p><b>Historic Preservation [36 CFR Part 800]</b></p>	<p>A</p>	<p>A Programmatic Agreement (See Appendix P: NY Historic Preservation Programmatic Agreement) with the SHPO has been obtained and all properties would be reviewed under Section 106 of the National Historic Preservation Act for compliance with the Programmatic Agreement and forwarded to the OPRHP for further review as required by the Programmatic Agreement. The qualified Historic Preservation professional is staff at OPRHP. If the primary reviewer is not able to determine compliance from a project based on the Programmatic Agreement (See Appendix P: NY Historic Preservation Programmatic Agreement), the project would be sent for further review to OPRHP and all recommendations made by OPRHP would be incorporated into the project design. Each site would be reviewed for compliance with the Programmatic Agreement.</p> <p><b><u>Reimbursement</u></b></p> <p>If the homeowner has requested reimbursement for work done prior to the homeowner entering the Bulkhead Repair Initiative the work would be evaluated to determine compliance with the Programmatic Agreement. If the work conducted by the homeowner did not comply with the Programmatic Agreement, the homeowner must provide documentation that the OPRHP had been consulted prior to the work starting. If the homeowner cannot provide the documentation, the project would not be eligible for reimbursement until it has been sent for further review to OPRHP and all recommendations made by OPRHP have been completed.</p>

Statutes, Executive Orders, and Regulations listed at 24 CFR Sec. 58.5 and 58.6	Status Determination (A or B)	Compliance Documentation
<b>Floodplain Management</b> [Executive Order 11988; 24 CFR Part 55]	A	<p>Project sites requiring substantial repair or reconstruction located in a 100-year floodplain and would be reviewed in accordance with 24 CFR Part 55.20. A floodplain management plan would be written and public notices would be published for all sites located within the floodplain. Compliance requirements would be determined in a Tier 2 site-specific environmental review. (See Appendix V: Sample Floodplain Management Public Notices). Executive Order 11988, "Floodplain Management," requires all federal agencies to consider alternatives to avoid adverse effects and incompatible development in the floodplains in order to reduce the risk of flood loss and to minimize the impact of floods on human safety, health and welfare.</p>
<b>Sole Source Aquifers</b> [40 CFR 149]	B	<p>All of Nassau County is over the Nassau-Suffolk Sole Source Aquifer (see Appendix J: Nassau County Sole Source Aquifer Map and Memorandum of Understanding). The proposed initiative would occur in areas where water services have already been established, and would have no effect on sole source aquifers. All sites would be reviewed in accordance with the Memorandum of Understanding.</p> <p><b><u>Reimbursement</u></b></p> <p>The total impervious area of a parcel would not be increased significantly, which is considered to be 30% for Safe Drinking Water Act purposes in Region II. This authority would not be triggered since these activities would not increase the preexisting footprint of structures, sidewalk, driveway, parking lot, or other developed area.</p>

<b>Statutes, Executive Orders, and Regulations listed at 24 CFR Sec. 58.5 and 58.6</b>	<b>Status Determination (A or B)</b>	<b>Compliance Documentation</b>
<b>Endangered Species Act [50 CFR 402]</b>	<p style="text-align: center;">A</p>	<p>Information has been received from the NYSDEC NY Natural Heritage Program, the USFWS NY Field Office, and NMFS (See Appendix O: NY Natural Heritage Program Consultation, Appendix S: USFWS Consultation Letters, and Appendix R: NMFS Consultation Letters.)</p> <p>The ESA requires the Action Agency (HCR) to make a determination of effect to any federally listed species or designated critical habitat that may occur as a result of an action that is funded, authorized, or carried out by the Action Agency. The determination(s) of effect would be completed in the Tier 2 site-specific reviews.</p> <p>In accordance with the coordination letters from USFWS, each site would be reviewed to determine the level of adverse effect in accordance with USFWS 7-Step Project Review Process and/or other compliance review tools as directed by USFWS. Further consultation with USFWS would be conducted in the event that an adverse effect is determined. Additionally, HCR would determine if there are areas of multiple sites in close proximity that may result in an adverse effect so that those sites can be reviewed together, if necessary.</p> <p>There are four federally listed species that are known to occur in Nassau County. (Locations and habitats of these species are described in Appendix K: USFWS Natural Resources of Concern). There are also two species proposed for listing. The proposed actions of the bulkhead repair initiative would occur outside of these resource areas; therefore, they would not be impacted by the proposed initiative.</p> <p>Several species of listed sea turtles and Atlantic sturgeon occur in the Hudson River and coastal waters of Long Island. The presence of sea turtles and sturgeon in shallow waters adjacent to the shoreline where bulkheads are typically installed would be rare (see Appendix R: NMFS Consultation). Measures to minimize impacts to these species include use of silt or turbidity curtains, construction at low tide, use of wood or vinyl piles instead of steel, use of the smallest diameter pile practicable, use of vibratory pile drivers, and avoidance of the May-October time period.</p> <p>Compliance requirements would be determined in a Tier 2 environmental review.</p> <p><b><u>Reimbursement</u></b></p> <p>Consultation is not required under Section 7 of the ESA when CDBG-DR assistance is provided for costs incurred, because physical activities were undertaken before HCR could review projects with the potential to affect biological resources. However, all properties, including reimbursements, would be reviewed for compliance with Section 7 of the ESA at the Tier 2 site-specific level.</p>
<b>Wild and Scenic Rivers [16 U.S.C. 1271, Sec. 7(b), (c)]</b>	<p style="text-align: center;">B</p>	<p>There are no Wild and Scenic Rivers within Nassau County, as designated by the U.S. Department of the Interior (see Appendix I: Nassau County Wild, Scenic, and Recreational Rivers).</p>

Statutes, Executive Orders, and Regulations listed at 24 CFR Sec. 58.5 and 58.6	Status Determination (A or B)	Compliance Documentation
Clean Air Act [40 CFR Parts 6, 51, 93]	B	<p>The proposed action would be located in Nassau County, which is within a maintenance area for inhalable particulate matter (PM<sub>2.5</sub>), a marginal nonattainment area for the eight-hour ozone standard, and a carbon monoxide maintenance area.<sup>1</sup></p> <p>Project activities would be completed on existing residential developed sites and existing structures. As demonstrated in the conformity screening analysis for the proposed action, emissions due to construction activities would fall below de minimis levels for an air quality conformance (see Appendix M: NYSDEC Air Quality Consultation and Conformity with State Implementation Plans), and therefore a conformity assessment is not warranted. Air quality impacts would be short-term and localized. No significant impacts on air quality would result and further assessment is not required.</p>
Farmland Policy Act [7CFR Part 658]	B	<p>The initiative would not convert farmland to nonagricultural purposes and therefore would not violate the Farmland Policy Protection Act. Further assessment is not required (see Appendix L: Farmland Protection Checklist).</p>
Environmental Justice [Executive Order 12898]	B	<p>The proposed initiative is not expected to result in EJ impacts as it is intended to address rehabilitation of existing homes devastated by Superstorm Sandy, Hurricane Irene. Homes/applications within EJ areas would be treated the same as homes/applications in non-EJ areas and would have equal opportunity (See Appendix F: Potential Environmental Justice Area Maps).</p> <p><b><u>Reimbursement</u></b> These projects would not raise EJ issues and have no potential for new or continued disproportionately high and adverse human health and environmental effects on minority or low-income populations. The State would pay particular attention to the needs of the most vulnerable populations; the elderly and disabled, minority populations, low- and moderate-income residents, and others. NYS and its partners would be conducting extensive outreach to ensure that available resources are made available to the populations with the greatest needs.</p>
Noise Abatement and Control [24 CFR Part 51, Subpart B]	B	<p>The reconstruction or repair of residential bulkheads would result in the same amount of development which existed at pre-Hurricane Irene and Superstorm Sandy levels. The proposed activities would cause temporary increases in noise levels. Temporary increases in noise levels would be mitigated by complying with local noise ordinances. HUD has determined that noise abatement and control is not applicable to a disaster recovery program which meets the definition under 24 CFR Part 51.101(a)(3) for emergency assistance under disaster provisions or appropriations which are provided to save lives, protect property, protect public health and safety, remove debris and wreckage, or assistance that has the effect of restoring facilities substantially as they existed prior to the disasters (see Appendix Q: HUD Noise Abatement and Explosive Operations Email).</p> <p><b><u>Reimbursement</u></b> HUD's noise policy at 24 CFR part 51 subpart B is not applicable to assistance that has the effect of restoring facilities substantially as they existed prior to the disaster. (See 51.101(a)(3)).</p>

<sup>1</sup> EPA air quality attainment status determinations are frequently updated. The most recent determinations are announced in the Federal Register and updated in the Code of Federal Regulations.

<b>Statutes, Executive Orders, and Regulations listed at 24 CFR Sec. 58.5 and 58.6</b>	<b>Status Determination (A or B)</b>	<b>Compliance Documentation</b>
<b>Explosive and Flammable Operations</b> [24 CFR Part 51 C]	B	<p>Accepted separation distance requirements do not apply because the definition for HUD assisted projects in 24 CFR Part 51.201 is predicated on whether the HUD project increases the number of people exposed to hazardous operations. Environmental review for grants to rebuild or reconstruct existing bulkheads damaged by the storms is not required to apply 24 CFR Part 51 Subpart C (See Appendix Q: HUD Noise Abatement and Explosive Operations Email).</p> <p><b><u>Reimbursement</u></b>            HUD's acceptable separation distance at 24 CFR part 51 subpart C is not applicable if the project is not adding density. If density is increased, 24 CFR part 51 subpart C applies.</p>
<b>Toxic Chemicals and Radioactive Materials</b> [24 CFR Part 58, Sec 5(i)(2)]	A	<p>HUD policy requires that the proposed site and adjacent areas be free of hazardous materials (with the exception of commonly found household hazardous materials such as automotive batteries or used motor oil), contamination, toxic chemicals and gases, and radioactive substances, where a hazard could affect the health and safety of occupants of the property. HCR in conjunction with designated agencies or consultants under HCR's direction would provide qualified environmental professionals (QEP) to perform on-site visits as necessary; QEP are experienced persons with the skills to look for and recognize hazardous materials and their condition generally as well as the most common types of residential contamination found within this geographic area. The reports generated by the QEPs with environmental assessment experience would be reviewed by HCR or consultant under HCR direction to confirm that all items on the checklist are appropriately addressed. If contaminants are identified, they would be remediated according to all applicable city, state and federal regulations. All solid waste materials must be managed and transported in accordance with the state's solid and hazardous waste rules.</p>
<b>Airport Clear Zones and Accident Potential Zones</b> [24 CFR 51 D]	A	<p>Based on guidance provided by the U.S. Department of Housing and Urban Development in Fact Sheet #D1, the National Plan of Integrated Airport Systems was reviewed for civilian, commercial service airports within the vicinity of the program area, as projects located within 2,500 feet of a civil airport would require consultation with the appropriate civil airport operator. Projects in Nassau County may be located within close proximity to JFK International Airport or Republic Airport (See Appendix H: Airport Clear Zone Map). No known military airports are located within 15,000 feet of the program area.</p>

**Determination:** HCR have complied with all provisions of 24 CFR Part 58, Subpart E—Environmental Review Process: Environmental Assessments, has examined alternatives to the project itself and feasible ways to modify the project to eliminate or minimize adverse impacts, and based on steps (a) through (f) found in the regulations, made the following determination:

- (1) Finding of No Significant Impact (FONSI), whereby HCR may proceed to dissemination and publication of the FONSI, per regulations found at 24 CFR Part 58, sec. **58.43(a)**.

---

**PREPARER SIGNATURE:**



---

**PREPARER NAME:**

Rebecca A. Steffen, ProSource Technologies, LLC

---

**DATE:**

7 February 2014

---

---

**PREPARER SIGNATURE:**



---

**PREPARER NAME:**

Mary Alice Spivey, JAD Environmental, LLC

---

**DATE:**

7 February 2014

---

---

**PREPARER SIGNATURE:**



---

**PREPARER NAME:**

Casey Grabowski, Tetra Tech, Inc.

---

**DATE:**

7 February 2014

---

---

**PREPARER SIGNATURE:**



---

**PREPARER NAME:**

Connor Lacefield, AKRF, Inc.

---

**DATE:**

4 June 2014

---

**Exhibit 3:**  
**Site-Specific Checklist**

Application#:	
Project Address:	

**TIER 2 ENVIRONMENTAL REVIEW RECORD  
SITE SPECIFIC CHECKLIST**

Department of Housing and Urban Development Appropriation Act, 2013

Community Development Block Grant—Disaster Recovery  
**Nassau County Bulkhead Repair Initiative**

- Reimbursement
- Repair
- Reimbursement and Repair

**DESCRIPTION OF PROJECT WORK** (From Engineers Cost Estimate or Scope of Work)

Repair:
Reimbursement:

Approximate bulkhead construction date (if known):

Currently existing, serviceable bulkhead?     Yes     No

Repair/replacement in same footprint?         Yes     No

If not replaced within the same footprint, will the bulkhead be constructed landward of the original footprint?         Yes     No

If not replaced within the same footprint, will the bulkhead be constructed waterward of the original footprint?         Yes     No

**If Yes**, and within tidal waters of the US, attach a copy of one of the following:

- The USACE authorization to conduct the identified repairs under Nationwide Permit 3 in response to the Pre-Construction Notification (PCN) **or**
- The Compliance Certification Form submitted to USACE or written notification from USACE that work was authorized under NY District Regional General Permit DGP-15.

**If Yes**, and if bulkhead will be constructed more than 18 inches waterward of the original footprint within nontidal waters, attach a copy of one of the following:

- The USACE authorization to conduct the identified repairs under Nationwide Permit 3 in response to submission of the PCN **or**
- The Compliance Certification Form submitted to USACE or written notification from USACE that work was authorized under NY District Regional General Permit DGP-15.

Will the use of the bulkhead be the same as prior to damage?         Yes     No

Will any ground disturbance be conducted landward of the bulkhead?     Yes     No

Will temporary structures and/or fills be necessary to enact repair?     Yes     No

Will the repair result in the removal of accumulated sediment/debris in the vicinity of the bulkhead to be repaired, or the placement of new or additional riprap to protect the structure?     Yes     No

**If Yes**, attach a copy of one of the following:

- The authorization to conduct the repairs under Nationwide Permit 3 received from the USACE in response to submission of the PCN **or**
- The Compliance Certification Form submitted to USACE or written notification from USACE that work was authorized under NY District Regional General Permit DGP-15.

Application#:	
Project Address:	

**PERMIT REVIEW**

The activity(ies) proposed in this NYS CDBG-DR project would be conducted pursuant to, and have documented receipt or conformance with, the following permits:

**USACE Permit**

- Nationwide Permit 3 Maintenance<sup>1</sup>
- Nationwide Permit 3 Maintenance with PCN
- NY District Regional General Permit DGP-15 (Attach a copy of the Compliance Certification Form submitted to USACE, or written notification from USACE that work was authorized under DGP-15)
- Individual USACE Permit (Section 404 of the Clean Water Act and/or Section 10 of the Rivers and Harbors Act)

**NYSDEC General Permit** GP-0-13-006 or General Permit GP-1-13-001 (Attach a copy of the written Request for Authorization Form (for GP-1-13-001) or Notice of Intent (for GP-0-13-006) submitted for the project, or written notification from NYSDEC that work was authorized under either General Permit)

- Yes       No

- Coastal Erosion Hazard Area Permit       Yes       No
- NYSDEC Tidal Wetlands Permit       Yes       No
- NYSDEC Freshwater Wetlands Permit       Yes       No
- NYSDEC Protection of Waters Permit       Yes       No

---

<sup>1</sup> If the application is for reimbursement only and the applicant cannot provide the documentation requested above for the NY District Regional General Permit DGP-15 and NYSDEC General Permit GP-0-13-006 or General Permit GP-1-13-001, the project activities may have been conducted pursuant to Nationwide Permit 3 Maintenance and the regional conditions for New York State if the activities involved only repair and/or replacement within the existing footprint. In those cases, consult the Nationwide Permit 3 Maintenance checklist to determine whether the activities were allowable under a Nationwide Permit 3 Maintenance. If the checklist documents conformance with a Nationwide Permit 3 Maintenance and the New York State regional conditions, check the box for that permit above. In these cases, no DEC Permit would be required.

Application#:	
Project Address:	

### SEQRA CLASSIFICATION

It is the finding of NYSHCR that the activity(ies) proposed in this NYS CDBG-DR project falls within the scope of the SEQRA Negative Declaration for Unlisted Actions dated \_\_\_\_\_ and Amended Negative Declaration for Unlisted Actions dated \_\_\_\_\_.

### NEPA CLASSIFICATION

It is the finding of NYSHCR that the activity(ies) proposed in this NYS CDBG-DR project falls within the scope of the Tier 1 and FONSI dated: \_\_\_\_\_

- 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.

#### **Finding of Tier 2 Review:**

- The proposed activity complies with environmental requirements for funding. The closeout items must be completed. The closeout items are listed at the end of this document.
- The proposed activity does not comply with environmental requirements for funding for the following reasons; i.e. permanent impact to wetland or inconsistency with the coastal program.
- A finding cannot be made without (describe missing or needed information or documentation).

Application#:	
Project Address:	

## SITE SPECIFIC STATUTORY CHECKLIST AND ADDITIONAL NYS REQUIREMENTS

Check “A” if further close-out documentation is required. Provide written discussion of compliance or necessary mitigation measures. Check “B” if the criteria review is complete. Provide written discussion and attach any supporting materials.

Area of Statutory – Regulatory Compliance	A	B	Compliance Discussion Attach Supporting Material
<b>Procedures to comply with Related Laws at 24 CFR 58.6</b>			
Flood Disaster Protection Act of 1973			
Coastal Barrier Resources Act			
Runway Clear Zones (development)		X	No programs involve assistance to purchase residential properties, including bulkheads. Accordingly, this requirement is not applicable to any potential activities to be funded by these programs.
<b>Procedures to comply with Related Laws at 24 CFR 58.5 and Other NYS Requirements</b>			
Historic Properties			
Floodplain Management			
Wetland Protection			
Coastal Zone Management		X	This initiative has been reviewed by the New York State Department of State (NYSDOS), which made a “general concurrence determination” for the bulkhead repair initiative based on the fact that the initiative involves rehabilitation.
Local Waterfront Revitalization Plan			
Sole Source Aquifers			
Endangered Species			
Wild and Scenic Rivers		X	Not applicable. The property is not located in a component of the National Wild and Scenic River System, or a river officially designated by Congress as a “study river” for possible inclusion in the system, or a river designated Wild, Scenic, or Recreational by the New York State Department of Environmental Conservation. No impacts would result and further assessment is not required.
Air Quality		X	The initiative would not substantively affect the State Implementation Plan (SIP). No significant impacts on air quality would result and further assessment is not required.
Farmlands Protection		X	The initiative would not convert farmland to nonagricultural purposes and, therefore, would not violate the Farmland Policy Protection Act.
Noise Abatement and Control		X	Not applicable. Compliance was determined in the Tier 1 Environmental Assessment.
Thermal/Explosive Hazards		X	Acceptable separation distance requirements do not apply because the definition for HUD assisted projects in 24 CFR Part 51.201 is predicated on whether the HUD project increases the number of people exposed to hazardous operations. Therefore, the environmental review for grants to repair bulkheads that existed prior to the disaster where the number of dwelling units is not increased, is not required to apply 24 CFR Part 51 Subpart C.

Application#:	
Project Address:	

<b>Area of Statutory – Regulatory Compliance</b>	<b>A</b>	<b>B</b>	<b>Compliance Discussion Attach Supporting Material</b>
HUD Environmental Standards			
Environmental Justice		X	Not applicable. Compliance was determined in the Tier 1 Environmental Assessment.

### ADDITIONAL SEQRA REVIEW

Check “A” if further close-out documentation is required. Provide written discussion of compliance or necessary mitigation measures. Check “B” if the criteria review is complete. Provide written discussion and attach any supporting materials.

<b>Area of Statutory – Regulatory Compliance</b>	<b>A</b>	<b>B</b>	<b>Compliance Discussion Attach Supporting Material</b>
National Natural Landmark			
Significant Wildlife Habitat			
Unique or Unusual landforms			
Aesthetic Resources, Open Space and Recreation			
State Protected Waterbody			
Critical Environmental Areas			
Historic Properties			
Agricultural and Markets Law			
Coastal Erosion Hazard Areas			

Application#:	
Project Address:	

**TO BE FILLED OUT BY PERSON WHO PREPARED DOCUMENT:**

Prepared by:

Signature:

Date:

**TO BE FILLED OUT BY HCR CERTIFYING OFFICER OR OTHER APPROPRIATELY DESIGNATED OCR OFFICIAL:**

This Site Specific Checklist is determined to be acceptable.

Signature:

Printed Name:

Date:

Application#:	
Project Address:	

**Closeout Items**

Historic Properties review documentation NEEDED FOR ALL SITES	Document Received and Date:
Engineering Costs/Scope NEEDED FOR ALL SITES	Document Received and Date:
Coastal Barrier Resources determination needed: <input type="checkbox"/> Yes <input type="checkbox"/> No	Document Received and Date:
Coastal Erosion Hazard Area permit needed: <input type="checkbox"/> Yes <input type="checkbox"/> No	Document Received and Date:
Village of Bayville Local Waterfront Revitalization Plan Consistency Determination <input type="checkbox"/> Yes <input type="checkbox"/> No	Document Received and Date:
Proof of flood insurance needed: <input type="checkbox"/> Yes <input type="checkbox"/> No	Document Received and Date:
NYSDEC wetlands permit needed: <input type="checkbox"/> Yes <input type="checkbox"/> No	Document Received and Date:
Construction plans/Engineer Report needed: <input type="checkbox"/> Yes <input type="checkbox"/> No	Document Received and Date:
USACE permit needed: <input type="checkbox"/> Yes <input type="checkbox"/> No	Document Received and Date:
NYSDEC Water Quality Certification needed: <input type="checkbox"/> Yes <input type="checkbox"/> No	Document Received and Date:
Other environmental mitigation measures needed: <input type="checkbox"/> Yes <input type="checkbox"/> No	Document Received and Date:

**Exhibit 4:**  
**Site-Specific Checklist Template**

Application#:	
Project Address:	

**TIER 2 ENVIRONMENTAL REVIEW RECORD  
SITE SPECIFIC CHECKLIST**

Department of Housing and Urban Development Appropriation Act, 2013

Community Development Block Grant—Disaster Recovery  
**Nassau County Bulkhead Repair Initiative**

- Reimbursement
- Repair
- Reimbursement and Repair

**DESCRIPTION OF PROJECT WORK** (From Engineers Cost Estimate or Scope of Work)

Repair:
Reimbursement:

Approximate bulkhead construction date (if known):

Currently existing, serviceable bulkhead?     Yes     No

Repair/replacement in same footprint?         Yes     No

If not replaced within the same footprint, will the bulkhead be constructed landward of the original footprint?         Yes     No

If not replaced within the same footprint, will the bulkhead be constructed waterward of the original footprint?         Yes     No

**If Yes**, and within tidal waters of the US, attach a copy of one of the following:

- The USACE authorization to conduct the identified repairs under Nationwide Permit 3 in response to the Pre-Construction Notification (PCN) **or**
- The Compliance Certification Form submitted to USACE or written notification from USACE that work was authorized under NY District Regional General Permit DGP-15.

**If Yes**, and if bulkhead will be constructed more than 18 inches waterward of the original footprint within nontidal waters, attach a copy of one of the following:

- The USACE authorization to conduct the identified repairs under Nationwide Permit 3 in response to submission of the PCN **or**
- The Compliance Certification Form submitted to USACE or written notification from USACE that work was authorized under NY District Regional General Permit DGP-15.

Will the use of the bulkhead be the same as prior to damage?         Yes     No

Will any ground disturbance be conducted landward of the bulkhead?     Yes     No

Will temporary structures and/or fills be necessary to enact repair?     Yes     No

Will the repair result in the removal of accumulated sediment/debris in the vicinity of the bulkhead to be repaired, or the placement of new or additional riprap to protect the structure?     Yes     No

**If Yes**, attach a copy of one of the following:

- The authorization to conduct the repairs under Nationwide Permit 3 received from the USACE in response to submission of the PCN **or**
- The Compliance Certification Form submitted to USACE or written notification from USACE that work was authorized under NY District Regional General Permit DGP-15.

Application#:	
Project Address:	

**PERMIT REVIEW**

The activity(ies) proposed in this NYS CDBG-DR project would be conducted pursuant to, and have documented receipt or conformance with, the following permits:

**USACE Permit**

- Nationwide Permit 3 Maintenance<sup>1</sup>
- Nationwide Permit 3 Maintenance with PCN
- NY District Regional General Permit DGP-15 (Attach a copy of the Compliance Certification Form submitted to USACE, or written notification from USACE that work was authorized under DGP-15)
- Individual USACE Permit (Section 404 of the Clean Water Act and/or Section 10 of the Rivers and Harbors Act)

**NYSDEC General Permit** GP-0-13-006 or General Permit GP-1-13-001 (Attach a copy of the written Request for Authorization Form (for GP-1-13-001) or Notice of Intent (for GP-0-13-006) submitted for the project, or written notification from NYSDEC that work was authorized under either General Permit)

- Yes       No

- Coastal Erosion Hazard Area Permit       Yes       No
- NYSDEC Tidal Wetlands Permit       Yes       No
- NYSDEC Freshwater Wetlands Permit       Yes       No
- NYSDEC Protection of Waters Permit       Yes       No

---

<sup>1</sup> If the application is for reimbursement only and the applicant cannot provide the documentation requested above for the NY District Regional General Permit DGP-15 and NYSDEC General Permit GP-0-13-006 or General Permit GP-1-13-001, the project activities may have been conducted pursuant to Nationwide Permit 3 Maintenance and the regional conditions for New York State if the activities involved only repair and/or replacement within the existing footprint. In those cases, consult the Nationwide Permit 3 Maintenance checklist to determine whether the activities were allowable under a Nationwide Permit 3 Maintenance. If the checklist documents conformance with a Nationwide Permit 3 Maintenance and the New York State regional conditions, check the box for that permit above. In these cases, no DEC Permit would be required.

Application#:	
Project Address:	

**SEQRA CLASSIFICATION**

It is the finding of NYSHCR that the activity(ies) proposed in this NYS CDBG-DR project falls within the scope of the SEQRA Negative Declaration for Unlisted Actions dated \_\_\_\_\_ and Amended Negative Declaration for Unlisted Actions dated \_\_\_\_\_.

**NEPA CLASSIFICATION**

It is the finding of NYSHCR that the activity(ies) proposed in this NYS CDBG-DR project falls within the scope of the Tier 1 and FONSI dated: \_\_\_\_\_

- 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.

**Finding of Tier 2 Review:**

- The proposed activity complies with environmental requirements for funding. The closeout items must be completed. The closeout items are listed at the end of this document.
- The proposed activity does not comply with environmental requirements for funding for the following reasons; i.e. permanent impact to wetland or inconsistency with the coastal program.
- A finding cannot be made without (describe missing or needed information or documentation).

Application#:	
Project Address:	

## SITE SPECIFIC STATUTORY CHECKLIST AND ADDITIONAL NYS REQUIREMENTS

Check “A” if further close-out documentation is required. Provide written discussion of compliance or necessary mitigation measures. Check “B” if the criteria review is complete. Provide written discussion and attach any supporting materials.

Area of Statutory – Regulatory Compliance	A	B	Compliance Discussion Attach Supporting Material
<b>Procedures to comply with Related Laws at 24 CFR 58.6</b>			
Flood Disaster Protection Act of 1973			<p><i>Is the property located in a Special Flood Hazard Area (SFHA)?</i></p> <p>a) <i>No – review concluded. Create map to document. Put an X in Column B and add text:</i> Not applicable. The property is not located in a Special Flood Hazard Area.</p> <p>b) <i>Yes – Create map to document. Put an X in Column A. Add text:</i> The property is located in a Special Flood Hazard Area, and proof of insurance is required. Grantees must adhere to the guidelines stipulated in the construction contract.</p>
Coastal Barrier Resources Act			<p><i>Is the property located within 150 feet of a Coastal Barrier Resources System?</i></p> <p>a) <i>No: review concluded. Create map to document. Put an X in Column B and add text:</i> Not applicable. The property is not located within a designated Coastal Barrier Resources System.</p> <p>b) <i>Yes: create map to document. Property will require coordination with USFWS. Documentation of coordination must be included with the file.</i></p>
Runway Clear Zones (development)		X	No programs involve assistance to purchase residential properties, including bulkheads. Accordingly, this requirement is not applicable to any potential activities to be funded by these programs.

Application#:	
Project Address:	

<b>Procedures to comply with Related Laws at 24 CFR 58.5 and Other NYS Requirements</b>			
Historic Properties			<p><i>An architectural historian will be reviewing all program sites. The historian will make a recommendation on whether the house is eligible for the National Register and you will be provided with the report.</i></p> <p><i>a) If the historian determines it is <b>not</b> eligible for the National Register, then put an X in Column B and add text: Based on a Section 106 project review in accordance with the Programmatic Agreement, the house and its attached structures are not eligible for the National Register.</i></p> <p><i>b) If the historian determines it <b>is</b> eligible for the National Register and the activities meet the Tier II allowances, then review concluded. Put an X in Column B and add text: The housing site is eligible for the national register; however, the project complies with Tier II Allowance(s). <i>A pre-construction notification (PCN) must be submitted with the Nationwide Permit 3 application.</i></i></p> <p><i>c) If the historian determines it <b>is</b> eligible for the National Register and the activities do <b>not</b> meet the Tier 2 allowances then: A Qualified professional will undertake a Section 106 project review in accordance with the Programmatic Agreement, coordinate with HCR, and add text documenting that review process.</i></p>
Floodplain Management			<p><i>Is the property located in a 100-year floodplain?</i></p> <p><i>a) No – review concluded. Create the Floodplain Map to document. Put an X in Column B and add text: Not applicable. The property is not located in a 100-year floodplain.</i></p> <p><i>b) Yes – Create map to document. Put an X in Column A and add text: A floodplain management plan was completed for the program site on Month XX, 2014. Documentation must be provided that the 8-Step (or 5-Step) Process in 24 CFR Part 55.20 was completed.</i></p>

Application#:	
Project Address:	

Wetland Protection			<p><i>Are project activities to be conducted within wetlands identified through the National Wetlands Inventory or New York State Department of Conservation (NYSDEC) or their adjacent areas (within 100 feet of NYSDEC freshwater wetlands or 300 feet of NWI tidal/coastal wetlands)?</i></p> <p>a) <i>No – review concluded. Create map to document. Put an X in Column B and add text: Not applicable. The property boundary is greater than 300 feet from a tidal wetland and greater than 100 feet from a freshwater wetland.</i></p> <p>i) <i>Yes (activities in freshwater wetlands only): Coordinate with HCR regarding additional compliance steps.</i></p> <p>ii) <i>Yes (activities in the <b>tidal/coastal wetland buffer</b> only) – create map to document. <b>Are the project activities a compatible use under Tidal Wetlands Land Use Regulations (6NYCRR Part 661.5</b></i>  <a href="http://www.dec.ny.gov/permits/6347.html">http://www.dec.ny.gov/permits/6347.html</a>?)</p> <p>1) <i>Yes – Review concluded. Put an X in Column B and add text: The property is adjacent to a wetland; however, project activities are exempt under 6 NYCRR Part 661.5.</i></p> <p>2) <i>No. If project activities located in the <b>tidal/coastal wetland buffer</b> are not a compatible use or occur in the <b>freshwater wetland buffer</b>, then determine whether only a NYSDEC permit is needed (not U.S. Army Corps jurisdictional determination).</i></p> <p>A) <i>If yes, only a NYSDEC needs to be obtained, then put an X in Column A and add text: Project activities will be conducted in the wetlands buffer. A New York State Department of Environmental Conservation permit will be obtained prior to conducting project activities.</i></p> <p>B) <i>No. Coordinate with HCR regarding additional compliance steps.</i></p>
Coastal Zone Management		X	<p>This initiative has been reviewed by the New York State Department of State (NYSDOS), which made a “general concurrence determination” for the bulkhead repair initiative based on the fact that the initiative involves rehabilitation.</p>

Application#:	
Project Address:	

Local Waterfront Revitalization Plan			<p><i>Is the project site located within the Bayville LWRP?</i></p> <p>a) <i>If yes, prepare an LWRP policy analysis and submit to the local Waterfront Revitalization Committee for their recommendation and allow 30 days for their recommendation. Once recommendation is received, make determination whether action would be consistent with the LWRP.</i></p> <p>i) <i>If consistent, insert text:</i> The proposed action would be consistent with the Bayville LWRP per attached letter dated ____.</p> <p>ii) <i>If not consistent, consult with HCR.</i></p> <p>b) <i>If no, insert text:</i> The project site is not located within the jurisdiction of an approved LWRP.</p>
Sole Source Aquifers			<p><i>Does the program site lie over a Sole Source Aquifer?</i></p> <p>a) <i>No: Mark an X in Column B and add text:</i> The property does not lie over a Sole Source Aquifer and program activities will have no effect on a Sole Source Aquifer.</p> <p>b) <i>Yes: Mark an X in Column A and add text:</i> The property lies over the (name) Sole Source Aquifer. The bulkhead repair activities for this site will be reviewed in accordance with the Memorandum of Understanding between HUD and the EPA. <i>Documentation of EPA review must be included with the file.</i></p>

Application#:	
Project Address:	

Endangered Species		<p><i>Determine if the project activities will have “no effect” on or “may affect but not likely to adversely affect” any federal or state <b>protected</b> (listed or proposed) rare, threatened or endangered species nor adversely modify designated critical habitats. [This finding is to be based on the review of designated critical habitats, consultation with U.S. Fish and Wildlife Service (USFWS), National Marine Fisheries Service (NMFS) or NYSDEC, or through a special study completed by a biologist or botanist. A determination of “no effect” based on the well-documented absence of listed species and critical habitats does not require USFWS or NYSDEC concurrence.] To make this determination:</i></p> <ul style="list-style-type: none"> <li>• <i>Review NYSDEC Resource Mapper for known occurrences. See list of species for your county (FWS 8/7/13 letter) and if new FWS GIS layers apply.</i></li> <li>• <i>Review NMFS maps.</i></li> <li>• <i>Review GAP land use maps for suitable habitat</i></li> </ul> <p><i>a) Is a protected species documented or is suitable habitat present?</i></p> <p><i>i) No – review concluded. Create map to document. Put an X in Column B and add text: Not applicable. According to information reviewed from the New York State Environmental Resource Mapper at <a href="http://www.dec.ny.gov/imsmaps/ERM/viewer.htm">http://www.dec.ny.gov/imsmaps/ERM/viewer.htm</a>, no rare, threatened or endangered species are known to exist in the property’s vicinity. The property is located in a [high/medium/low (choose one)] -density residential development and does not support or provide habitat for any rare, threatened or endangered plant or animal species. Therefore, the project would not affect any natural habitats containing such species or any designated or proposed critical habitat.</i></p> <p><i>ii) Yes: Is the activity 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 ESA or which will directly or indirectly destroy or adversely modify the critical habitat of such species?</i></p> <p><i>(1) No. Put an X in Column B and add text: The program site is located within the vicinity of (description of endangered species or habitat); however, a review of the site activities has resulted in a determination of “no effect.”</i></p> <p><i>(2) Yes: create map to document. Coordinate with HCR for additional compliance steps. Documentation of agency coordination must be submitted. A PCN will be required for Nationwide Permit 3.</i></p>
--------------------	--	--

Application#:	
Project Address:	

Wild and Scenic Rivers		X	Not applicable. The property is not located in a component of the National Wild and Scenic River System, or a river officially designated by Congress as a “study river” for possible inclusion in the system, or a river designated Wild, Scenic, or Recreational by the New York State Department of Environmental Conservation. No impacts would result and further assessment is not required.
Air Quality		X	The initiative would not substantively affect the State Implementation Plan (SIP). No significant impacts on air quality would result and further assessment is not required.
Farmlands Protection		X	The initiative would not convert farmland to nonagricultural purposes and, therefore, would not violate the Farmland Policy Protection Act.
Noise Abatement and Control		X	Not applicable. Compliance was determined in the Tier 1 Environmental Assessment.
Thermal/Explosive Hazards		X	Acceptable separation distance requirements do not apply because the definition for HUD assisted projects in 24 CFR Part 51.201 is predicated on whether the HUD project increases the number of people exposed to hazardous operations. Therefore, the environmental review for grants to repair bulkheads that existed prior to the disaster where the number of dwelling units is not increased, is not required to apply 24 CFR Part 51 Subpart C.

Application#:	
Project Address:	

<p>HUD Environmental Standards</p>			<p><i>Is the property:</i></p> <ul style="list-style-type: none"> <li>• <i>Listed on an EPA Superfund National Priorities or CERCLA list or equivalent State list?</i></li> <li>• <i>Located within 3,000 feet of a toxic or solid waste landfill site?</i></li> <li>• <i>Known to contain an underground storage tank other than a residential fuel tank?</i></li> <li>• <i>Known or suspected to be contaminated by toxic chemicals or radioactive materials?</i></li> </ul> <p>a) <i>No – review concluded. Create map to document. Put an X in Column B and add text:</i> Not applicable. The property is not listed on a U.S. Environmental Protection Agency (EPA) Superfund National Priorities or Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) list or equivalent State list, is not located within 3,000 feet of a toxic or solid waste landfill site, does not have an underground storage tank other than a residential fuel tank, and is not known or suspected to be contaminated by toxic chemicals or radioactive materials.</p> <p>b) <i>Yes. Create map to document. Consult with an environmental professional to determine if the hazard could impact the residences at the property.</i></p> <p>i) <i>No – review concluded. Put an X in column B and add text:</i> _____ [insert issue] was identified in the area of the property. However, based on _____ [insert reason why not a problem] it is not expected to pose a hazard to the residents of the property. No further review is necessary.</p> <p>ii) <i>Additional coordination with HCR required. Add text:</i> Additional study will be completed to assess if a hazard is present that could affect the health and safety of occupants or conflict with the intended utilization of the property.</p>
<p>Environmental Justice</p>		<p>X</p>	<p>Not applicable. Compliance was determined in the Tier 1 Environmental Assessment.</p>

Application#:	
Project Address:	

### ADDITIONAL SEQRA REVIEW

Check “A” if further close-out documentation is required. Provide written discussion of compliance or necessary mitigation measures. Check “B” if the criteria review is complete. Provide written discussion and attach any supporting materials.

Area of Statutory – Regulatory Compliance	A	B	Compliance Discussion Attach Supporting Material
National Natural Landmark			<p><i>Is the property located at or adjacent to a National Natural Landmark?</i></p> <p><i>a) If no, then put an X in Column B and add text:</i> Not applicable. There are no national natural landmarks located at or adjacent to the property.</p> <p><i>b) If yes, then coordinate with HCR regarding additional compliance steps.</i></p>
Significant Wildlife Habitat			<p><i>Is the property located in, adjacent to, or less than 100 feet away from a Significant Coastal Fish and Wildlife Habitat?</i></p> <p><i>a) No – review concluded. Put an X in Column B and add text:</i> Not applicable. Based on a review of NYSDEC designated Significant Coastal Fish and Wildlife Habitats (SCFWH), no SCFWHs are located in or substantially contiguous to the property.</p> <p><i>b) Yes – Will the project result in the removal of any portion of a significant wildlife habitat?</i></p> <p><i>i) No – review concluded. Put an X in Column B and add text:</i> Not applicable. The project activities will not result in the removal of any portion of a Significant Coastal Fish and Wildlife Habitat.</p> <p><i>ii) Yes. Coordinate with HCR regarding additional compliance steps.</i></p>
Unique or Unusual Landforms			<p><i>Is the property located in, adjacent to, or less than 100 feet away from a unique or unusual landform?</i></p> <p><i>a) No – Review Concluded. Put an X in Column B and add text:</i> Not applicable. The property is not located in or substantially contiguous to a unique or unusual landform.</p> <p><i>b) Yes – Create map to document.</i></p> <p><i>i) Will the project activities result in modification or destruction of, or inhibit access, to any unique or unusual land forms located on or substantially contiguous to the property?</i></p> <p><i>(1) No – review concluded. Put an X in Column B and add text:</i> Not applicable. The project will not affect the quantity or quality of _____ [insert name of that unique or unusual landform].</p> <p><i>(2) Yes. Coordinate with HCR regarding additional compliance steps.</i></p>

Application#:	
Project Address:	

Aesthetic Resources, Open Space and Recreation		<p><i>Is the property located in, adjacent to, or within 100 feet away from an aesthetic resource, open space or recreational area?</i></p> <p>a) <i>No – review concluded. Put an X in Column B. Add text:</i> Not applicable. The property is not located in or substantially contiguous to an aesthetic resource, open space or recreation area.</p> <p>b) <i>Yes – Create map to document. Will the project activities result in land use obviously different from, or in sharp contrast to, current land use patterns between the proposed project and a scenic or aesthetic resource, or result in a loss of recreational opportunities or a reduction of an open space resource?</i></p> <p>i) <i>No – review concluded. Put an X in Column B. Add text:</i> Not applicable. The project activities will not significantly affect the quantity or quality of _____ [insert name of that aesthetic resource, open space or recreational area] or recreational opportunities associated with it.</p> <p>ii) <i>Yes. Coordinate with HCR regarding additional compliance steps.</i></p>
State Protected Waterbody		<p><i>Is the property located in, adjacent to, or less than 100 feet away from any waterbody (e.g., streams, rivers, etc.) designated as protected [Article 15 the Environmental Conservation Law (ECL)]?</i></p> <p>a) <i>No – review concluded. Create map to document. Put an X in Column B. Add text:</i> Not applicable. The property is not located in or substantially contiguous to a state protected waterbody.</p> <p>b) <i>Yes – create map to document. Will the project result in the disturbance of the waterbody or its natural bank (i.e., undeveloped land within 50 feet of mean high water (MHW) line)?</i></p> <p>i) <i>No – review concluded. Put an X in Column B. Add text:</i> The project activities will not result in the disturbance of a waterbody located within 50 feet of the mean high water (MHW) line.</p> <p>ii) <i>Yes – Create a map to document. Coordinate with HCR regarding additional compliance steps.</i></p>

Application#:	
Project Address:	

Critical Environmental Areas		<p><i>Is the property located in, adjacent to, or less than 100 feet away from a Critical Environmental Area designated pursuant to Article 8 of the ECL and 6 NYCRR 617?</i></p> <p>a) <i>No – review concluded. Put an X in Column B. Add text:</i> Not applicable. The property is not located in or substantially contiguous to a Critical Environmental Area designated pursuant to Article 8 of the ECL and 6 NYCRR 617.</p> <p>b) <i>Yes. Will the project activities result in:</i></p> <ul style="list-style-type: none"> <li>• <i>A reduction in the quantity of the resource?</i></li> <li>• <i>A reduction in the quality of the resource?</i></li> </ul> <p><i>Or</i></p> <ul style="list-style-type: none"> <li>• <i>Affect the use, function or enjoyment of the resource?</i></li> </ul> <p>i) <i>No – review concluded. Put an X in Column B. Add text:</i> Not applicable. The project activities will not result in a reduction in the quantity or quality of the ____ [name that CEA], nor affect the use, function or enjoyment of the ____ [name that CEA].</p> <p>ii) <i>Yes. Coordinate with HCR regarding additional compliance steps.</i></p>
Historic Properties		<p><i>Is the house a National Register of Historic Places (NRHP)-listed property or located adjacent to a NRHP listed property or a Historical District?</i></p> <p>a) <i>No – review concluded. Place X in Column B. Add text:</i> Not applicable. The house is not a historic property or located adjacent to a historic property; therefore, there is no potential effect on historic properties.</p> <p>b) <i>Yes. Coordinate with a qualified professional to evaluate the potential impact to adjacent historic properties and coordinate with HCR.</i></p>
Agricultural and Markets Law		<p><i>Is the property located within 500 feet of agricultural land?</i></p> <p>a) <i>No – review concluded. Place X in Column B. Add text:</i> This project will comply with the New York State Agriculture and Markets Law.</p> <p>b) <i>Yes. Do any of the following apply?</i></p> <ul style="list-style-type: none"> <li>i) <i>The project would sever, cross or limit access to agricultural land (including cropland, hayfields, pasture, vineyard, orchard, etc.).</i></li> <li>ii) <i>Construction activity would excavate or compact the soil profile of agricultural land.</i></li> <li>iii) <i>The project would irreversibly convert more than 10 acres of agricultural land or, if located in an Agricultural District, more than 2.5 acres of agricultural land.</i></li> </ul> <p>(1) <i>No – review concluded. Place X in column B. Add text:</i> Not applicable. The project activities have no potential to affect agricultural lands.</p> <p>(2) <i>Yes. Coordinate with HCR regarding additional compliance steps.</i></p>

Application#:	
Project Address:	

Coastal Erosion Hazard Areas			<p><i>Is the property located within a Coastal Erosion Hazard Area?</i></p> <p>a) <i>No: Review concluded: Place an X in Column B and add text:</i> The property is not located within a Coastal Erosion Hazard Area and no further review is needed.</p> <p>b) <i>Yes. Place an X in Column A and add text:</i> The property is located within a Coastal Erosion Hazard Area and will require a NYSDEC CEHA Permit before any site-altering activities may be performed.</p>
------------------------------	--	--	---

Application#:	
Project Address:	

**TO BE FILLED OUT BY PERSON WHO PREPARED DOCUMENT:**

Prepared by:

Signature:

Date:

**TO BE FILLED OUT BY HCR CERTIFYING OFFICER OR OTHER  
APPROPRIATELY DESIGNATED OCR OFFICIAL:**

This Site Specific Checklist is determined to be acceptable.

Signature:

Printed Name:

Date:

Application#:	
Project Address:	

**Closeout Items**

Historic Properties review documentation NEEDED FOR ALL SITES	Document Received and Date:
Engineering Costs/Scope NEEDED FOR ALL SITES	Document Received and Date:
Coastal Barrier Resources determination needed: <input type="checkbox"/> Yes <input type="checkbox"/> No	Document Received and Date:
Coastal Erosion Hazard Area permit needed: <input type="checkbox"/> Yes <input type="checkbox"/> No	Document Received and Date:
Village of Bayville Local Waterfront Revitalization Plan Consistency Determination <input type="checkbox"/> Yes <input type="checkbox"/> No	Document Received and Date:
Proof of flood insurance needed: <input type="checkbox"/> Yes <input type="checkbox"/> No	Document Received and Date:
NYSDEC wetlands permit needed: <input type="checkbox"/> Yes <input type="checkbox"/> No	Document Received and Date:
Construction plans/Engineer Report needed: <input type="checkbox"/> Yes <input type="checkbox"/> No	Document Received and Date:
USACE permit needed: <input type="checkbox"/> Yes <input type="checkbox"/> No	Document Received and Date:
NYSDEC Water Quality Certification needed: <input type="checkbox"/> Yes <input type="checkbox"/> No	Document Received and Date:
Other environmental mitigation measures needed: <input type="checkbox"/> Yes <input type="checkbox"/> No	Document Received and Date:

**Exhibit 5:**  
**DASNY Site Inspection Checklist**

**NEW YORK STATE HOMES & COMMUNITY RENEWAL  
OFFICE OF COMMUNITY RENEWAL  
SUPPLEMENTAL ENVIRONMENTAL QUESTIONNAIRE**

Department of Housing and Urban Development Appropriation Act, 2013

Community Development Block Grant – Disaster Recovery Program  
NY Rising Bulkhead Repair Program

Property address: \_\_\_\_\_

\_\_\_\_\_

Application #: \_\_\_\_\_

**TO BE COMPLETED BY THE FIELD INSPECTOR; ATTACH ANY SPECIFIC NOTES, PHOTOS, AND ADDITIONAL MATERIAL:**

	Yes	No	<b>Compliance Data Attach Supporting Material</b>
1	<input type="checkbox"/>	<input type="checkbox"/>	Based on your observations from the site, is there any visible apparent evidence of explosive or fire-prone materials such as liquid propane, gasoline, or other storage tanks adjacent to or visible from the project site? If yes, provide details.
2	<input type="checkbox"/>	<input type="checkbox"/>	Based on your observations from the site, is there any visible apparent evidence that the project site is near a commercial or industrial property? If yes, which company and the approximate distance.
3	<input type="checkbox"/>	<input type="checkbox"/>	Based on your observations from the site, is there any visible apparent evidence of soil problems in the area of the site? If yes, specify which.
4	<input type="checkbox"/>	<input type="checkbox"/>	Based on your observations from the site, are there any visible apparent evidence of any natural areas or parks, or are there any ponds or parks adjacent to the site? If yes, specify what.
5	<input type="checkbox"/>	<input type="checkbox"/>	Is there any visible apparent indication of any of the following (check all that apply): <input type="checkbox"/> distressed vegetation <input type="checkbox"/> oil/chemical spills <input type="checkbox"/> waste material/containers <input type="checkbox"/> loose/empty drums, barrels <input type="checkbox"/> soil staining, pools of liquid <input type="checkbox"/> abandoned machinery, cars, refrigerators, etc. <input type="checkbox"/> transformers, fill/vent pipes, pipelines, drainage structures  If yes, attach photos and note where on the property these items are located.
6	<input type="checkbox"/>	<input type="checkbox"/>	Is there any visible apparent evidence of an underground or above-ground storage tank? If yes, specify which one and the location. Also specify the tank contents if possible. Please take a photograph of any tank(s).
7	<input type="checkbox"/>	<input type="checkbox"/>	Are there active rills and gullies on site? If yes, provide photographs.

**SUPPLEMENTAL ENVIRONMENTAL QUESTIONNAIRE**

	Yes	No	<b>Compliance Data Attach Supporting Material</b>
8	<input type="checkbox"/>	<input type="checkbox"/>	Is there any visible apparent evidence of hazardous materials present in the structure? Are removal plans or third-party clearance reports or operations and maintenance plans available from the property owner? If yes, attach copies.
9	<input type="checkbox"/>	<input type="checkbox"/>	Are there other unusual conditions on site? Explain in attached supporting material. Please take photographs, if possible.

**Inspector's Signature:** By signing this document I agree that I performed, or am familiar with, the site inspection(s) that are described above and certify that, to the best of my knowledge, the information provided is true and correct.

Printed Name: \_\_\_\_\_

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

Property address: \_\_\_\_\_

\_\_\_\_\_

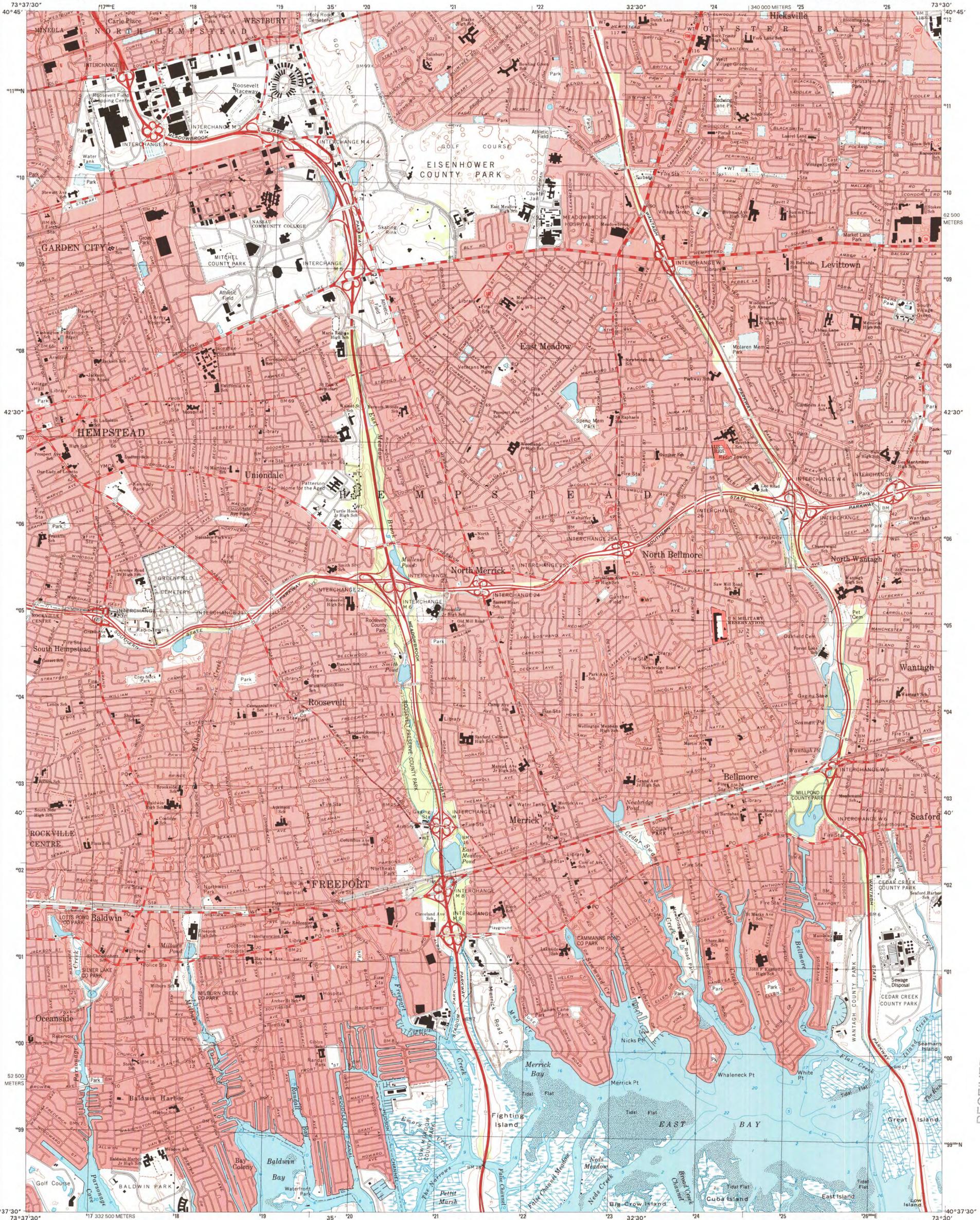
Application #: \_\_\_\_\_

**Appendix A:**  
**Nassau County USGS Topographic Maps**

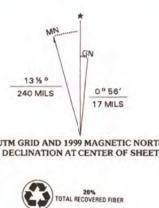
# Nassau County Topographic Map

NOTES: Data available from U.S. Geological Survey, National Geospatial Program.





Produced by the United States Geological Survey  
Topography compiled 1966. Planimetry derived from imagery taken 1994 and other sources. Survey control current as of 1969  
Selected hydrographic data compiled from NOS Chart 120-SC (1969). This information is not intended for navigational purposes  
North American Datum of 1983 (NAD 83). Projection and 1 000-meter grid: Universal Transverse Mercator, zone 18  
2 500-meter ticks: New York Coordinate System of 1983 (Long Island zone)  
North American Datum of 1927 (NAD 27) is shown by dashed corner ticks. The values of the shift between NAD 83 and NAD 27 for 7.5-minute intersections are obtainable from National Geodetic Survey NADCON software  
There may be private inholdings within the boundaries of the National or State reservations shown on this map  
Landmark buildings verified 1969



CONTOUR INTERVAL 5 FEET  
NATIONAL GEODETIC DATUM OF 1929  
TO CONVERT FROM FEET TO METERS, MULTIPLY BY 0.3048  
DEPTH CURVES AND SOUNDINGS IN FEET. DATUM IS MEAN LOWER LOW WATER  
THE RELATIONSHIP BETWEEN THE TWO DATUMS IS VARIABLE  
THE MEAN RANGE OF TIDE IS APPROXIMATELY 2.7 FEET

THIS MAP COMPLIES WITH NATIONAL MAP ACCURACY STANDARDS  
FOR SALE BY U.S. GEOLOGICAL SURVEY, P.O. BOX 25286, DENVER, COLORADO 80225  
A FOLDER DESCRIBING TOPOGRAPHIC MAPS AND SYMBOLS IS AVAILABLE ON REQUEST



ROAD CLASSIFICATION

Primary highway	Light-duty road, hard or improved surface
hard surface	Secondary highway
hard surface	Unimproved road
Interstate Route	U.S. Route
	State Route

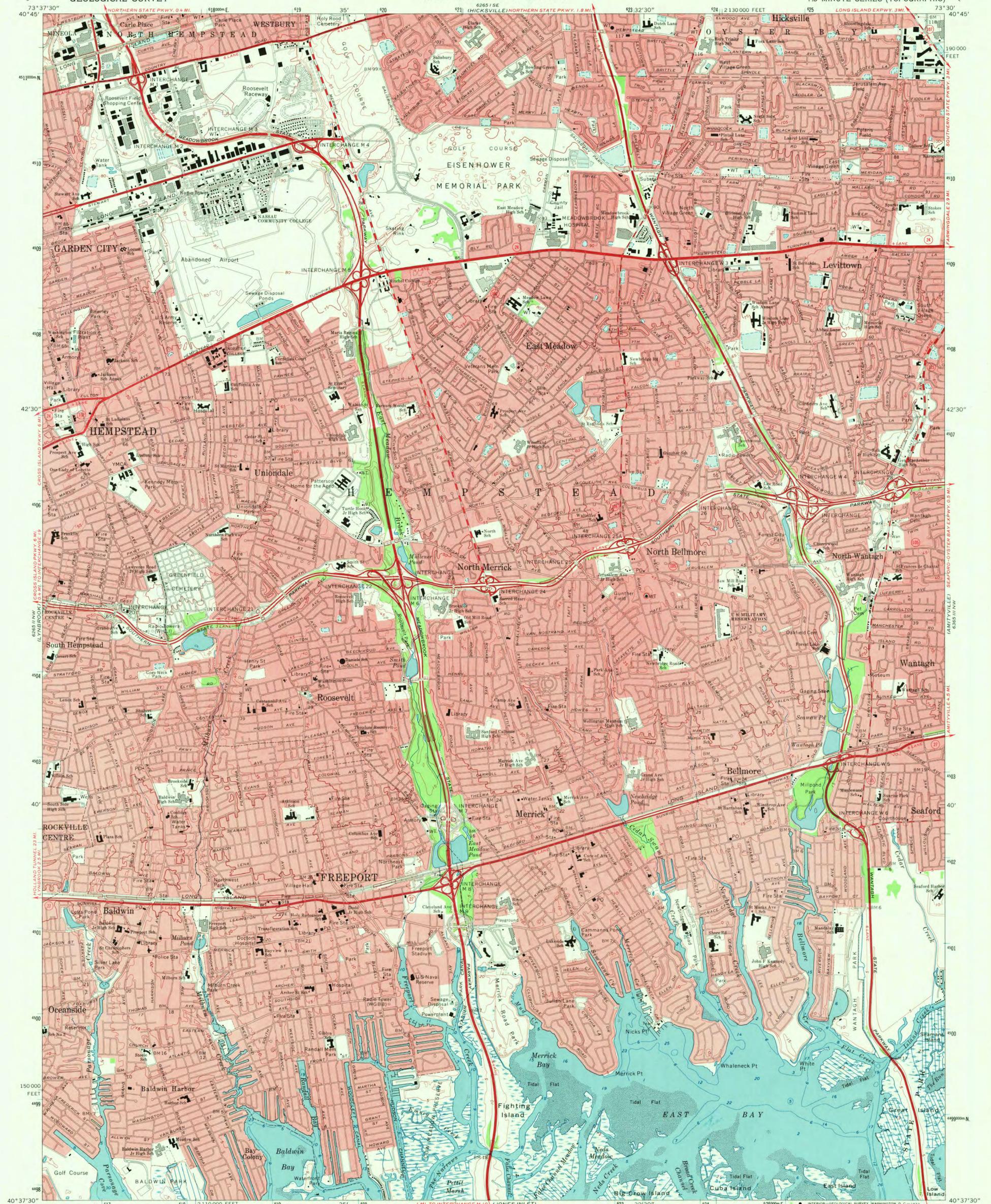
1	2	3	1 Sun Cliff
			2 Hicksville
			3 Huntington
4	5	6	4 Lynbrook
			5 Amityville
6	7	8	6 Lawrence
			7 Jones Inlet
			8 West Gilgo Beach

FREEPORT, NY  
1994

NIMA 6265 II NE-SERIES 9821

RECEIVED  
AUG 31 2000  
USGS NHD  
HISTORICAL MAP ARCHIVES





Mapped, edited, and published by the Geological Survey

Control by USGS, USC&GS, USCE, and Nassau County

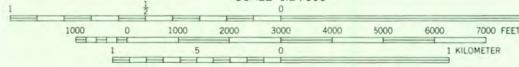
Topography by photogrammetric methods from aerial photographs taken 1966. Field checked 1969. Supersedes Army Map Service map dated 1955.

Selected hydrographic data compiled from USC&GS Chart 1205C (1969). This information is not intended for navigational purposes.

Polyconic projection. 1927 North American datum. 10,000-foot grid based on New York coordinate system. Long Island zone 1000-meter Universal Transverse Mercator grid ticks, zone 18, shown in blue.

Red tint indicates areas in which only landmark buildings are shown.

SCALE 1:24,000



CONTOUR INTERVAL 5 FEET

DATUM IS MEAN SEA LEVEL

DEPTH CURVES AND SOUNDINGS IN FEET—DATUM IS MEAN LOW WATER

SHORELINE SHOWN REPRESENTS THE APPROXIMATE LINE OF MEAN HIGH WATER  
THE MEAN RANGE OF TIDE IS APPROXIMATELY 2.7 FEET



QUADRANGLE LOCATION

ROAD CLASSIFICATION

- Heavy-duty —————
- Medium-duty —————
- Light-duty —————
- Unimproved dirt —————
- State Route ————○———



THIS MAP COMPLIES WITH NATIONAL MAP ACCURACY STANDARDS  
FOR SALE BY U. S. GEOLOGICAL SURVEY, WASHINGTON, D. C. 20242  
A FOLDER DESCRIBING TOPOGRAPHIC MAPS AND SYMBOLS IS AVAILABLE ON REQUEST

USGS  
HISTORICAL FILE  
TOPOGRAPHIC DIVISION

FREEMPORT, N. Y.

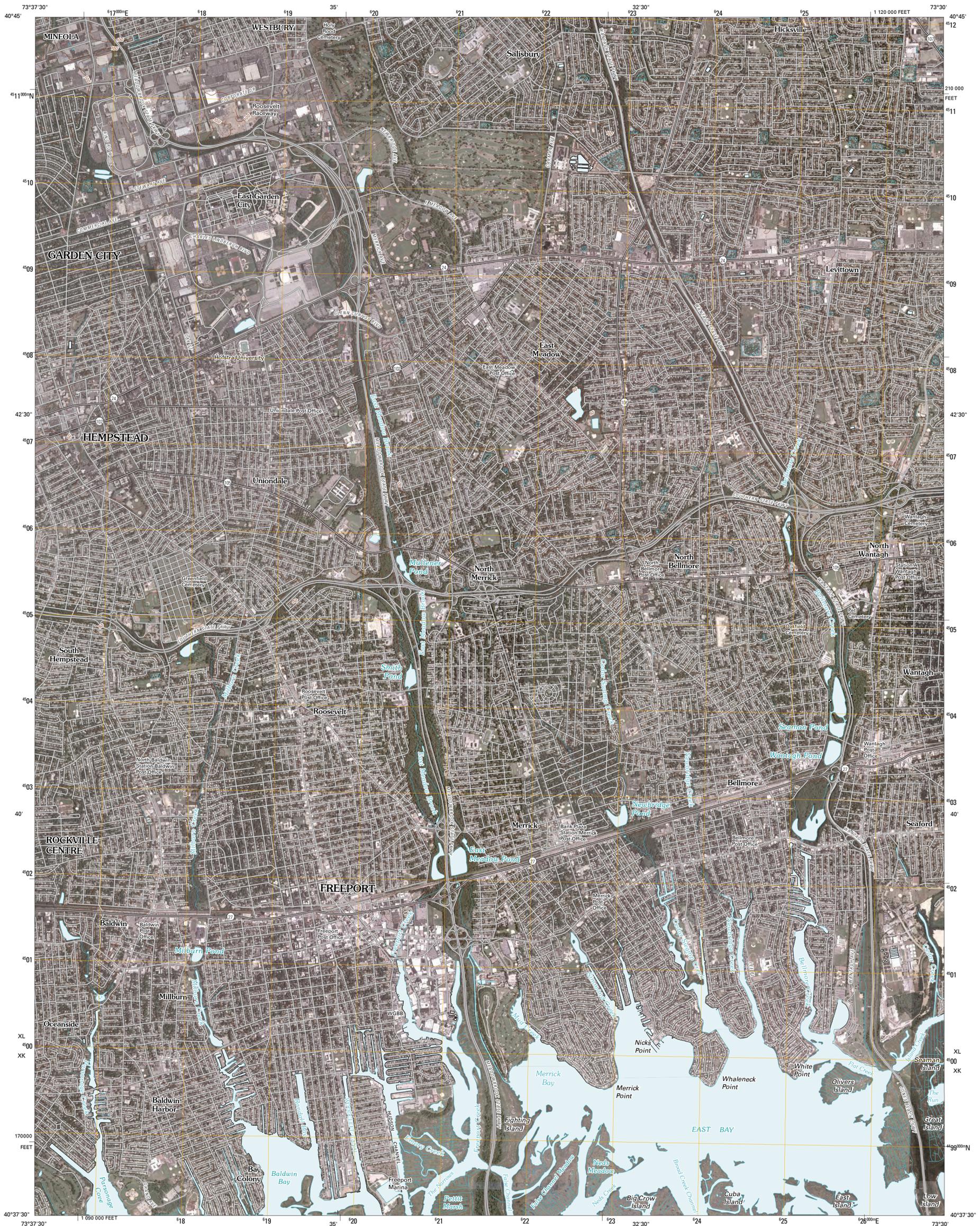
N4037.5—W7330/7.5

1969

AMS 6265 II NE—SERIES V821

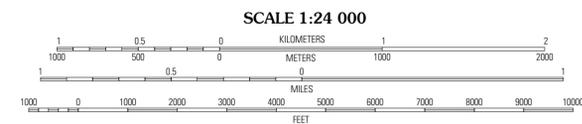
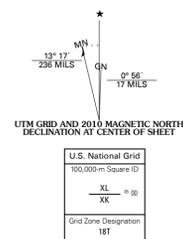
JUL 19 1972

4105



Produced by the United States Geological Survey  
North American Datum of 1983 (NAD83)  
World Geodetic System of 1984 (WGS84). Projection and  
1 000-meter grid: Universal Transverse Mercator, Zone 18T  
10 000-foot ticks: New York Coordinate System of 1983  
(Long Island zone)

Imagery:.....NAP, July 2006  
Roads:.....US Census Bureau TIGER data  
with limited USGS updates, 2004  
Names:.....GNIS, 2008  
Hydrography:.....National Hydrography Dataset, 2006  
Contours:.....National Elevation Dataset, 1998



SCALE 1:24 000

CONTOUR INTERVAL 10 FEET

This map was produced to conform with version 0.5.10 of the  
draft USGS Standards for 7.5-Minute Quadrangle Maps.  
A metadata file associated with this product is also draft version 0.5.10



QUADRANGLE LOCATION

Sea Cliff	Hicksville	Huntington
Lynbrook	<b>Freeport</b>	Amityville
Lawrence	Jones Inlet	West Gilge Beach



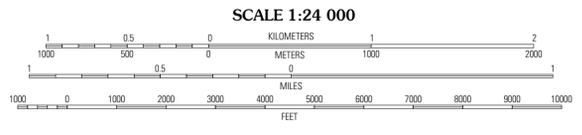
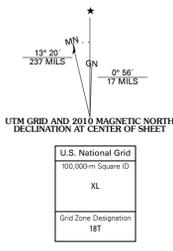
**FREEPORT, NY**  
2010

ADJOINING 7.5 QUADRANGLES



Produced by the United States Geological Survey  
North American Datum of 1983 (NAD83)  
World Geodetic System of 1984 (WGS84). Projection and  
1 000-meter grid: Universal Transverse Mercator, Zone 18T  
10 000-foot ticks: New York Coordinate System of 1983  
(Long Island zone)

Imagery:.....NAP, July 2006  
Roads:.....US Census Bureau TIGER data  
with limited USGS updates, 2004  
Names:.....GNIS, 2008  
Hydrography:.....National Hydrography Dataset, 2006  
Contours:.....National Elevation Dataset, 1998



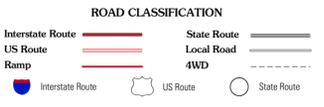
CONTOUR INTERVAL 20 FEET

This map was produced to conform with version 0.5.10 of the  
draft USGS Standards for 7.5-Minute Quadrangle Maps.  
A metadata file associated with this product is also draft version 0.5.10



QUADRANGLE LOCATION		
Mamaroneck	Bayville	Lloyd Harbor
Sea Cliff	Hicksville	Huntington
Lynbrook	Freeport	Amityville

ADJOINING 7.5 QUADRANGLES

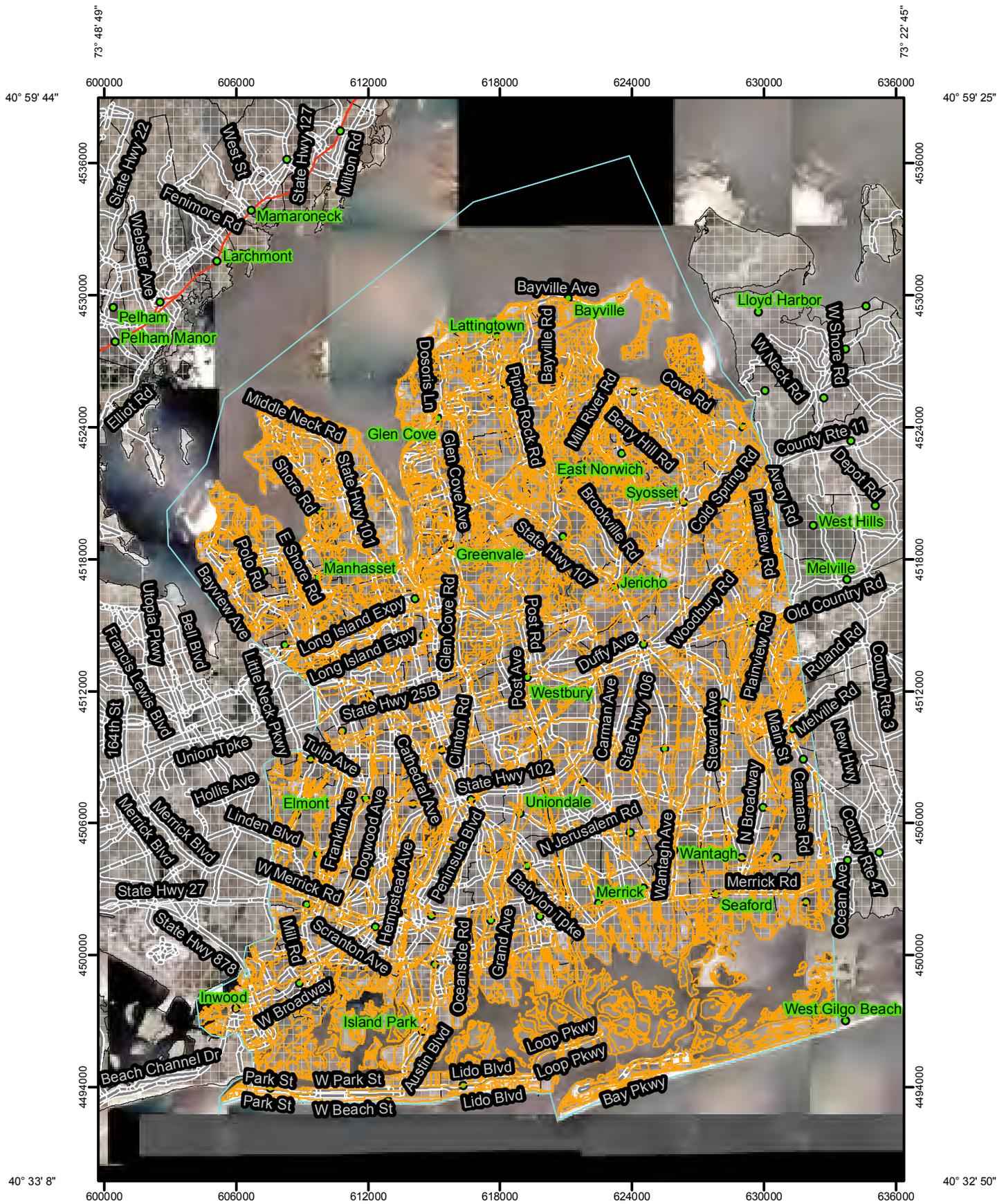


HICKSVILLE, NY  
2010

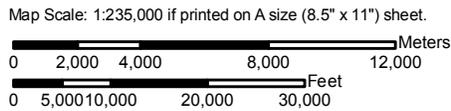
## **Appendix B:**

### **Nassau County USDA Soil Survey Maps**

Soil Map—Nassau County, New York



73° 49' 17"



## MAP LEGEND

### Area of Interest (AOI)

 Area of Interest (AOI)

### Soils

-  Soil Map Units
-  Blowout
-  Borrow Pit
-  Clay Spot
-  Closed Depression
-  Gravel Pit
-  Gravelly Spot
-  Landfill
-  Lava Flow
-  Marsh or swamp
-  Mine or Quarry
-  Miscellaneous Water
-  Perennial Water
-  Rock Outcrop
-  Saline Spot
-  Sandy Spot
-  Severely Eroded Spot
-  Sinkhole
-  Slide or Slip
-  Sodic Spot
-  Spoil Area
-  Stony Spot
-  Very Stony Spot

-  Wet Spot
-  Other
-  Gully
-  Short Steep Slope
-  Other

### Political Features

-  Urban Areas
-  Cities

### Water Features

### Transportation

-  Rails
-  Interstate Highways
-  US Routes
-  Major Roads

## MAP INFORMATION

Map Scale: 1:235,000 if printed on A size (8.5" × 11") sheet.

The soil surveys that comprise your AOI were mapped at 1:24,000.

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

Source of Map: Natural Resources Conservation Service  
 Web Soil Survey URL: <http://websoilsurvey.nrcs.usda.gov>  
 Coordinate System: UTM Zone 18N NAD83

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

Soil Survey Area: Nassau County, New York  
 Survey Area Data: Version 9, Dec 20, 2011

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

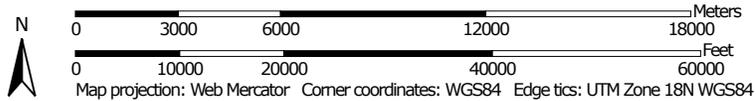
Nassau County, New York (NY059)			
Map Unit Symbol	Map Unit Name	Acres in AOI	Percent of AOI
At	Atsion loamy sand	954.6	0.4%
Bc	Beaches	1,564.7	0.7%
Bd	Berryland mucky loamy sand	415.7	0.2%
Du	Duneland-Udipsammets complex	1,319.4	0.6%
EnA	Enfield silt loam, 0 to 3 percent slopes	3,675.6	1.6%
EnB	Enfield silt loam, 3 to 8 percent slopes	2,635.5	1.1%
Fr	Freetown muck	111.0	0.0%
He	Hempstead silt loam	2,680.4	1.1%
Ip	Ipswich mucky peat	7,236.4	3.1%
Ma	Manahawkin muck	196.6	0.1%
Mc	Matunuck mucky peat	527.2	0.2%
MfA	Montauk fine sandy loam, 0 to 3 percent slopes	830.9	0.4%
MfB	Montauk fine sandy loam, 3 to 8 percent slopes	6,775.4	2.9%
MfC	Montauk fine sandy loam, 8 to 15 percent slopes	6,045.3	2.6%
MfD	Montauk fine sandy loam, 15 to 25 percent slopes	484.3	0.2%
MkA	Montauk silt loam, 0 to 3 percent slopes	1,736.7	0.7%
MkB	Montauk silt loam, 3 to 8 percent slopes	5,856.1	2.5%
Pa	Pawcatuck mucky peat	1,079.5	0.5%
Pg	Pits, ground-water recharge	1,042.0	0.4%
Pk	Pits, sand and gravel	824.4	0.4%
PIB	Plymouth loamy sand, 3 to 8 percent slopes	841.5	0.4%
PIC	Plymouth loamy sand, 8 to 15 percent slopes	656.2	0.3%
PrD	Plymouth-Riverhead complex, 15 to 35 percent slopes	3,349.9	1.4%
RdA	Riverhead sandy loam, 0 to 3 percent slopes	2,293.4	1.0%
RdB	Riverhead sandy loam, 3 to 8 percent slopes	5,789.5	2.5%
RdC	Riverhead sandy loam, 8 to 15 percent slopes	4,370.5	1.9%
RdD	Riverhead sandy loam, 15 to 25 percent slopes	607.8	0.3%
Sc	Scio silt loam	286.0	0.1%
SdA	Scio silt loam, till substratum, 0 to 3 percent slopes	882.7	0.4%
SdB	Scio silt loam, till substratum, 3 to 8 percent slopes	126.5	0.1%
Su	Sudbury sandy loam	981.6	0.4%
Ua	Udfluvents, rarely flooded	271.7	0.1%
UdA	Udipsammets, nearly level	1,993.6	0.8%

Nassau County, New York (NY059)			
Map Unit Symbol	Map Unit Name	Acres in AOI	Percent of AOI
UdE	Udipsamments, steep	240.3	0.1%
Ue	Udipsamments, wet substratum	5,048.5	2.1%
Uf	Udorthents, refuse substratum	488.0	0.2%
Ug	Urban land	18,761.6	8.0%
Uh	Urban land-Hempstead complex	17,857.9	7.6%
Um	Urban land-Mineola complex	2,145.5	0.9%
UnB	Urban land-Montauk complex, 3 to 8 percent slopes	8,234.5	3.5%
UnC	Urban land-Montauk complex, 8 to 15 percent slopes	1,146.0	0.5%
UpA	Urban land-Plymouth complex, 0 to 3 percent slopes	820.7	0.3%
UpB	Urban land-Plymouth complex, 3 to 8 percent slopes	1,005.1	0.4%
UpC	Urban land-Plymouth complex, 8 to 15 percent slopes	398.2	0.2%
UpD	Urban land-Plymouth complex, 15 to 25 percent slopes	407.9	0.2%
UrA	Urban land-Riverhead complex, 0 to 3 percent slopes	36,255.6	15.4%
UrB	Urban land-Riverhead complex, 3 to 8 percent slopes	4,959.5	2.1%
UrC	Urban land-Riverhead complex, 8 to 15 percent slopes	1,133.1	0.5%
Us	Urban land-Sudbury complex	6,825.8	2.9%
Uu	Urban land-Udipsamments complex	1,512.5	0.6%
Uw	Urban land-Udipsamments, wet substratum complex	6,432.9	2.7%
W	Water	52,820.8	22.4%
Wa	Wallington silt loam	237.8	0.1%
Wd	Walpole sandy loam	268.4	0.1%
<b>Totals for Area of Interest</b>		<b>235,443.6</b>	<b>100.0%</b>

Dwellings Without Basements—Nassau County, New York, Queens County, New York, and Suffolk County, New ...  
 (Nassau-Dwelling Rating-without Basements)



Map Scale: 1:220,000 if printed on A portrait (8.5" x 11") sheet.



Map projection: Web Mercator Corner coordinates: WGS84 Edge tics: UTM Zone 18N WGS84

## MAP LEGEND

### Area of Interest (AOI)

 Area of Interest (AOI)

### Background

 Aerial Photography

### Soils

#### Soil Rating Polygons

-  Very limited
-  Somewhat limited
-  Not limited
-  Not rated or not available

#### Soil Rating Lines

-  Very limited
-  Somewhat limited
-  Not limited
-  Not rated or not available

#### Soil Rating Points

-  Very limited
-  Somewhat limited
-  Not limited
-  Not rated or not available

### Water Features

 Streams and Canals

### Transportation

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

## MAP INFORMATION

The soil surveys that comprise your AOI were mapped at scales ranging from 1:12,000 to 1:24,000.

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

Source of Map: Natural Resources Conservation Service  
Web Soil Survey URL: <http://websoilsurvey.nrcs.usda.gov>  
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: Nassau County, New York  
Survey Area Data: Version 9, Dec 20, 2011

Soil Survey Area: Queens County, New York  
Survey Area Data: Version 1, Jan 12, 2011

Soil Survey Area: Suffolk County, New York  
Survey Area Data: Version 10, Dec 20, 2011

Your area of interest (AOI) includes more than one soil survey area. These survey areas may have been mapped at different scales, with a different land use in mind, at different times, or at different levels of detail. This may result in map unit symbols, soil properties, and interpretations that do not completely agree across soil survey area boundaries.

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

Date(s) aerial images were photographed: Jan 1, 1999—Apr 16, 2012

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.

## Dwellings Without Basements

Dwellings Without Basements— Summary by Map Unit — Nassau County, New York (NY059)						
Map unit symbol	Map unit name	Rating	Component name (percent)	Rating reasons (numeric values)	Acres in AOI	Percent of AOI
At	Atsion loamy sand	Very limited	Atsion (90%)	Depth to saturated zone (1.00)	865.2	0.9%
Bc	Beaches	Not rated	Beaches (100%)		608.7	0.6%
Bd	Berryland mucky loamy sand	Very limited	Berryland (85%)	Depth to saturated zone (1.00)	396.1	0.4%
Du	Duneland-Udipsamments complex	Not rated	Duneland (50%)		968.6	1.0%
			Matunuck (3%)			
			Unnamed soils, moderately well drained (2%)			
EnA	Enfield silt loam, 0 to 3 percent slopes	Not limited	Enfield (85%)		1,829.9	1.9%
EnB	Enfield silt loam, 3 to 8 percent slopes	Not limited	Enfield (80%)		911.3	0.9%
He	Hempstead silt loam	Not limited	Hempstead (80%)		2,126.4	2.2%
Ip	Ipswich mucky peat	Very limited	Ipswich (90%)	Ponding (1.00)	616.1	0.6%
				Flooding (1.00)		
				Depth to saturated zone (1.00)		
				Organic matter content (1.00)		
Ma	Manahawkin muck	Very limited	Manahawkin (80%)	Flooding (1.00)	60.2	0.1%
				Depth to saturated zone (1.00)		
				Organic matter content (1.00)		
				Subsidence (1.00)		
Mc	Matunuck mucky peat	Very limited	Matunuck (85%)	Ponding (1.00)	259.6	0.3%
				Flooding (1.00)		
				Depth to saturated zone (1.00)		

Dwellings Without Basements— Summary by Map Unit — Nassau County, New York (NY059)						
Map unit symbol	Map unit name	Rating	Component name (percent)	Rating reasons (numeric values)	Acres in AOI	Percent of AOI
MfA	Montauk fine sandy loam, 0 to 3 percent slopes	Somewhat limited	Montauk (85%)	Depth to saturated zone (0.03)	77.5	0.1%
MfB	Montauk fine sandy loam, 3 to 8 percent slopes	Somewhat limited	Montauk (85%)	Depth to saturated zone (0.03)	748.2	0.8%
MfC	Montauk fine sandy loam, 8 to 15 percent slopes	Somewhat limited	Montauk (80%)	Slope (0.63) Depth to saturated zone (0.03)	1,213.4	1.3%
MkA	Montauk silt loam, 0 to 3 percent slopes	Somewhat limited	Montauk (80%)	Depth to saturated zone (0.03)	35.5	0.0%
MkB	Montauk silt loam, 3 to 8 percent slopes	Somewhat limited	Montauk (75%)	Depth to saturated zone (0.03)	473.8	0.5%
Pa	Pawcatuck mucky peat	Very limited	Pawcatuck (75%)	Ponding (1.00) Flooding (1.00) Depth to saturated zone (1.00) Organic matter content (1.00)	110.9	0.1%
Pg	Pits, ground-water recharge	Not rated	Pits, ground-water recharge (100%)		720.3	0.7%
Pk	Pits, sand and gravel	Not rated	Pits, sand and gravel (100%)		26.4	0.0%
PIB	Plymouth loamy sand, 3 to 8 percent slopes	Not limited	Plymouth (85%)		409.3	0.4%
PIC	Plymouth loamy sand, 8 to 15 percent slopes	Somewhat limited	Plymouth (90%)	Slope (0.63)	254.2	0.3%
PrD	Plymouth-Riverhead complex, 15 to 35 percent slopes	Very limited	Plymouth (50%) Riverhead (40%)	Slope (1.00) Slope (1.00)	553.7	0.6%
RdA	Riverhead sandy loam, 0 to 3 percent slopes	Not limited	Riverhead (90%)		975.4	1.0%
RdB	Riverhead sandy loam, 3 to 8 percent slopes	Not limited	Riverhead (90%)		1,186.2	1.2%

Dwellings Without Basements— Summary by Map Unit — Nassau County, New York (NY059)						
Map unit symbol	Map unit name	Rating	Component name (percent)	Rating reasons (numeric values)	Acres in AOI	Percent of AOI
RdC	Riverhead sandy loam, 8 to 15 percent slopes	Somewhat limited	Riverhead (80%)	Slope (0.63)	1,148.2	1.2%
RdD	Riverhead sandy loam, 15 to 25 percent slopes	Very limited	Riverhead (80%)	Slope (1.00)	40.7	0.0%
Sc	Scio silt loam	Somewhat limited	Scio (85%)	Depth to saturated zone (0.77)	38.8	0.0%
SdA	Scio silt loam, till substratum, 0 to 3 percent slopes	Somewhat limited	Scio, till substratum (75%)	Depth to saturated zone (0.77)	119.8	0.1%
SdB	Scio silt loam, till substratum, 3 to 8 percent slopes	Somewhat limited	Scio, till substratum (80%)	Depth to saturated zone (0.77)	9.8	0.0%
Su	Sudbury sandy loam	Somewhat limited	Sudbury (80%)	Depth to saturated zone (0.07)	588.8	0.6%
UdA	Udipsamments, nearly level	Not limited	Udipsamments, nearly level (90%)		1,200.9	1.2%
UdE	Udipsamments, steep	Very limited	Udipsamments, steep (95%)	Slope (1.00)	29.4	0.0%
Ue	Udipsamments, wet substratum	Not limited	Udipsamments, wet substratum (90%)		2,341.8	2.4%
Uf	Udorthents, refuse substratum	Not rated	Udorthents, refuse substratum (100%)		338.8	0.4%
Ug	Urban land	Not rated	Urban land (90%)		11,740.4	12.2%
			Hempstead (2%)			
			Udipsamments (2%)			
			Udorthents (2%)			
			Enfield (2%)			
			Riverhead (2%)			
Uh	Urban land-Hempstead complex	Not rated	Urban land (75%)		13,871.5	14.4%
			Enfield (3%)			
			Mineola (2%)			

Dwellings Without Basements— Summary by Map Unit — Nassau County, New York (NY059)						
Map unit symbol	Map unit name	Rating	Component name (percent)	Rating reasons (numeric values)	Acres in AOI	Percent of AOI
Um	Urban land-Mineola complex	Not rated	Urban land (75%)		1,753.0	1.8%
			Hempstead (3%)			
			Udipsamments (2%)			
UnB	Urban land-Montauk complex, 3 to 8 percent slopes	Not rated	Urban land (60%)		586.8	0.6%
			Enfield (5%)			
			Riverhead (5%)			
			Scio (3%)			
			Walpole (2%)			
UnC	Urban land-Montauk complex, 8 to 15 percent slopes	Not rated	Urban land (60%)		134.6	0.1%
			Riverhead (10%)			
			Udipsamments (3%)			
			Walpole (1%)			
			Sudbury (1%)			
UpA	Urban land-Plymouth complex, 0 to 3 percent slopes	Not rated	Urban land (65%)		370.8	0.4%
			Riverhead (5%)			
			Sudbury (5%)			
			Udipsamments (5%)			
UpB	Urban land-Plymouth complex, 3 to 8 percent slopes	Not rated	Urban land (65%)		599.5	0.6%
			Riverhead (5%)			
			Udipsamments (5%)			
			Sudbury (5%)			
UpC	Urban land-Plymouth complex, 8 to 15 percent slopes	Not rated	Urban land (60%)		109.0	0.1%
			Riverhead (10%)			
			Udipsamments (5%)			
UpD	Urban land-Plymouth complex, 15 to 25 percent slopes	Not rated	Urban land (55%)		21.7	0.0%
			Riverhead (10%)			
			Udipsamments (5%)			
			Montauk (5%)			
UrA	Urban land-Riverhead complex, 0 to 3 percent slopes	Not rated	Urban land (65%)		27,369.2	28.3%
			Enfield (10%)			
			Plymouth (3%)			
			Udipsamments (2%)			

Dwellings Without Basements— Summary by Map Unit — Nassau County, New York (NY059)						
Map unit symbol	Map unit name	Rating	Component name (percent)	Rating reasons (numeric values)	Acres in AOI	Percent of AOI
UrB	Urban land-Riverhead complex, 3 to 8 percent slopes	Not rated	Urban land (60%)		1,790.6	1.9%
			Enfield (5%)			
			Montauk (5%)			
			Plymouth (3%)			
			Udipsamments (2%)			
UrC	Urban land-Riverhead complex, 8 to 15 percent slopes	Not rated	Urban land (65%)		340.9	0.4%
			Plymouth (5%)			
			Udipsamments (5%)			
			Montauk (5%)			
Us	Urban land-Sudbury complex	Not rated	Urban land (70%)		4,742.0	4.9%
			Riverhead (5%)			
			Udipsamments (5%)			
Uu	Urban land-Udipsamments complex	Not rated	Urban land (70%)		758.8	0.8%
			Riverhead (3%)			
			Sudbury (2%)			
Uw	Urban land-Udipsamments, wet substratum complex	Not rated	Urban land (70%)		4,772.1	4.9%
			Sudbury (3%)			
			Riverhead (2%)			
W	Water	Not rated	Water (100%)		3,970.4	4.1%
Wa	Wallington silt loam	Very limited	Wallington (75%)	Depth to saturated zone (1.00)	8.5	0.0%
				Depth to thick cemented pan (0.90)		
Wd	Walpole sandy loam	Very limited	Walpole (85%)	Depth to saturated zone (1.00)	5.5	0.0%
<b>Subtotals for Soil Survey Area</b>					<b>94,229.2</b>	<b>97.5%</b>
<b>Totals for Area of Interest</b>					<b>96,620.9</b>	<b>100.0%</b>

Dwellings Without Basements— Summary by Map Unit — Queens County, New York (NY081)						
Map unit symbol	Map unit name	Rating	Component name (percent)	Rating reasons (numeric values)	Acres in AOI	Percent of AOI
NOTCOM	No Digital Data Available				2,116.1	2.2%

Dwellings Without Basements— Summary by Map Unit — Queens County, New York (NY081)						
Map unit symbol	Map unit name	Rating	Component name (percent)	Rating reasons (numeric values)	Acres in AOI	Percent of AOI
<b>Subtotals for Soil Survey Area</b>					<b>2,116.1</b>	<b>2.2%</b>
<b>Totals for Area of Interest</b>					<b>96,620.9</b>	<b>100.0%</b>

Dwellings Without Basements— Summary by Map Unit — Suffolk County, New York (NY103)						
Map unit symbol	Map unit name	Rating	Component name (percent)	Rating reasons (numeric values)	Acres in AOI	Percent of AOI
W	Water	Not rated	Water (100%)		0.6	0.0%
<b>Subtotals for Soil Survey Area</b>					<b>0.6</b>	<b>0.0%</b>
<b>Totals for Area of Interest</b>					<b>96,620.9</b>	<b>100.0%</b>

Dwellings Without Basements— Summary by Rating Value		
Rating	Acres in AOI	Percent of AOI
Not limited	10,981.2	11.4%
Somewhat limited	4,708.2	4.9%
Very limited	2,945.9	3.0%
Null or Not Rated	77,710.5	80.4%
<b>Totals for Area of Interest</b>	<b>96,620.9</b>	<b>100.0%</b>

## Description

Dwellings are single-family houses of three stories or less. For dwellings without basements, the foundation is assumed to consist of spread footings of reinforced concrete built on undisturbed soil at a depth of 2 feet or at the depth of maximum frost penetration, whichever is deeper.

The ratings for dwellings are based on the soil properties that affect the capacity of the soil to support a load without movement and on the properties that affect excavation and construction costs. The properties that affect the load-supporting capacity include depth to a water table, ponding, flooding, subsidence, linear extensibility (shrink-swell potential), and compressibility. Compressibility is inferred from the Unified classification of the soil. The properties that affect the ease and amount of excavation include depth to a water table, ponding, flooding, slope, depth to bedrock or a cemented pan, hardness of bedrock or a cemented pan, and the amount and size of rock fragments.

The ratings are both verbal and numerical. Rating class terms indicate the extent to which the soils are limited by all of the soil features that affect the specified use. "Not limited" indicates that the soil has features that are very favorable for the specified use. Good performance and very low maintenance can be expected. "Somewhat limited" indicates that the soil has features that are moderately favorable for the specified use. The limitations can be overcome or minimized by special planning, design, or installation. Fair performance and moderate maintenance can be expected. "Very limited" indicates that the soil has one or more features that are unfavorable for the specified use. The limitations generally cannot be overcome without major soil reclamation, special design, or expensive installation procedures. Poor performance and high maintenance can be expected.

Numerical ratings indicate the severity of individual limitations. The ratings are shown as decimal fractions ranging from 0.01 to 1.00. They indicate gradations between the point at which a soil feature has the greatest negative impact on the use (1.00) and the point at which the soil feature is not a limitation (0.00).

The map unit components listed for each map unit in the accompanying Summary by Map Unit table in Web Soil Survey or the Aggregation Report in Soil Data Viewer are determined by the aggregation method chosen. An aggregated rating class is shown for each map unit. The components listed for each map unit are only those that have the same rating class as listed for the map unit. The percent composition of each component in a particular map unit is presented to help the user better understand the percentage of each map unit that has the rating presented.

Other components with different ratings may be present in each map unit. The ratings for all components, regardless of the map unit aggregated rating, can be viewed by generating the equivalent report from the Soil Reports tab in Web Soil Survey or from the Soil Data Mart site. Onsite investigation may be needed to validate these interpretations and to confirm the identity of the soil on a given site.

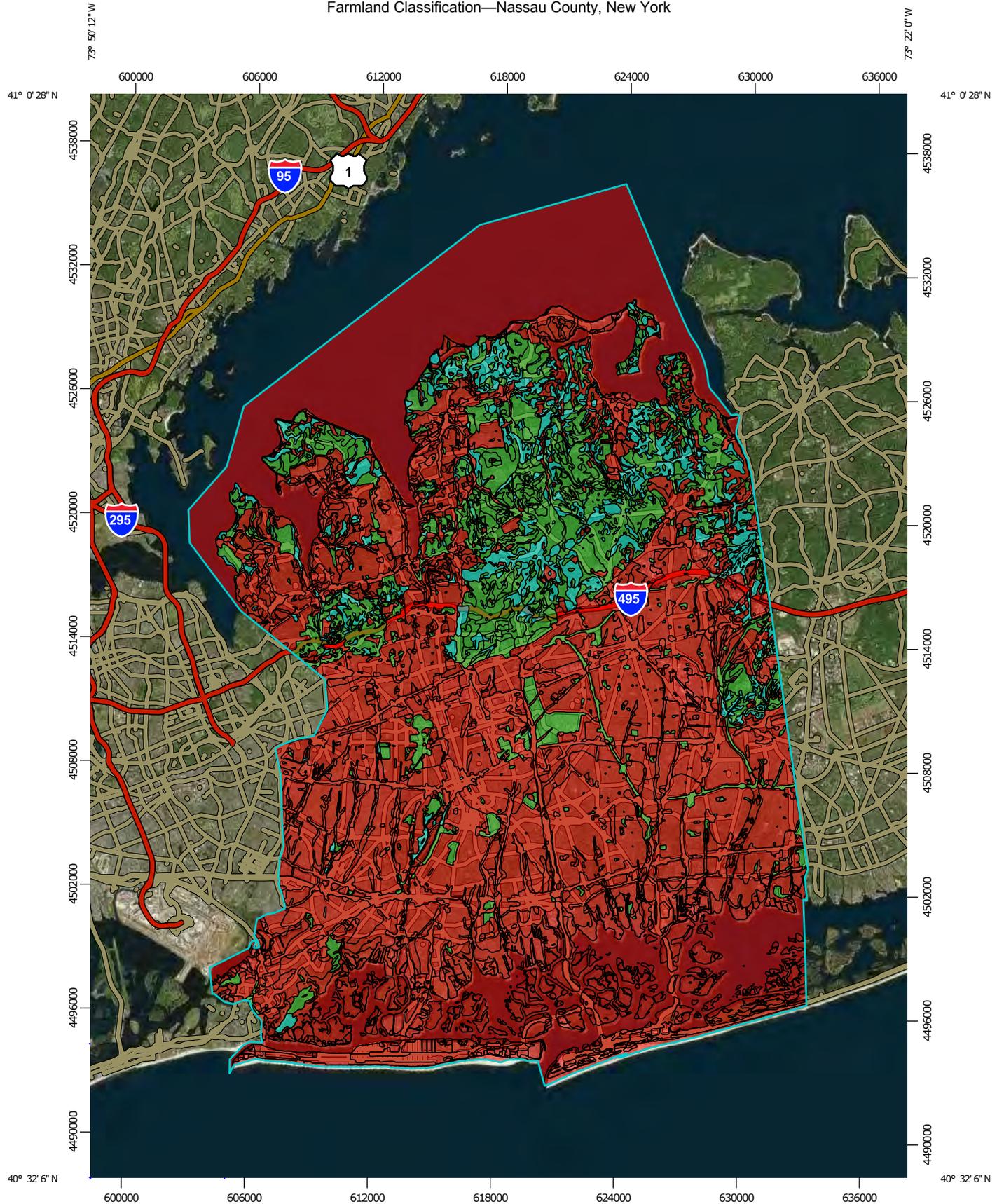
## Rating Options

*Aggregation Method:* Dominant Condition

*Component Percent Cutoff: None Specified*

*Tie-break Rule: Higher*

Farmland Classification—Nassau County, New York



Map Scale: 1:256,000 if printed on A portrait (8.5" x 11") sheet.



Map projection: Web Mercator Corner coordinates: WGS84 Edge tics: UTM Zone 18N WGS84

### MAP LEGEND

**Area of Interest (AOI)**

 Area of Interest (AOI)

**Soils**

**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

-  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 local importance
-  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
-  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 local importance
-  Farmland of unique importance
-  Not rated or not available

**Soil Rating Points**

-  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
-  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 local importance
-  Farmland of unique importance
-  Not rated or not available

**Water Features**

## MAP INFORMATION

 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 1:24,000.

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

Source of Map: Natural Resources Conservation Service  
Web Soil Survey URL: <http://websoilsurvey.nrcs.usda.gov>  
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: Nassau County, New York  
Survey Area Data: Version 9, Dec 20, 2011

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

Date(s) aerial images were photographed: Jan 1, 1999—Apr 16, 2012

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.

## Farmland Classification

Farmland Classification— Summary by Map Unit — Nassau County, New York (NY059)				
Map unit symbol	Map unit name	Rating	Acres in AOI	Percent of AOI
At	Atsion loamy sand	Not prime farmland	954.6	0.4%
Bc	Beaches	Not prime farmland	1,564.7	0.7%
Bd	Berryland mucky loamy sand	Not prime farmland	415.7	0.2%
Du	Duneland-Udipsamments complex	Not prime farmland	1,319.4	0.6%
EnA	Enfield silt loam, 0 to 3 percent slopes	All areas are prime farmland	3,675.6	1.6%
EnB	Enfield silt loam, 3 to 8 percent slopes	Farmland of statewide importance	2,635.5	1.1%
Fr	Freetown muck	Not prime farmland	111.0	0.0%
He	Hempstead silt loam	All areas are prime farmland	2,680.4	1.1%
Ip	Ipswich mucky peat	Not prime farmland	7,236.4	3.1%
Ma	Manahawkin muck	Not prime farmland	196.6	0.1%
Mc	Matunuck mucky peat	Not prime farmland	527.2	0.2%
MfA	Montauk fine sandy loam, 0 to 3 percent slopes	All areas are prime farmland	830.9	0.4%
MfB	Montauk fine sandy loam, 3 to 8 percent slopes	All areas are prime farmland	6,775.5	2.9%
MfC	Montauk fine sandy loam, 8 to 15 percent slopes	Farmland of statewide importance	6,045.3	2.6%
MfD	Montauk fine sandy loam, 15 to 25 percent slopes	Not prime farmland	484.3	0.2%
MkA	Montauk silt loam, 0 to 3 percent slopes	All areas are prime farmland	1,736.8	0.7%
MkB	Montauk silt loam, 3 to 8 percent slopes	All areas are prime farmland	5,856.1	2.5%
Pa	Pawcatuck mucky peat	Not prime farmland	1,079.5	0.5%
Pg	Pits, ground-water recharge	Not prime farmland	1,042.0	0.4%
Pk	Pits, sand and gravel	Not prime farmland	824.4	0.4%
PIB	Plymouth loamy sand, 3 to 8 percent slopes	Farmland of statewide importance	841.5	0.4%
PIC	Plymouth loamy sand, 8 to 15 percent slopes	Not prime farmland	656.2	0.3%

Farmland Classification— Summary by Map Unit — Nassau County, New York (NY059)				
Map unit symbol	Map unit name	Rating	Acres in AOI	Percent of AOI
PrD	Plymouth-Riverhead complex, 15 to 35 percent slopes	Not prime farmland	3,349.9	1.4%
RdA	Riverhead sandy loam, 0 to 3 percent slopes	All areas are prime farmland	2,293.5	1.0%
RdB	Riverhead sandy loam, 3 to 8 percent slopes	All areas are prime farmland	5,789.6	2.5%
RdC	Riverhead sandy loam, 8 to 15 percent slopes	Farmland of statewide importance	4,370.6	1.9%
RdD	Riverhead sandy loam, 15 to 25 percent slopes	Not prime farmland	607.8	0.3%
Sc	Scio silt loam	All areas are prime farmland	286.0	0.1%
SdA	Scio silt loam, till substratum, 0 to 3 percent slopes	All areas are prime farmland	882.7	0.4%
SdB	Scio silt loam, till substratum, 3 to 8 percent slopes	All areas are prime farmland	126.5	0.1%
Su	Sudbury sandy loam	All areas are prime farmland	981.6	0.4%
Ua	Udifluents, rarely flooded	Not prime farmland	271.7	0.1%
UdA	Udipsamments, nearly level	Not prime farmland	1,993.6	0.8%
UdE	Udipsamments, steep	Not prime farmland	240.3	0.1%
Ue	Udipsamments, wet substratum	Not prime farmland	5,048.5	2.1%
Uf	Udorthents, refuse substratum	Not prime farmland	488.0	0.2%
Ug	Urban land	Not prime farmland	18,761.7	8.0%
Uh	Urban land-Hempstead complex	Not prime farmland	17,858.0	7.6%
Um	Urban land-Mineola complex	Not prime farmland	2,145.5	0.9%
UnB	Urban land-Montauk complex, 3 to 8 percent slopes	Not prime farmland	8,234.6	3.5%
UnC	Urban land-Montauk complex, 8 to 15 percent slopes	Not prime farmland	1,146.0	0.5%
UpA	Urban land-Plymouth complex, 0 to 3 percent slopes	Not prime farmland	820.7	0.3%
UpB	Urban land-Plymouth complex, 3 to 8 percent slopes	Not prime farmland	1,005.1	0.4%

Farmland Classification— Summary by Map Unit — Nassau County, New York (NY059)				
Map unit symbol	Map unit name	Rating	Acres in AOI	Percent of AOI
UpC	Urban land-Plymouth complex, 8 to 15 percent slopes	Not prime farmland	398.2	0.2%
UpD	Urban land-Plymouth complex, 15 to 25 percent slopes	Not prime farmland	407.9	0.2%
UrA	Urban land-Riverhead complex, 0 to 3 percent slopes	Not prime farmland	36,255.8	15.4%
UrB	Urban land-Riverhead complex, 3 to 8 percent slopes	Not prime farmland	4,959.5	2.1%
UrC	Urban land-Riverhead complex, 8 to 15 percent slopes	Not prime farmland	1,133.1	0.5%
Us	Urban land-Sudbury complex	Not prime farmland	6,825.9	2.9%
Uu	Urban land-Udipsamments complex	Not prime farmland	1,512.5	0.6%
Uw	Urban land-Udipsamments, wet substratum complex	Not prime farmland	6,433.0	2.7%
W	Water	Not prime farmland	52,822.0	22.4%
Wa	Wallington silt loam	Prime farmland if drained	237.8	0.1%
Wd	Walpole sandy loam	Farmland of statewide importance	268.4	0.1%
<b>Totals for Area of Interest</b>			<b>235,445.7</b>	<b>100.0%</b>

## Description

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.

## Rating Options

*Aggregation Method:* No Aggregation Necessary

*Tie-break Rule:* Lower

## **Appendix C:**

### **Nassau County FEMA Flood Insurance Rate Map**



\* PANEL NOT PRINTED - OPEN WATER AREA  
 \*\* PANEL NOT PRINTED - SPECIAL FLOOD HAZARD AREA

**MAP DATES**

The FIRM Index, displayed on this map, calls for each FIRM panel at the time that this index was printed. Operations that index may not be distributed to affected communities in subsequent editions, except they determine. Be advised that, with the next FIRM panel by making the FIRM Map Service Center website at [www.fema.gov](http://www.fema.gov) or by calling the Map Service Center at 1-800-358-8888.

Communities already listed in adjacent FIRM panels must obtain a current copy of the adjacent panel as well as the current FIRM Index. These may be ordered directly from the Map Service Center at the number listed above.

**NOTE TO USER**

From January to this FIRM Index, activities are listed in communities. These are listed in the FIRM panels being revised. This FIRM Index includes updates for FIRM panels issued December 11, 2008 or earlier. Please refer to the "2007 Revised FIRM PANEL DATE" column in the listing of Communities when in reference to the most recent FIRM Index date for each community.



MAP INDEX  
 MAP DATE: 09/11/2009  
 MAP SCALE: 1:50,000  
 MAP SOURCE: FEMA  
 MAP STATUS: Final  
 MAP TYPE: Flood Insurance Rate Map  
 MAP USER: FEMA  
 MAP VERSION: 1.0

See Sheet 2 of 2 for LISTING OF COMMUNITIES TABLE AND MAP REPOSITORY LISTING

**MAP INDEX**

**FIRM**  
**FLOOD INSURANCE RATE MAP**

**NASSAU COUNTY,  
 NEW YORK  
 (ALL JURISDICTIONS)**

(SEE LISTING OF COMMUNITIES TABLE)

**MAP INDEX**  
**SHEET 1 OF 2**

PANELS PRINTED: 10, 26, 37, 38, 39,  
 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54,  
 56, 57, 58, 59, 61, 62, 63, 64, 65, 66, 67, 68,  
 69, 70, 71, 72, 73, 74, 75, 76, 77, 78,  
 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90,  
 91, 92, 93, 94, 95, 96, 97, 98, 99, 100, 101, 102, 103,  
 104, 105, 106, 107, 108, 109, 110, 111, 112, 113, 114, 115, 116, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, 127, 128, 129, 130, 131, 132, 133, 134, 135, 136, 137, 138, 139, 140, 141, 142, 143, 144, 145, 146, 147, 148, 149, 150, 151, 152, 153, 154, 155, 156, 157, 158, 159, 160, 161, 162, 163, 164, 165, 166, 167, 168, 169, 170, 171, 172, 173, 174, 175, 176, 177, 178, 179, 180, 181, 182, 183, 184, 185, 186, 187, 188, 189, 190, 191, 192, 193, 194, 195, 196, 197, 198, 199, 200, 201, 202, 203, 204, 205, 206, 207, 208, 209, 210, 211, 212, 213, 214, 215, 216, 217, 218, 219, 220, 221, 222, 223, 224, 225, 226, 227, 228, 229, 230, 231, 232, 233, 234, 235, 236, 237, 238, 239, 240, 241, 242, 243, 244, 245, 246, 247, 248, 249, 250, 251, 252, 253, 254, 255, 256, 257, 258, 259, 260, 261, 262, 263, 264, 265, 266, 267, 268, 269, 270, 271, 272, 273, 274, 275, 276, 277, 278, 279, 280, 281, 282, 283, 284, 285, 286, 287, 288, 289, 290, 291, 292, 293, 294, 295, 296, 297, 298, 299, 300, 301, 302, 303, 304, 305, 306, 307, 308, 309, 310, 311, 312, 313, 314, 315, 316, 317, 318, 319, 320, 321, 322, 323, 324, 325, 326, 327, 328, 329, 330, 331, 332, 333, 334, 335, 336, 337, 338, 339, 340, 341, 342, 343, 344, 345, 346, 347, 348, 349, 350, 351, 352, 353, 354, 355, 356, 357, 358, 359, 360, 361, 362, 363, 364, 365, 366, 367, 368, 369, 370, 371, 372, 373, 374, 375, 376, 377, 378, 379, 380, 381, 382, 383, 384, 385, 386, 387, 388, 389, 390, 391, 392, 393, 394, 395, 396, 397, 398, 399, 400, 401, 402, 403, 404, 405, 406, 407, 408, 409, 410, 411, 412, 413, 414, 415, 416, 417, 418, 419, 420, 421, 422, 423, 424, 425, 426, 427, 428, 429, 430, 431, 432, 433, 434, 435, 436, 437, 438, 439, 440, 441, 442, 443, 444, 445, 446, 447, 448, 449, 450, 451, 452, 453, 454, 455, 456, 457, 458, 459, 460, 461, 462, 463, 464, 465, 466, 467, 468, 469, 470, 471, 472, 473, 474, 475, 476, 477, 478, 479, 480, 481, 482, 483, 484, 485, 486, 487, 488, 489, 490, 491, 492, 493, 494, 495, 496, 497, 498, 499, 500, 501, 502, 503, 504, 505, 506, 507, 508, 509, 510, 511, 512, 513, 514, 515, 516, 517, 518, 519, 520, 521, 522, 523, 524, 525, 526, 527, 528, 529, 530, 531, 532, 533, 534, 535, 536, 537, 538, 539, 540, 541, 542, 543, 544, 545, 546, 547, 548, 549, 550, 551, 552, 553, 554, 555, 556, 557, 558, 559, 560, 561, 562, 563, 564, 565, 566, 567, 568, 569, 570, 571, 572, 573, 574, 575, 576, 577, 578, 579, 580, 581, 582, 583, 584, 585, 586, 587, 588, 589, 590, 591, 592, 593, 594, 595, 596, 597, 598, 599, 600, 601, 602, 603, 604, 605, 606, 607, 608, 609, 610, 611, 612, 613, 614, 615, 616, 617, 618, 619, 620, 621, 622, 623, 624, 625, 626, 627, 628, 629, 630, 631, 632, 633, 634, 635, 636, 637, 638, 639, 640, 641, 642, 643, 644, 645, 646, 647, 648, 649, 650, 651, 652, 653, 654, 655, 656, 657, 658, 659, 660, 661, 662, 663, 664, 665, 666, 667, 668, 669, 670, 671, 672, 673, 674, 675, 676, 677, 678, 679, 680, 681, 682, 683, 684, 685, 686, 687, 688, 689, 690, 691, 692, 693, 694, 695, 696, 697, 698, 699, 700, 701, 702, 703, 704, 705, 706, 707, 708, 709, 710, 711, 712, 713, 714, 715, 716, 717, 718, 719, 720, 721, 722, 723, 724, 725, 726, 727, 728, 729, 730, 731, 732, 733, 734, 735, 736, 737, 738, 739, 740, 741, 742, 743, 744, 745, 746, 747, 748, 749, 750, 751, 752, 753, 754, 755, 756, 757, 758, 759, 760, 761, 762, 763, 764, 765, 766, 767, 768, 769, 770, 771, 772, 773, 774, 775, 776, 777, 778, 779, 780, 781, 782, 783, 784, 785, 786, 787, 788, 789, 790, 791, 792, 793, 794, 795, 796, 797, 798, 799, 800, 801, 802, 803, 804, 805, 806, 807, 808, 809, 810, 811, 812, 813, 814, 815, 816, 817, 818, 819, 820, 821, 822, 823, 824, 825, 826, 827, 828, 829, 830, 831, 832, 833, 834, 835, 836, 837, 838, 839, 840, 841, 842, 843, 844, 845, 846, 847, 848, 849, 850, 851, 852, 853, 854, 855, 856, 857, 858, 859, 860, 861, 862, 863, 864, 865, 866, 867, 868, 869, 870, 871, 872, 873, 874, 875, 876, 877, 878, 879, 880, 881, 882, 883, 884, 885, 886, 887, 888, 889, 890, 891, 892, 893, 894, 895, 896, 897, 898, 899, 900, 901, 902, 903, 904, 905, 906, 907, 908, 909, 910, 911, 912, 913, 914, 915, 916, 917, 918, 919, 920, 921, 922, 923, 924, 925, 926, 927, 928, 929, 930, 931, 932, 933, 934, 935, 936, 937, 938, 939, 940, 941, 942, 943, 944, 945, 946, 947, 948, 949, 950, 951, 952, 953, 954, 955, 956, 957, 958, 959, 960, 961, 962, 963, 964, 965, 966, 967, 968, 969, 970, 971, 972, 973, 974, 975, 976, 977, 978, 979, 980, 981, 982, 983, 984, 985, 986, 987, 988, 989, 990, 991, 992, 993, 994, 995, 996, 997, 998, 999, 1000.

**MAP NUMBER**  
**3059CIND 1A**

**MAP REVISED**  
**SEPTEMBER 11, 2009**

Federal Emergency Management Agency

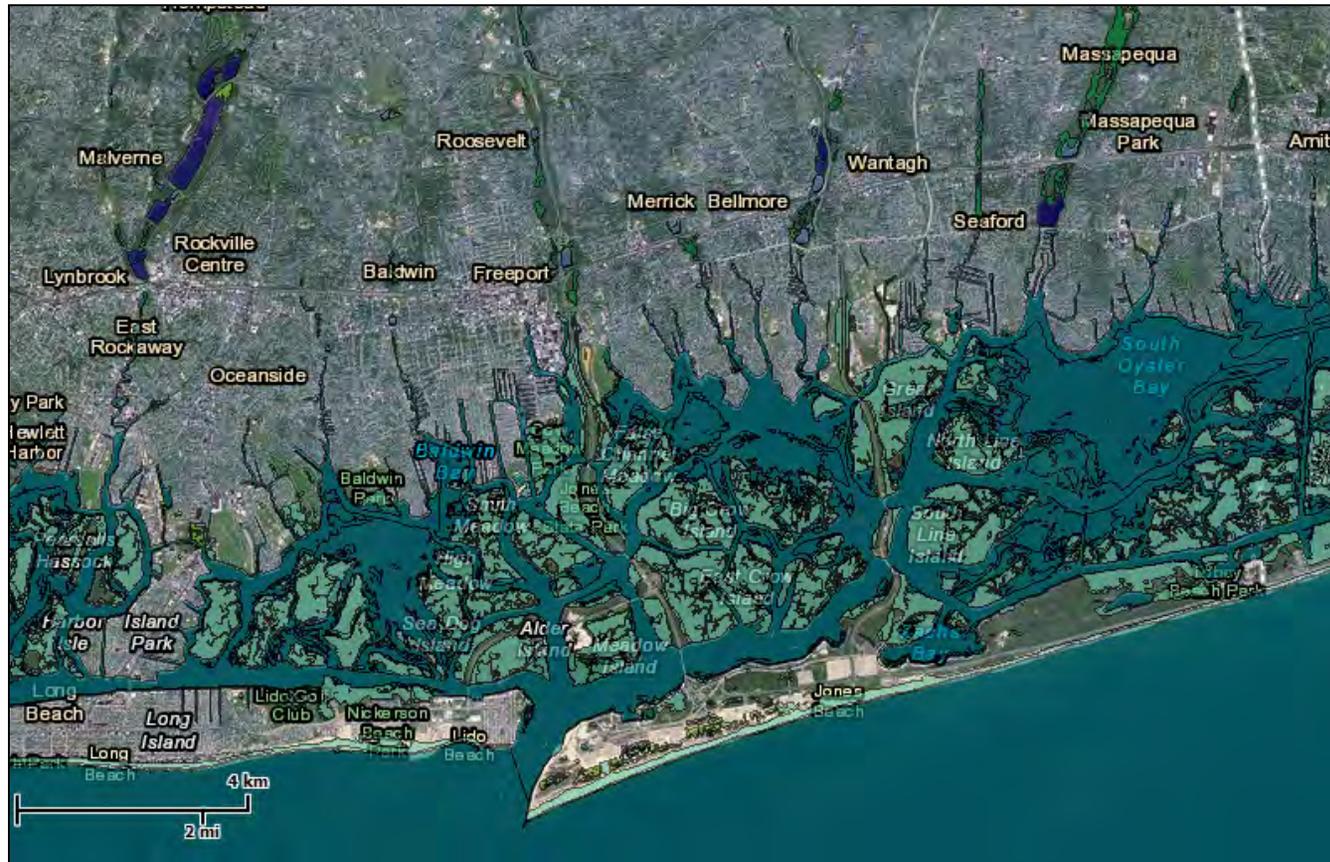
**Appendix D:**  
**Nassau County Wetlands Maps**



U.S. Fish and Wildlife Service  
National Wetlands Inventory

Nassau County, NY  
Wetlands Map

Nov 18, 2013



Wetlands

- Freshwater Emergent
- Freshwater Forested/Shrub
- Estuarine and Marine Deepwater
- Estuarine and Marine
- Freshwater Pond
- Lake
- Riverine
- Other

This map is for general reference only. The US Fish and Wildlife Service is not responsible for the accuracy or currentness of the base data shown on this map. All wetlands related data should be used in accordance with the layer metadata found on the Wetlands Mapper web site.

User Remarks:

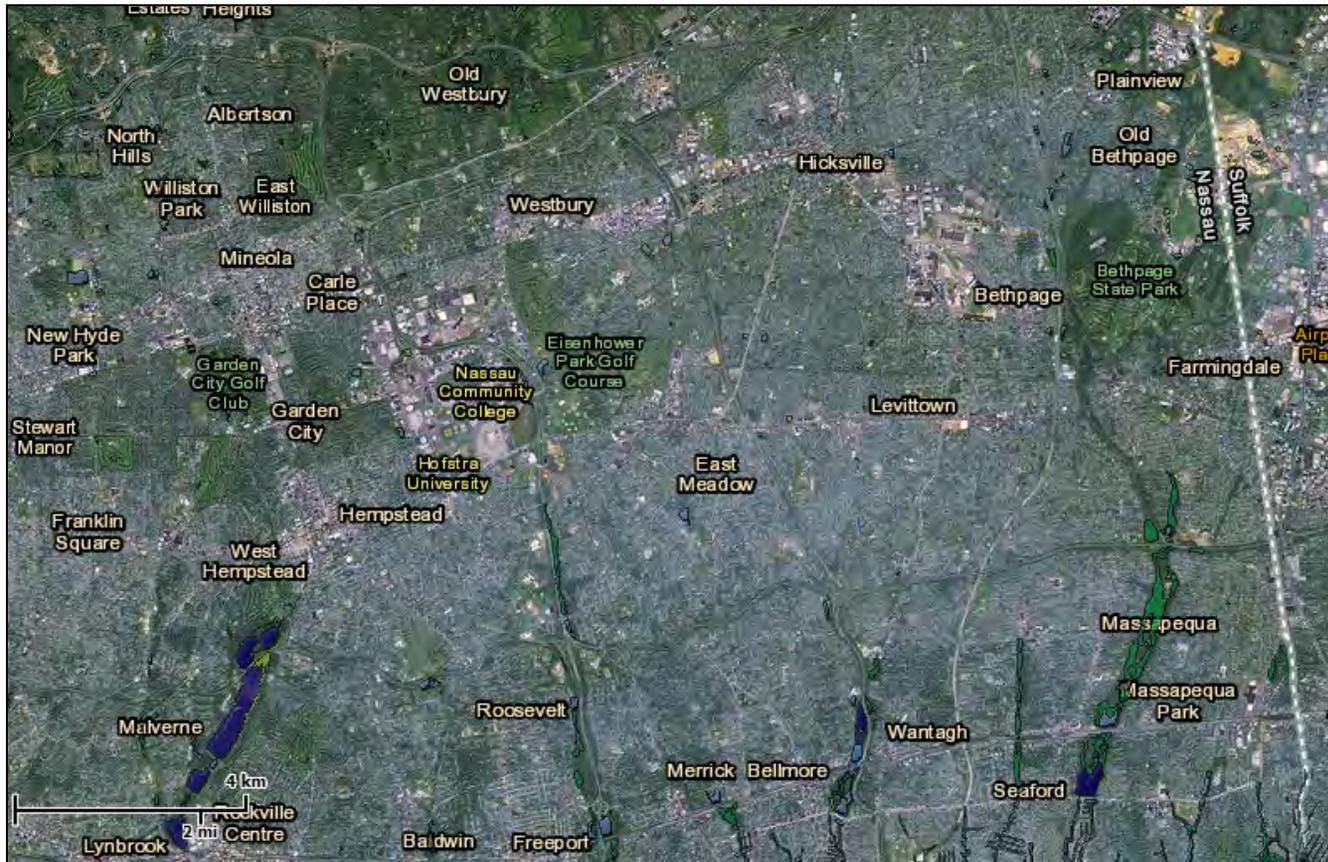
11/18/2013



# U.S. Fish and Wildlife Service National Wetlands Inventory

## Nassau County, NY Wetlands Map

Nov 18, 2013



### Wetlands

- Freshwater Emergent
- Freshwater Forested/Shrub
- Estuarine and Marine Deepwater
- Estuarine and Marine
- Freshwater Pond
- Lake
- Riverine
- Other

This map is for general reference only. The US Fish and Wildlife Service is not responsible for the accuracy or currentness of the base data shown on this map. All wetlands related data should be used in accordance with the layer metadata found on the Wetlands Mapper web site.

### User Remarks:

11/18/2013



# U.S. Fish and Wildlife Service National Wetlands Inventory

## Nassau County, NY Wetlands Map

Nov 18, 2013



### Wetlands

- Freshwater Emergent
- Freshwater Forested/Shrub
- Estuarine and Marine Deepwater
- Estuarine and Marine
- Freshwater Pond
- Lake
- Riverine
- Other

This map is for general reference only. The US Fish and Wildlife Service is not responsible for the accuracy or currentness of the base data shown on this map. All wetlands related data should be used in accordance with the layer metadata found on the Wetlands Mapper web site.

### User Remarks:

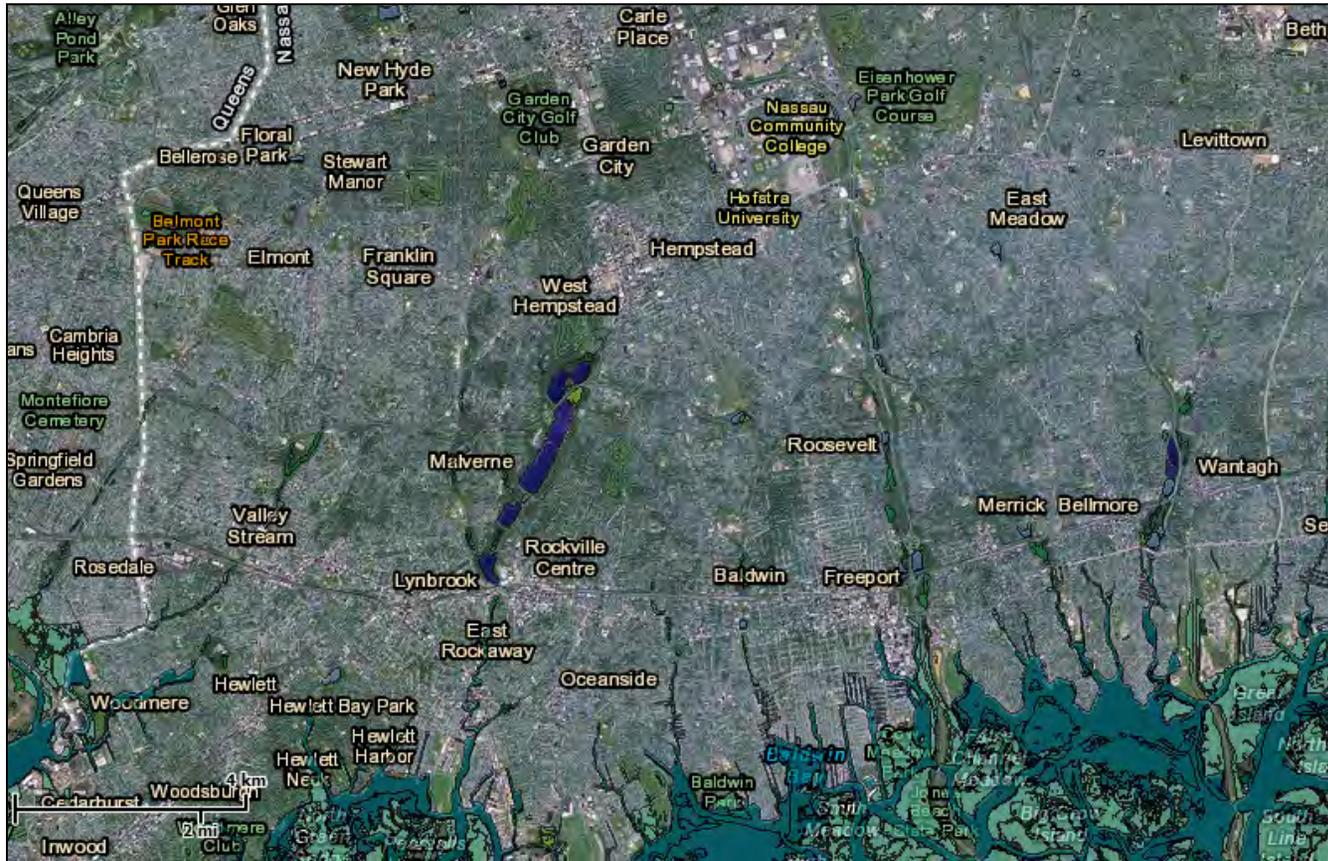
11/18/2013



# U.S. Fish and Wildlife Service National Wetlands Inventory

## Nassau County, NY Wetlands Map

Nov 18, 2013



### Wetlands

- Freshwater Emergent
- Freshwater Forested/Shrub
- Estuarine and Marine Deepwater
- Estuarine and Marine
- Freshwater Pond
- Lake
- Riverine
- Other

This map is for general reference only. The US Fish and Wildlife Service is not responsible for the accuracy or currentness of the base data shown on this map. All wetlands related data should be used in accordance with the layer metadata found on the Wetlands Mapper web site.

### User Remarks:

11/18/2013

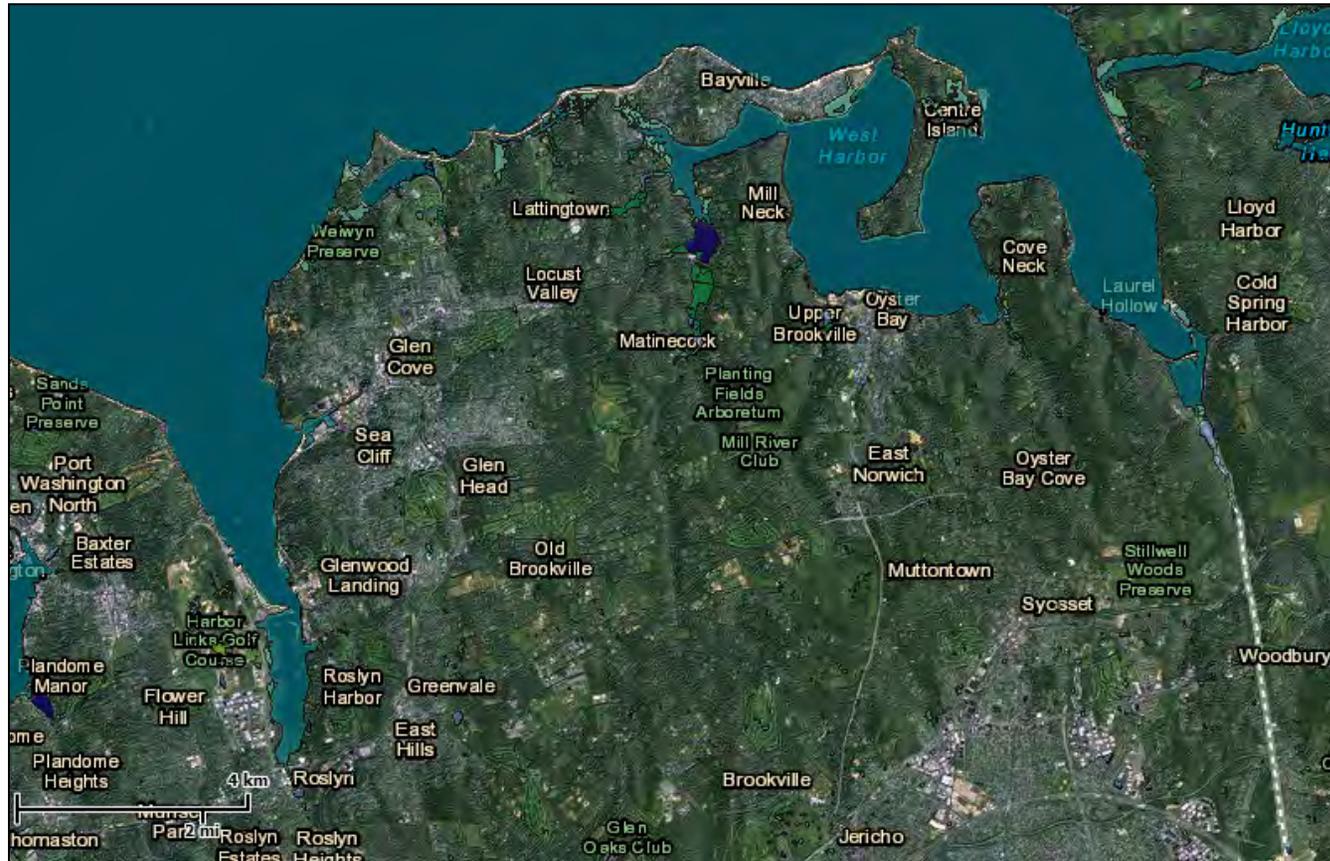




U.S. Fish and Wildlife Service  
National Wetlands Inventory

Nassau County, NY  
Wetlands Map

Nov 18, 2013



Wetlands

- Freshwater Emergent
- Freshwater Forested/Shrub
- Estuarine and Marine Deepwater
- Estuarine and Marine
- Freshwater Pond
- Lake
- Riverine
- Other

This map is for general reference only. The US Fish and Wildlife Service is not responsible for the accuracy or currentness of the base data shown on this map. All wetlands related data should be used in accordance with the layer metadata found on the Wetlands Mapper web site.

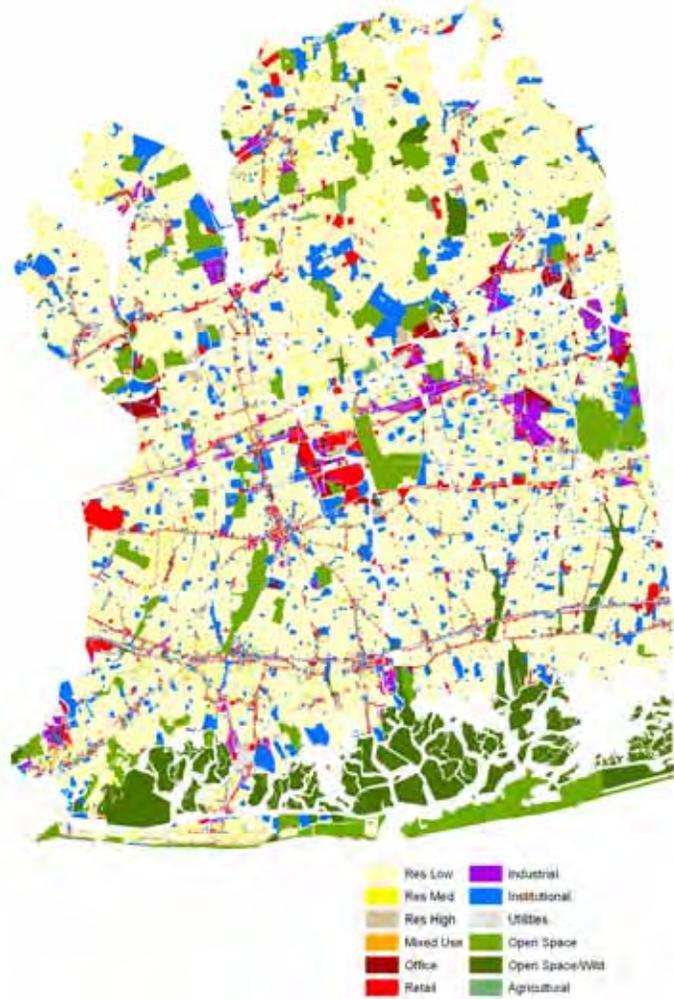
User Remarks:

11/18/2013

## **Appendix E:**

### **Nassau County Land Use and Zoning Maps**

**Existing Land Use Map**



*Source: Nassau County GIS, 2009*

**Nassau County: Existing Land Uses**

<b>Land Use</b>	<b>Percent of Total Land Area</b>
Residential	60%
Retail	4%
Office	2%
Industrial	2%
Institutional	11%
Open Space/Recreation	17%
Vacant	4%
<i>Total</i>	<i>100%</i>

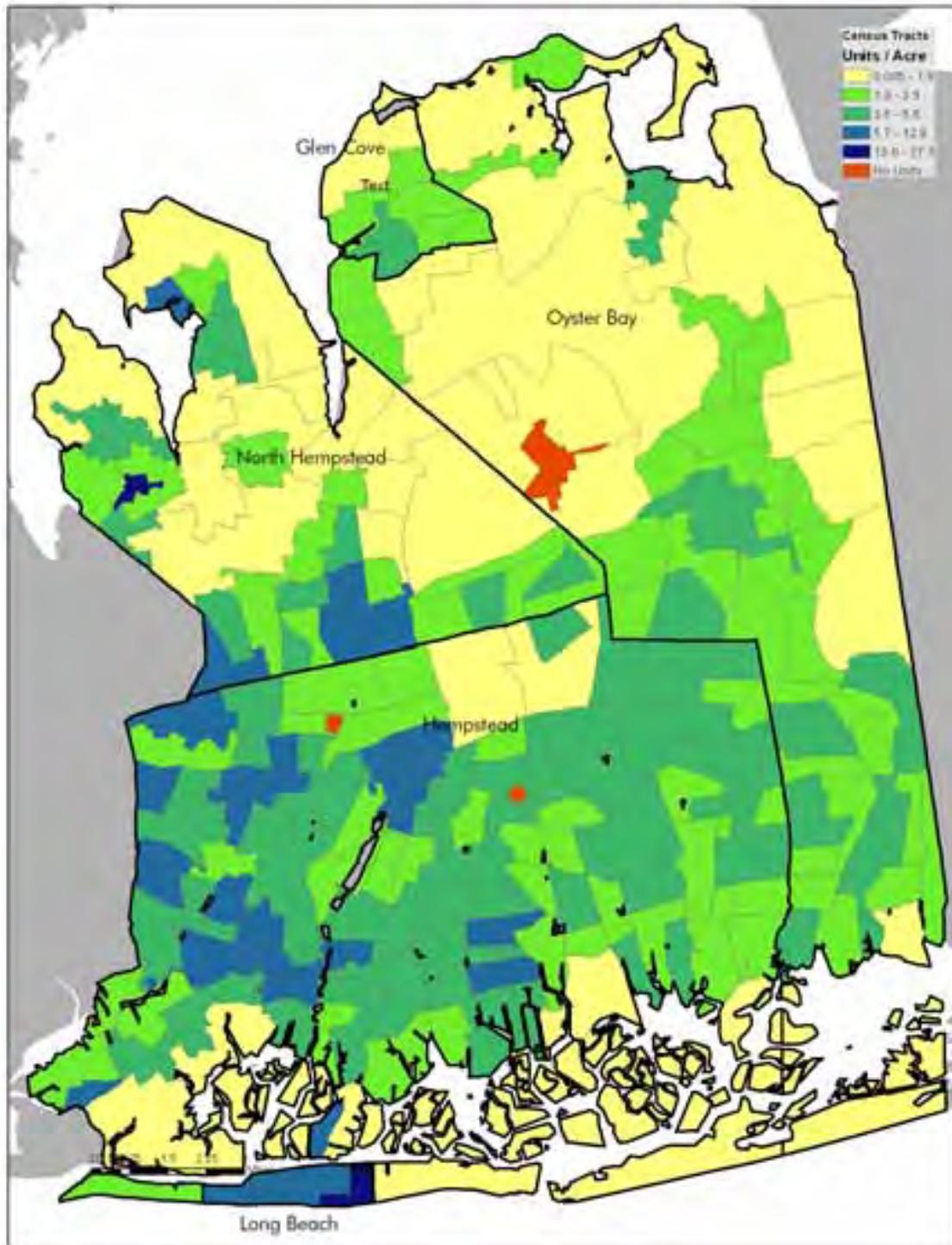
*Source: Urbanomics, 2009*

### Designated Open Space in Nassau County



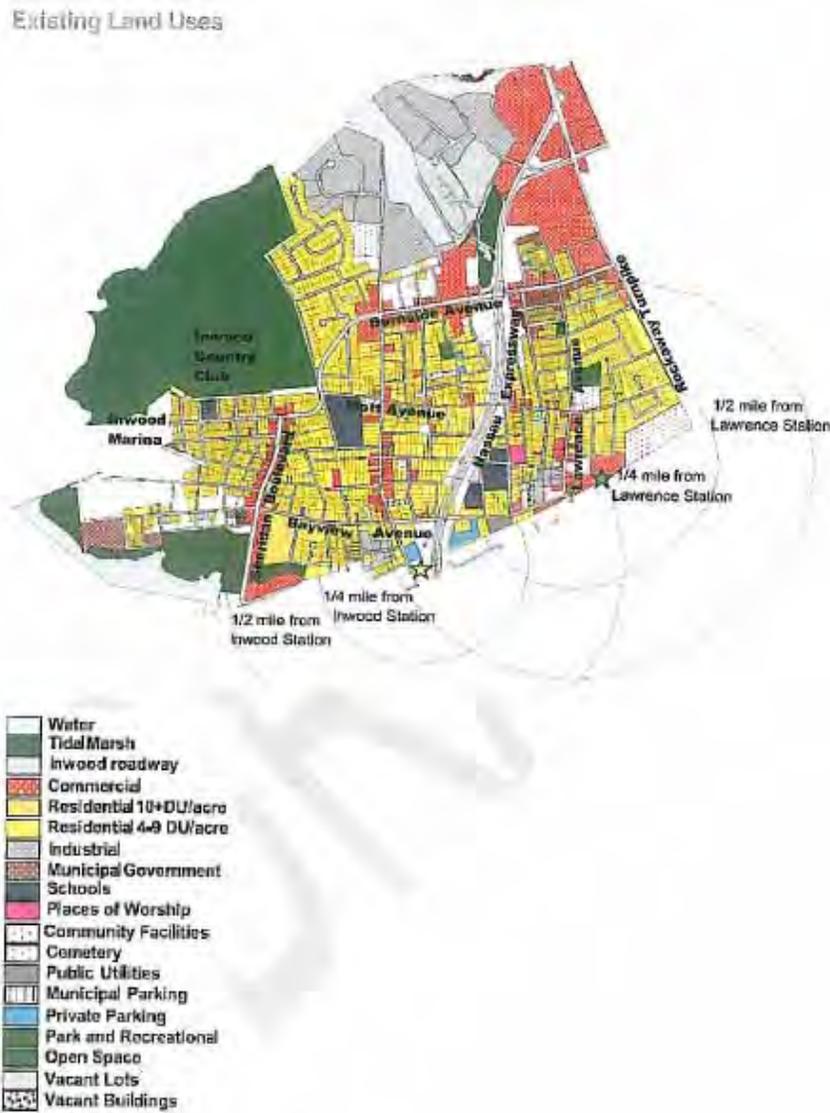
Source: Nassau County GIS

**Figure 1-14**  
**Nassau County Housing Unit Density by Census Tract, 2000**



Source: US Census 2000 SF1

**Inwood Study Area – Existing Land Uses**



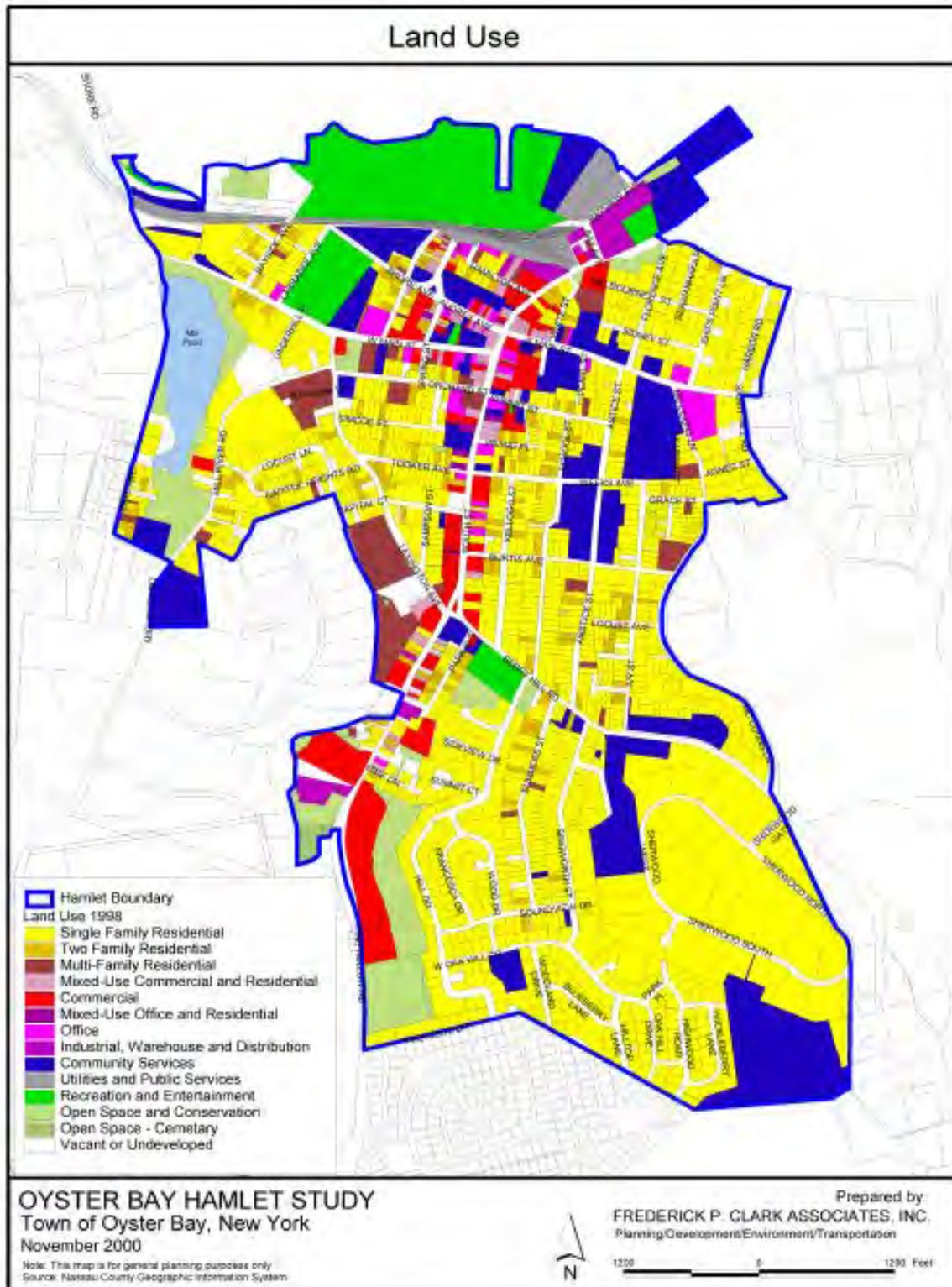


Figure 4A

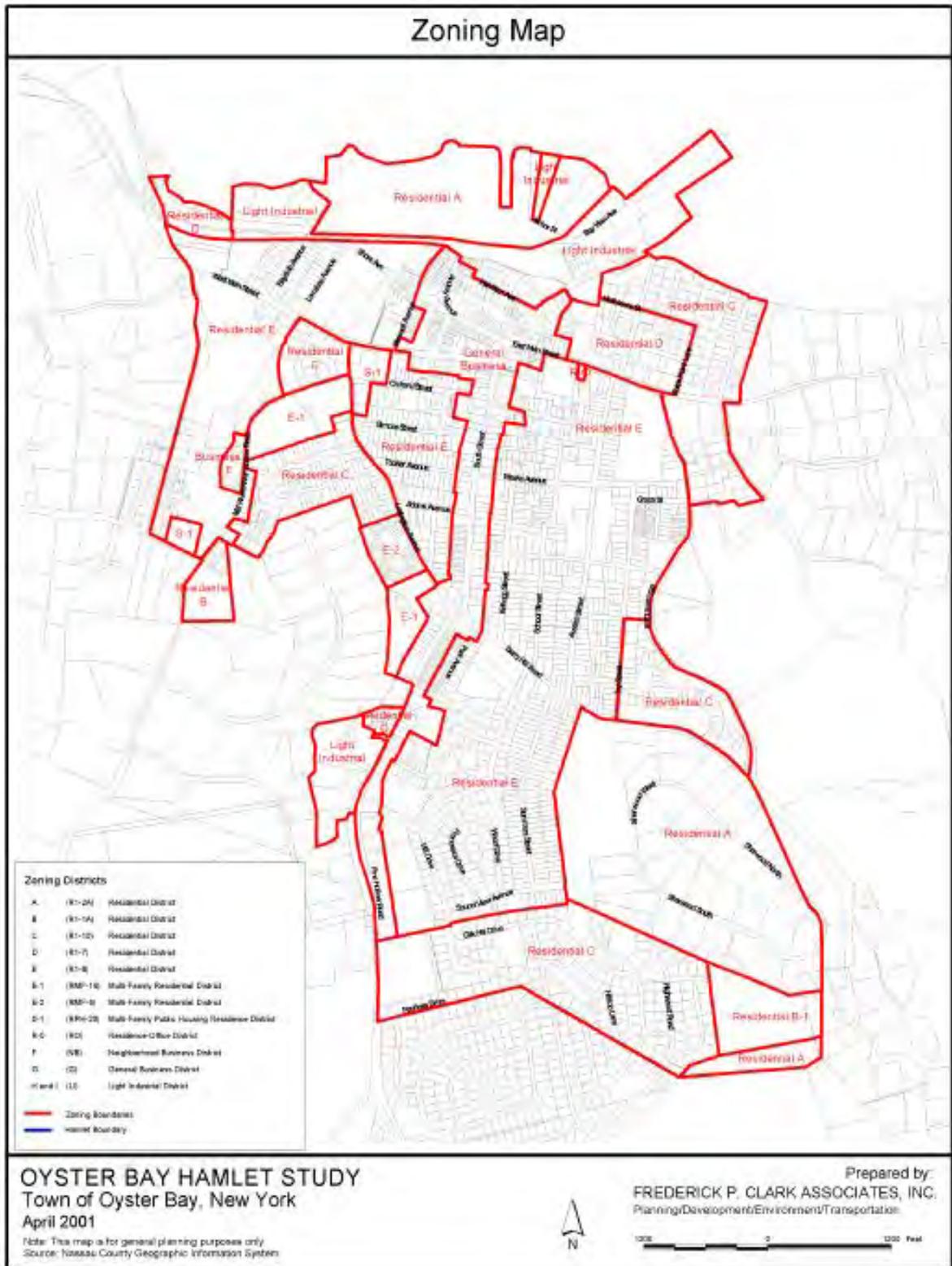


Figure 4B

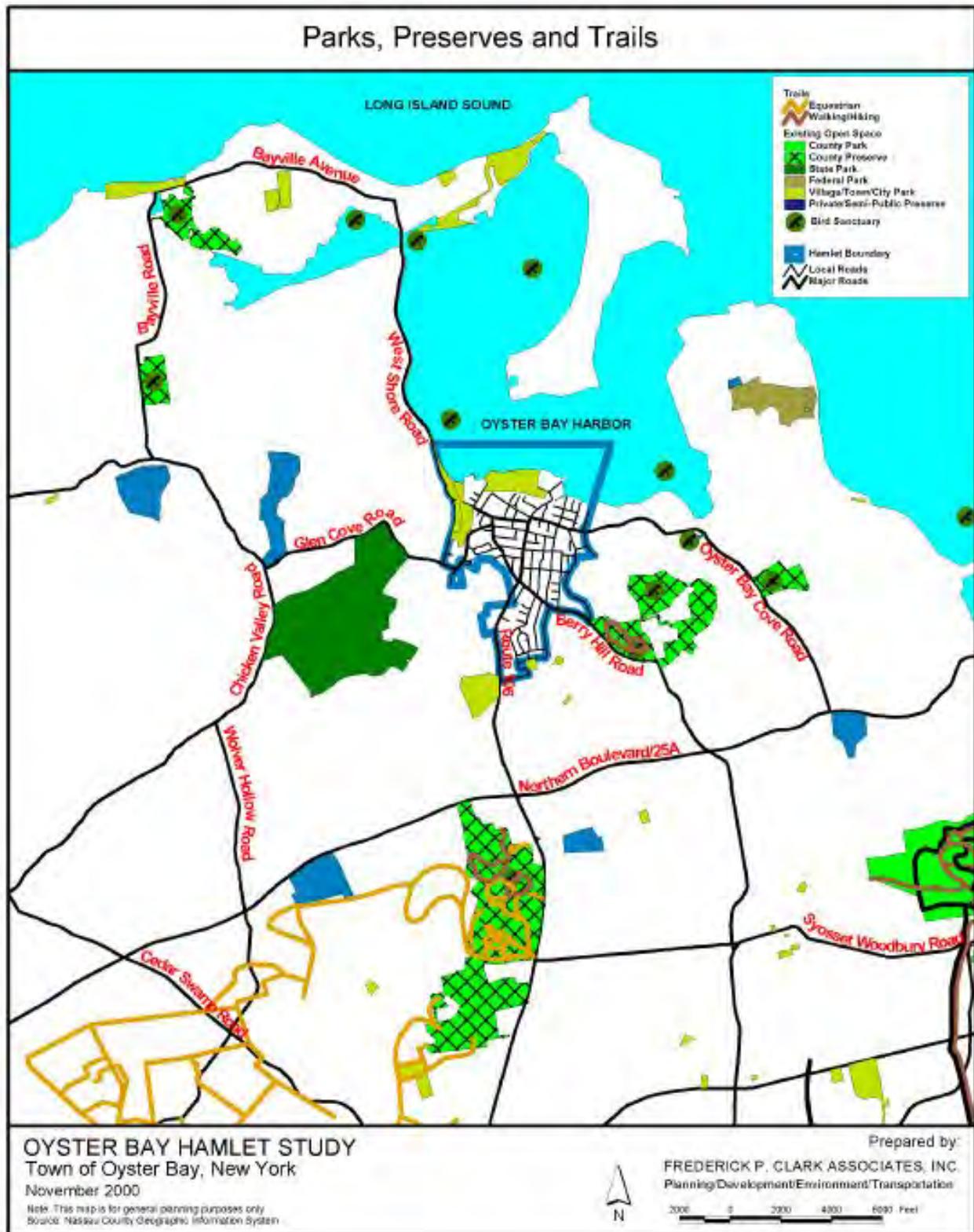
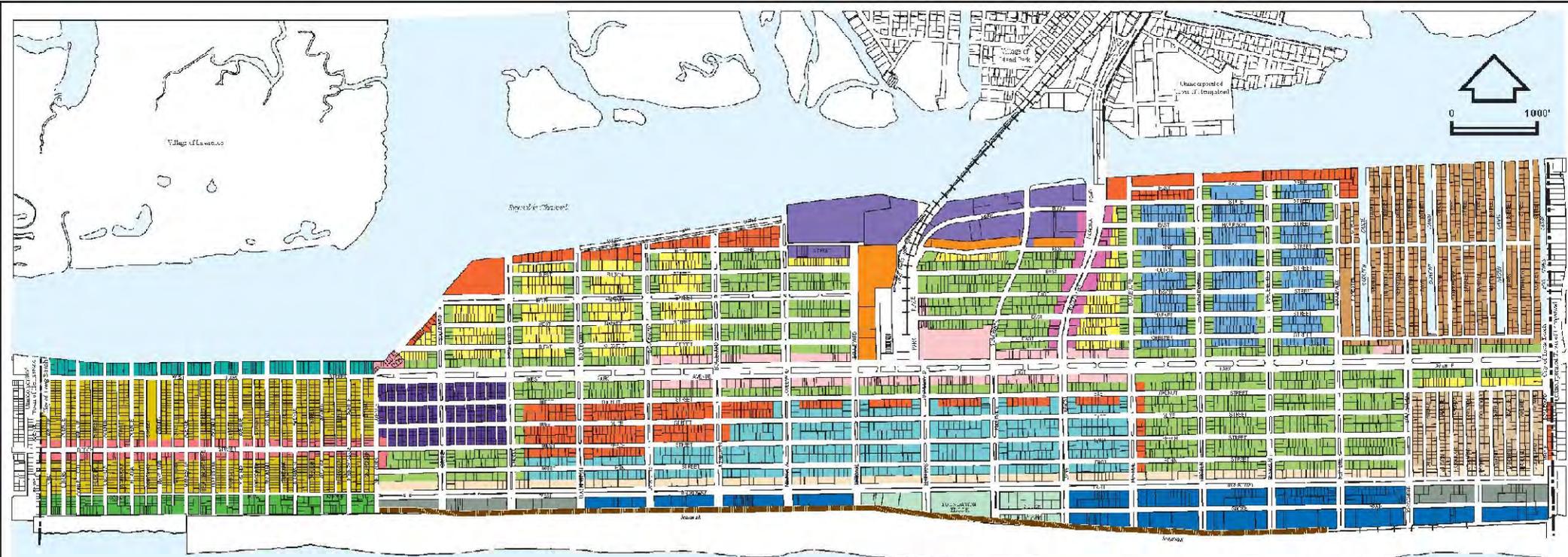


Figure 6

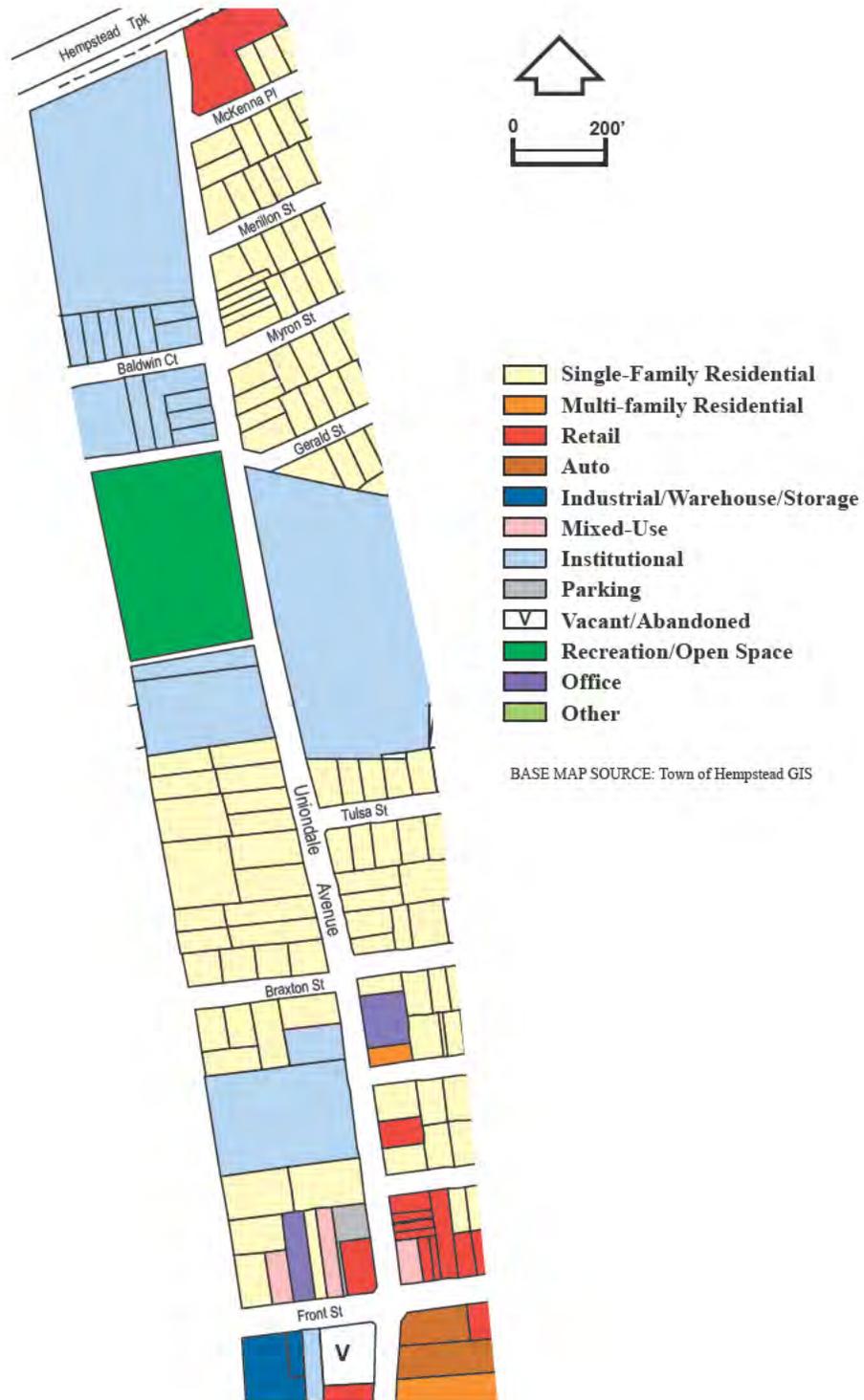


**Zoning Districts**

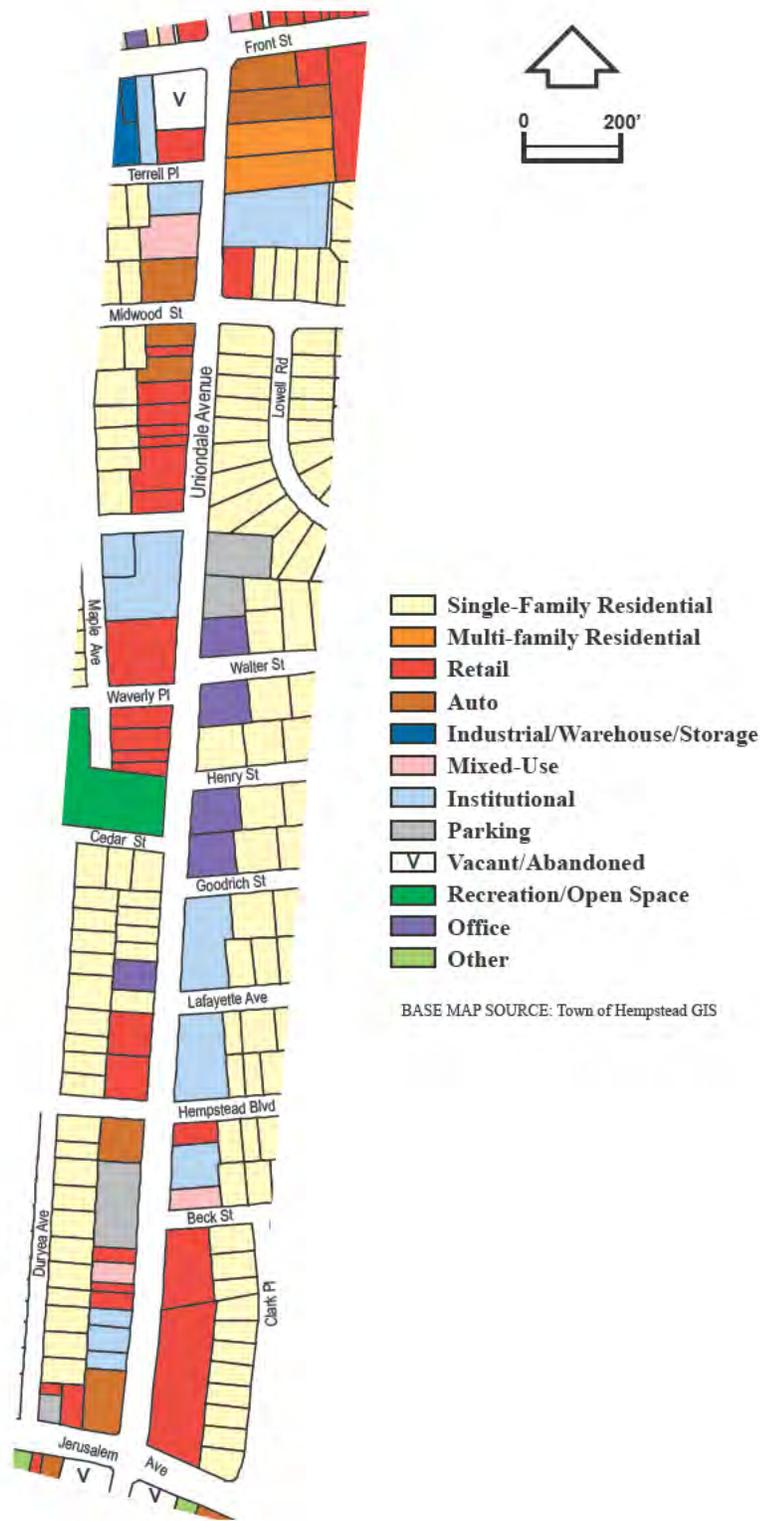
	A	One-Family Residential
	B	One-Family Residential
	C	Two-Family Residential
	D	Two-Family Residential
	DD	One-Family Residential
	E	One Family Residential
	EE	One-Family Residential
	FF	One-Family Residential
	F	Two-Family Residential
	G	One-Family Residential
	H	Multi-Family Residential (12 Units Max.)
	J	Multi-Family Residential (12 Units Max.)
	K	Multi-Family Residential
	L	Multi-Family Residential
	M	One-Family Residential
	RES/BUS A	Multi-Family/Business
	BUS A	Business
	BUS B	Business
	BUS C	Business
	I	Industrial

Exhibit 12  
**EXISTING ZONING**  
 LOCAL WATERFRONT REVITALIZATION PROGRAM  
 City of Long Beach, New York  
 Saccardi & Schiff, Inc. - Planning and Development Consultants

SOURCE: City of Long Beach Official Zoning Map, 8/21/87  
 BASE MAP SOURCE: Nassau County GIS



**Figure III-3**  
**General Existing Land Use - Uniondale Avenue Corridor North**



**Figure III-4**  
**General Existing Land Use - Uniondale Avenue Corridor Middle**

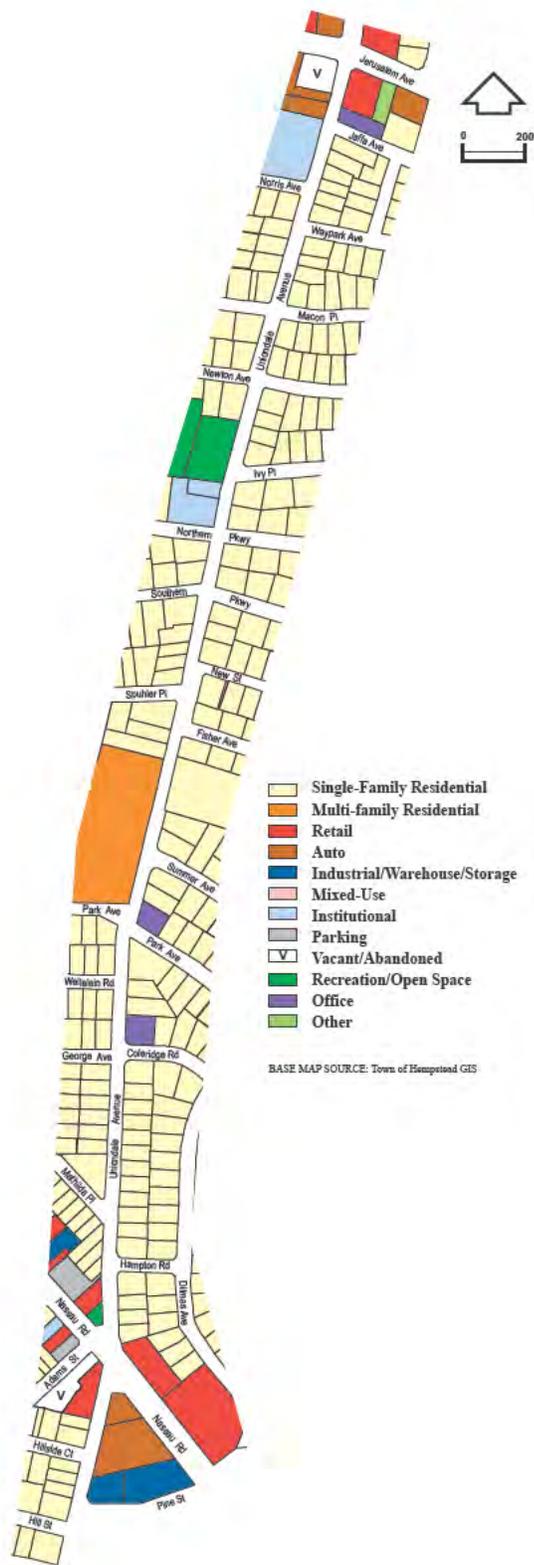


Figure III-5  
General Existing Land Use - Uniudale Avenue Corridor South



Figure III-6  
General Existing Land Use - Front Street Corridor

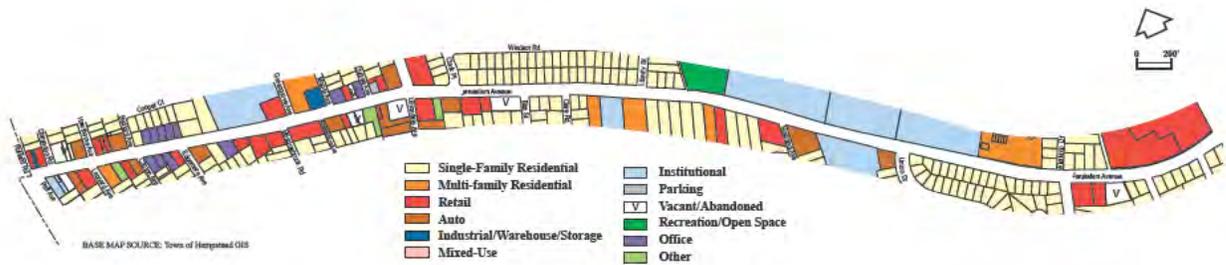


Figure III-7  
Generalized Existing Land Use - Jerusalem Avenue Corridor

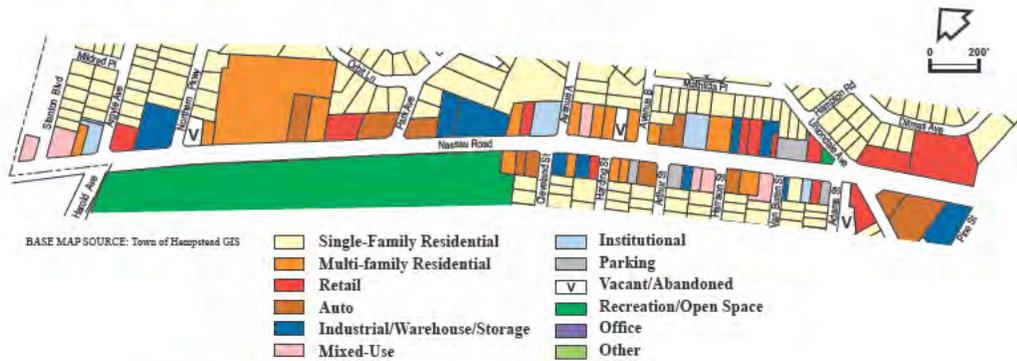
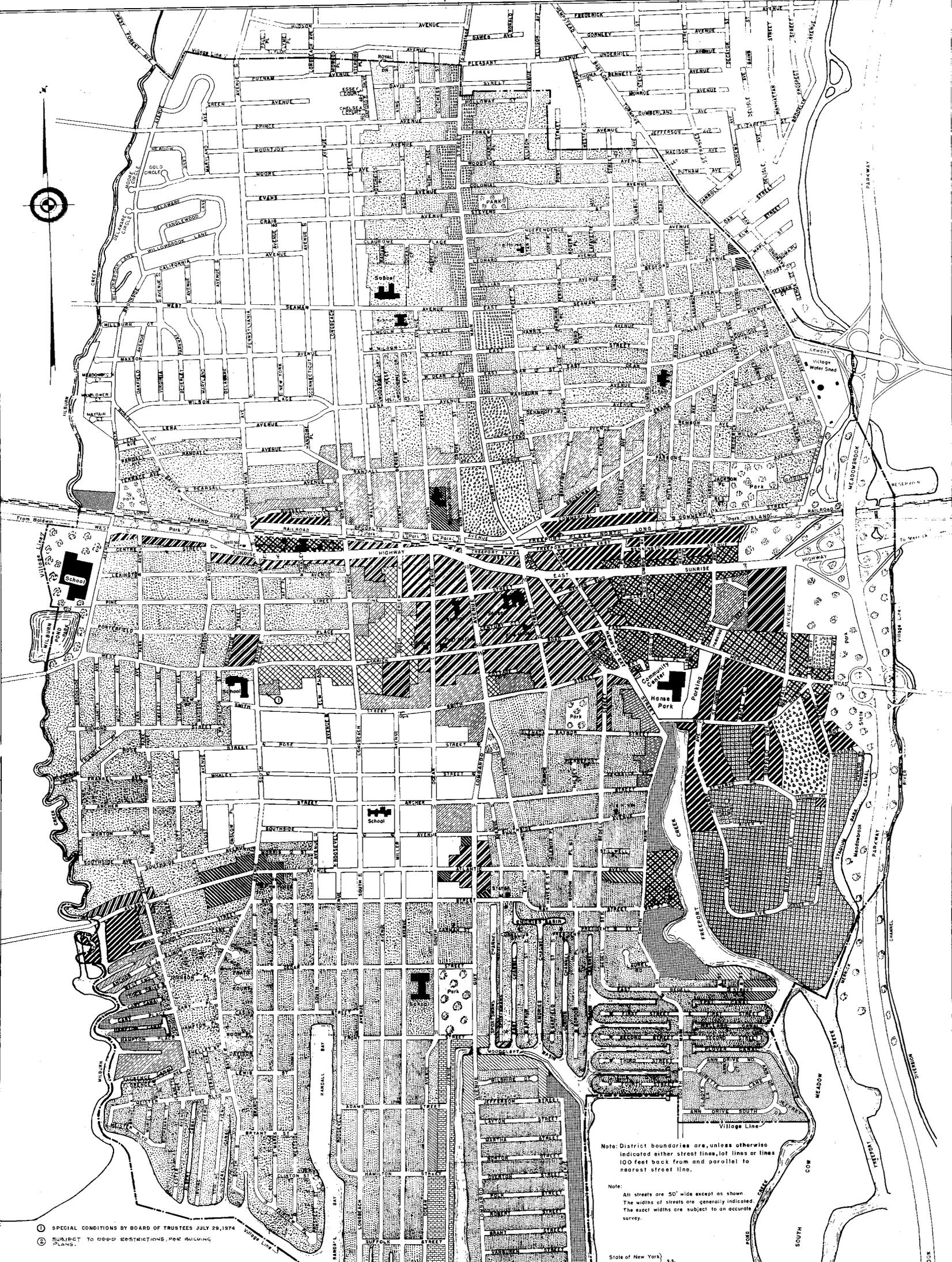


Figure III-8  
Generalized Existing Land Use - Nassau Road Corridor



- ① SPECIAL CONDITIONS BY BOARD OF TRUSTEES JULY 29, 1974
- ② SUBJECT TO DEED RESTRICTIONS, PER BUILDING PLANS.

# BUILDING ZONE MAP

## VILLAGE OF FREEPORT

TOWN OF HEMPSTEAD NASSAU COUNTY, N.Y.

ADOPTED FEBRUARY 2, 1987 BY THE BOARD OF TRUSTEES

DOROTHY STORM MAYOR

- C. JAMES CLARK
- VICTOR COHEN
- THOMAS C. DE VINCENZO, VILLAGE CLERK
- DAVID R. LOVEJOY P.E., SUPT. OF PUBLIC WORKS
- VINCENT J. DI COSTANZO
- RALPH SMITH

### DISTRICTS

- |                 |                   |  |
|-----------------|-------------------|--|
| RESIDENCE AA    | BUSINESS A        | MARINE APARTMENT/BOATL AND CONDOMINIUM |
| RESIDENCE A     | BUSINESS B        | MARINE RESIDENCE                       |
| BUSINESS AA     | MANUFACTURING     | MARINE COMMERCE                        |
| APARTMENT       | INDUSTRIAL        | SERVICE BUSINESS                       |
| MARINE BUSINESS | MARINE INDUSTRIAL | INDUSTRIAL B                           |
|                 |                   | HISTORICAL PRESERVATION DISTRICT       |

Note: District boundaries are, unless otherwise indicated either street lines, lot lines or lines 100 feet back from and parallel to nearest street line.

Note:  
All streets are 50' wide except as shown.  
The widths of streets are generally indicated.  
The exact widths are subject to an accurate survey.

State of New York  
County of Nassau § 5.

I, Thomas DeVincenzo, Village Clerk, of the Incorporated Village of Freeport, do hereby certify that this Building Zone Map, as amended by all zoning changes made from the original adoption of November 3, 1982 through the year 1989, and as prepared by the Village Engineer, be adopted this 2nd day of February, 1987, as the official Building Zone Map of the Incorporated Village of Freeport.

*Thomas DeVincenzo* Clerk

State of New York  
County of Nassau § 5.

I hereby certify that the annexed is the Building Zone Map, and of the whole thereof, of the Incorporated Village of Freeport, N.Y., duly and regularly adopted by the Board of Trustees of said Village on the Second day of February 1987 as part of Ordinance No. 210-4 commonly called the Zoning Ordinance of the Village of Freeport, N.Y.

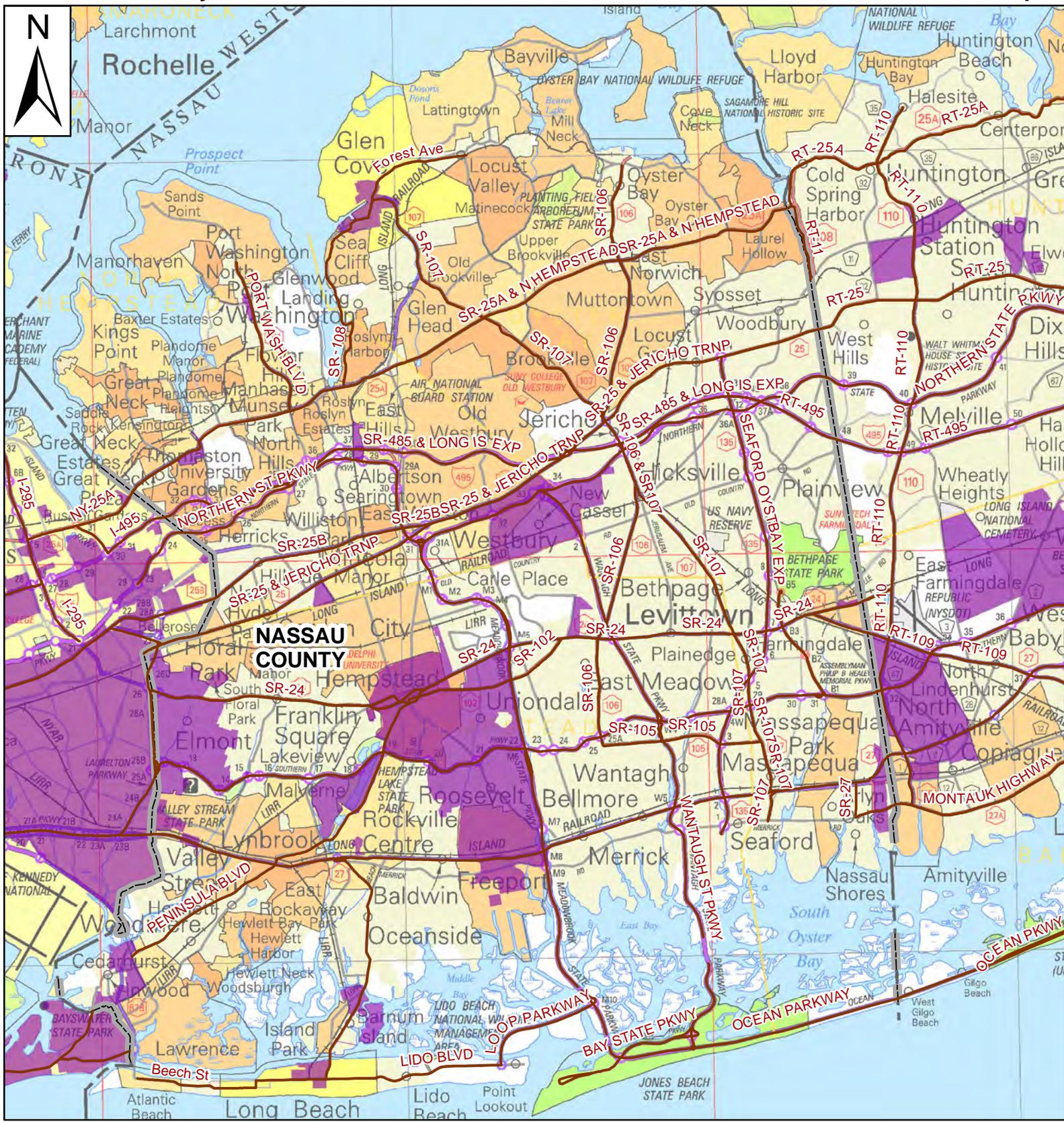
*Thomas DeVincenzo*  
Village Clerk of the Incorporated Village of Freeport, N.Y.

REVISED MAY 20, 1994  
REVISED JUNE 28, 1999  
REVISED MARCH 27, 1991  
REVISED NOV. 13, 1989  
REVISED JAN. 25, 1989  
REVISED JAN. 9, 1988

**Appendix F:**  
**Potential Environmental Justice Area Maps**

# Potential Environmental Justice Areas in Nassau County, New York

Click on any Potential EJ Area outlined in blue for a detailed map



This computer representation has been compiled from supplied data or information that has not been verified by EPA or NYSDEC. The data is offered here as a general representation only and is not to be used for commercial purposes without verification by an independent professional qualified to verify such data or information.

Neither EPA nor NYSDEC guarantee the accuracy, completeness, or timeliness of the information shown and shall not be liable for any loss or injury resulting from reliance.

Data Source for Potential Environmental Justice Areas: U.S. Census Bureau, 2000 U.S. Census

## Legend

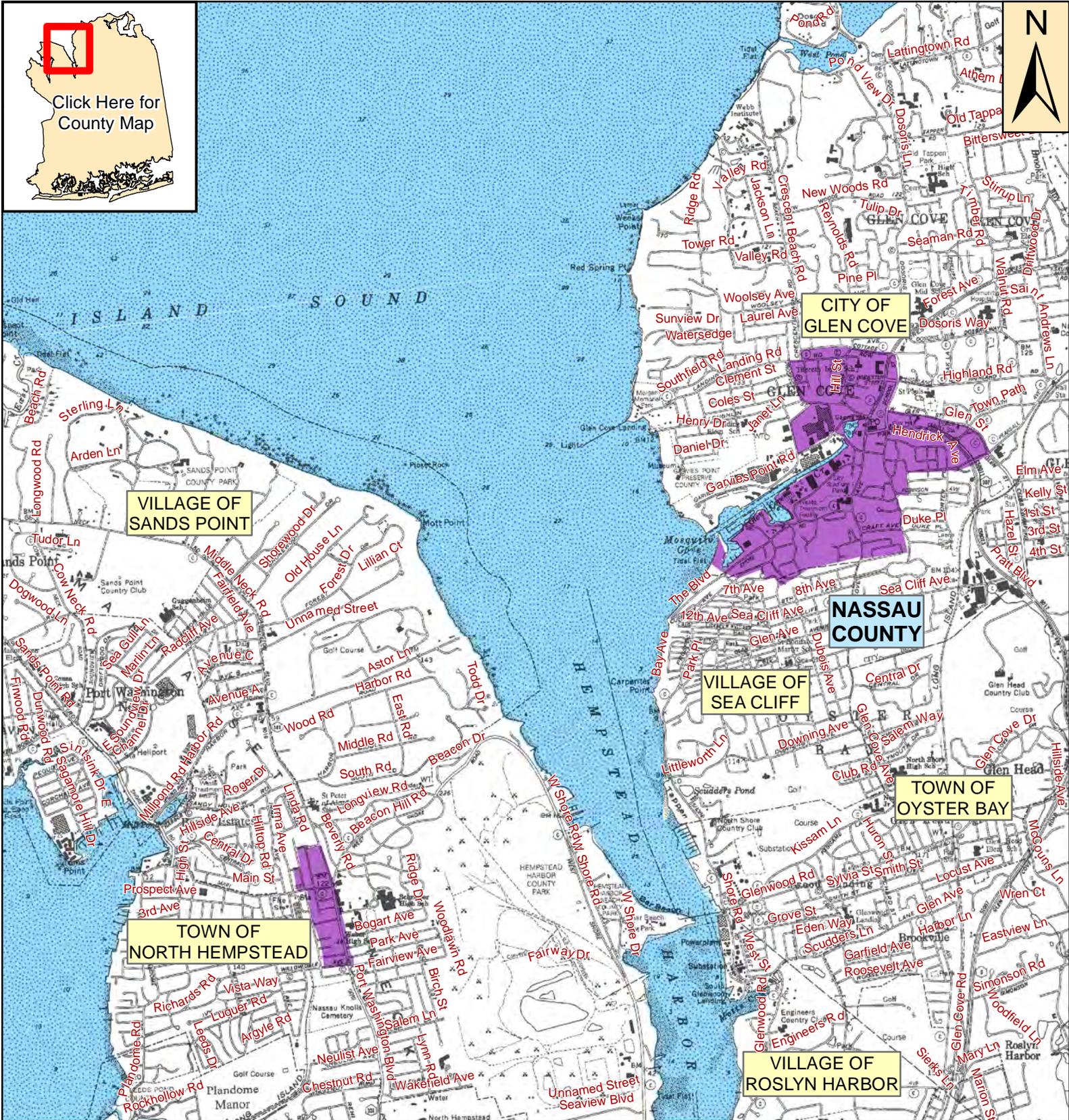
- Potential EJ Area
- County Boundary



For questions about this map contact:  
New York State Department of  
Environmental Conservation  
Office of Environmental Justice  
625 Broadway, 14th Floor  
Albany, New York 12233-1500  
(518) 402-8556  
ej@gw.dec.state.ny.us



# Potential Environmental Justice Areas in the City of Glen Cove and Town of North Hempstead, Nassau County, New York



This computer representation has been compiled from supplied data or information that has not been verified by EPA or NYSDEC. The data is offered here as a general representation only and is not to be used for commercial purposes without verification by an independent professional qualified to verify such data or information.

Neither EPA nor NYSDEC guarantee the accuracy, completeness, or timeliness of the information shown and shall not be liable for any loss or injury resulting from reliance.

Data Source for Potential Environmental Justice Areas: U.S. Census Bureau, 2000 U.S. Census

## Legend

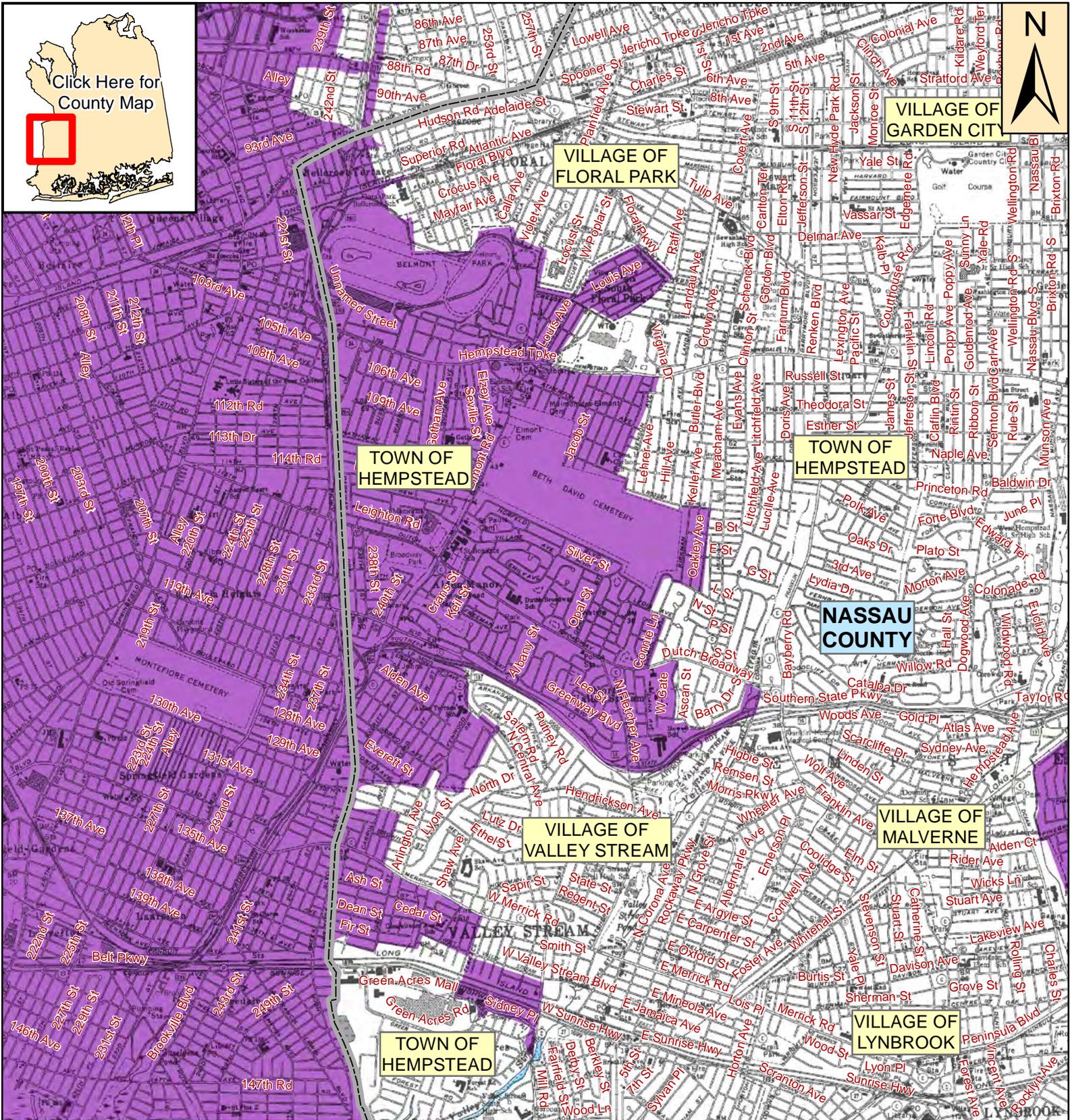
-  Potential EJ Area
-  County Boundary
-  Waterways

Miles  
0 0.2 0.4 0.6 0.8 1  
SCALE: 1:40,000

For questions about this map contact:  
New York State Department of  
Environmental Conservation  
Office of Environmental Justice  
625 Broadway, 14th Floor  
Albany, New York 12233-1500  
(518) 402-8556  
ej@gw.dec.state.ny.us



# Potential Environmental Justice Areas in the Town of Hempstead (west detail), Nassau County, New York

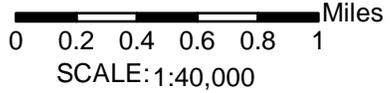


This computer representation has been compiled from supplied data or information that has not been verified by EPA or NYSDEC. The data is offered here as a general representation only and is not to be used for commercial purposes without verification by an independent professional qualified to verify such data or information.

Neither EPA nor NYSDEC guarantee the accuracy, completeness, or timeliness of the information shown and shall not be liable for any loss or injury resulting from reliance.

Data Source for Potential Environmental Justice Areas: U.S. Census Bureau, 2000 U.S. Census

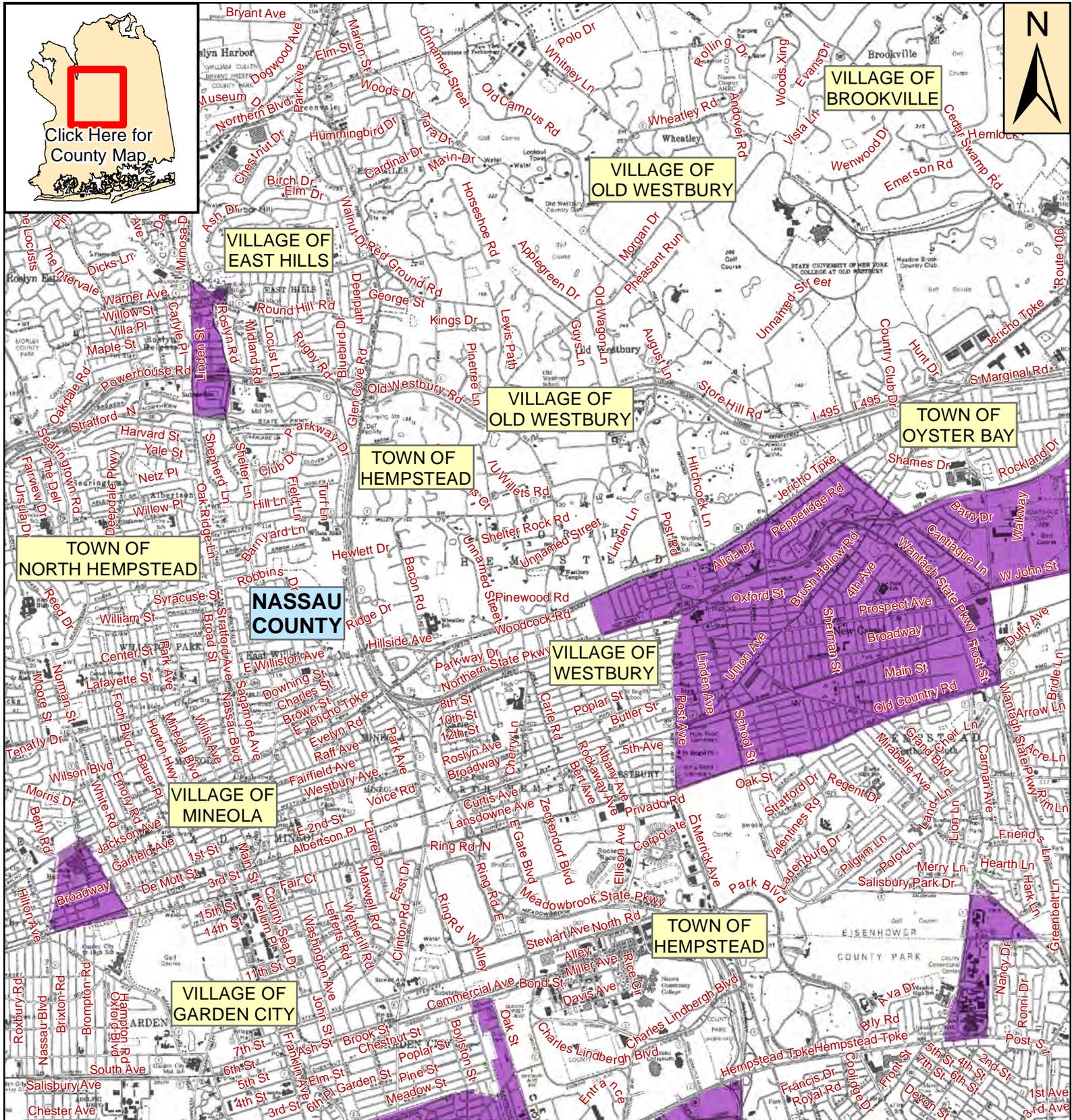
- Legend**
- Potential EJ Area
  - County Boundary
  - Waterways



For questions about this map contact:  
New York State Department of  
Environmental Conservation  
Office of Environmental Justice  
625 Broadway, 14th Floor  
Albany, New York 12233-1500  
(518) 402-8556  
ej@gw.dec.state.ny.us



# Potential Environmental Justice Areas in the Village of Westbury and Town of North Hempstead, Nassau County, New York



This computer representation has been compiled from supplied data or information that has not been verified by EPA or NYSDEC. The data is offered here as a general representation only and is not to be used for commercial purposes without verification by an independent professional qualified to verify such data or information.

Neither EPA nor NYSDEC guarantee the accuracy, completeness, or timeliness of the information shown and shall not be liable for any loss or injury resulting from reliance.

Data Source for Potential Environmental Justice Areas: U.S. Census Bureau, 2000 U.S. Census

## Legend

- Potential EJ Area
- County Boundary
- Waterways

Miles

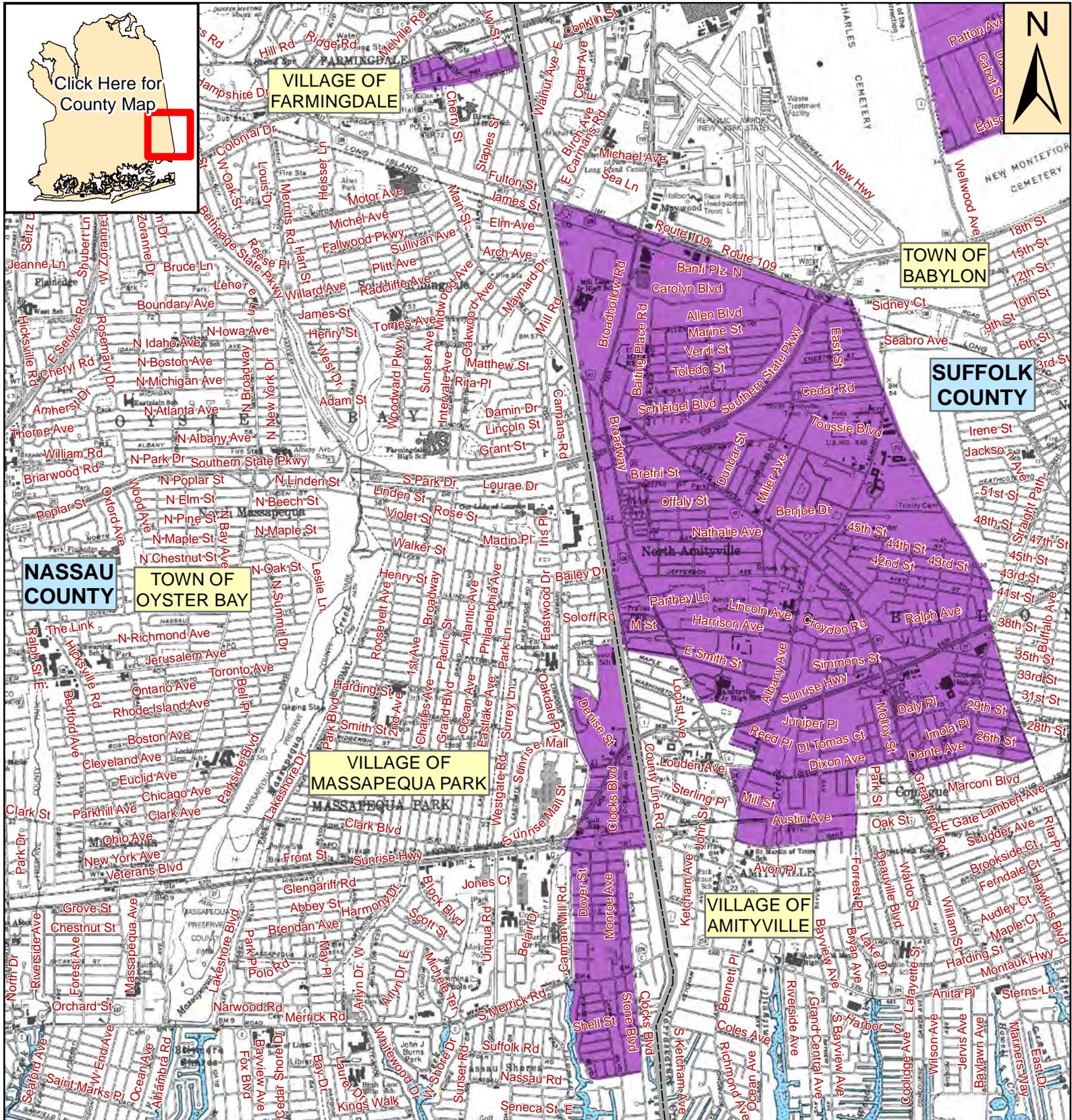
0 0.2 0.4 0.6 0.8 1

SCALE: 1:50,000

For questions about this map contact:  
 New York State Department of  
 Environmental Conservation  
 Office of Environmental Justice  
 625 Broadway, 14th Floor  
 Albany, New York 12233-1500  
 (518) 402-8556  
 ej@gw.dec.state.ny.us



# Potential Environmental Justice Areas in the Town of Oyster Bay (SE detail) and Village of Farmingdale, Nassau County, New York



This computer representation has been compiled from supplied data or information that has not been verified by EPA or NYSDEC. The data is offered here as a general representation only and is not to be used for commercial purposes without verification by an independent professional qualified to verify such data or information.

Neither EPA nor NYSDEC guarantee the accuracy, completeness, or timeliness of the information shown and shall not be liable for any loss or injury resulting from reliance.

Data Source for Potential Environmental Justice Areas: U.S. Census Bureau, 2000 U.S. Census

## Legend

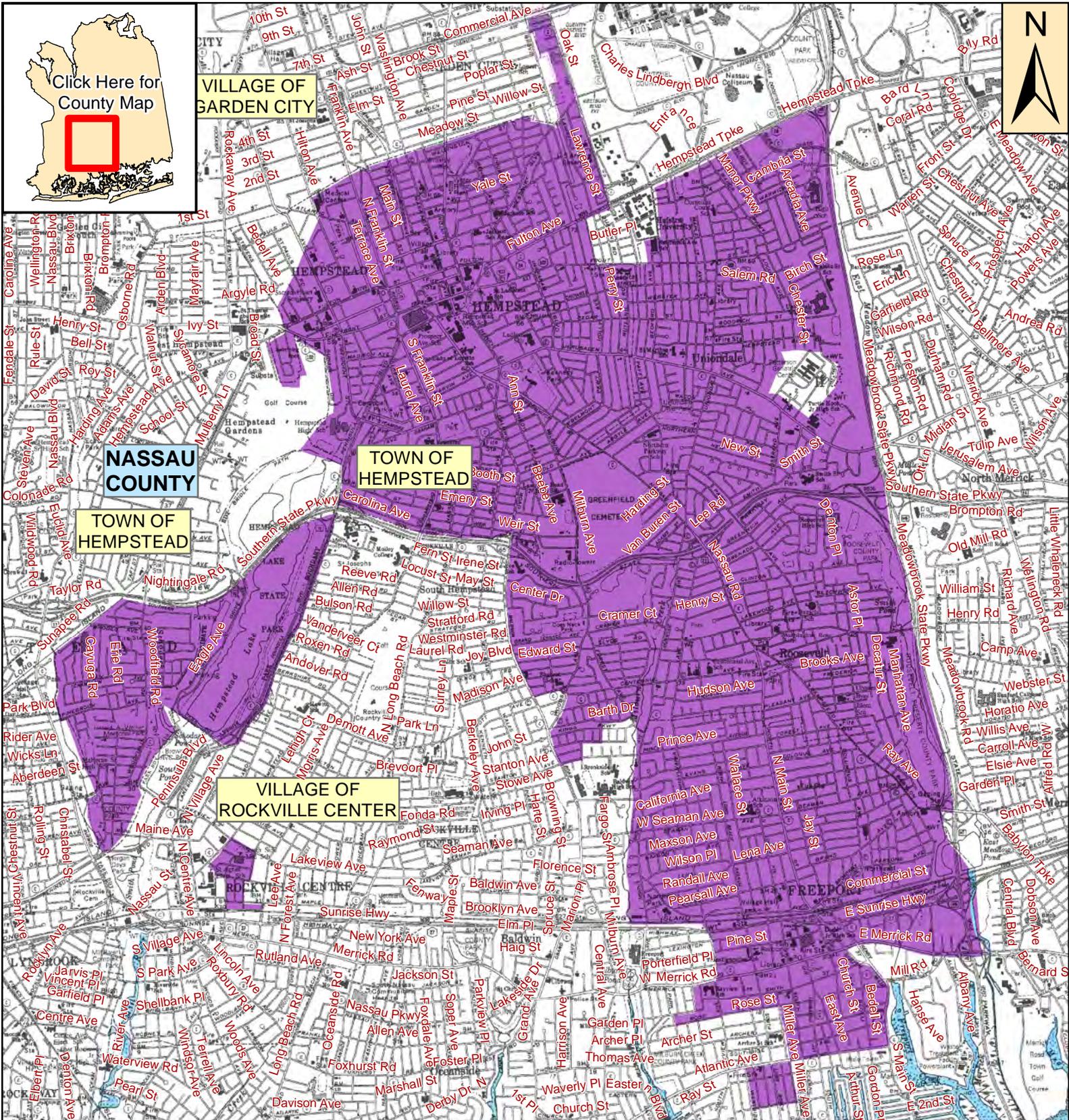
- Potential EJ Area
- County Boundary
- Waterways

Miles  
0 0.2 0.4 0.6 0.8 1  
SCALE: 1:40,000

For questions about this map contact:  
New York State Department of  
Environmental Conservation  
Office of Environmental Justice  
625 Broadway, 14th Floor  
Albany, New York 12233-1500  
(518) 402-8556  
ej@gw.dec.state.ny.us



# Potential Environmental Justice Areas in the Town of Hempstead (central detail) and Village of Freeport, Nassau County, New York



This computer representation has been compiled from supplied data or information that has not been verified by EPA or NYSDEC. The data is offered here as a general representation only and is not to be used for commercial purposes without verification by an independent professional qualified to verify such data or information.

Neither EPA nor NYSDEC guarantee the accuracy, completeness, or timeliness of the information shown and shall not be liable for any loss or injury resulting from reliance.

Data Source for Potential Environmental Justice Areas: U.S. Census Bureau, 2000 U.S. Census

## Legend

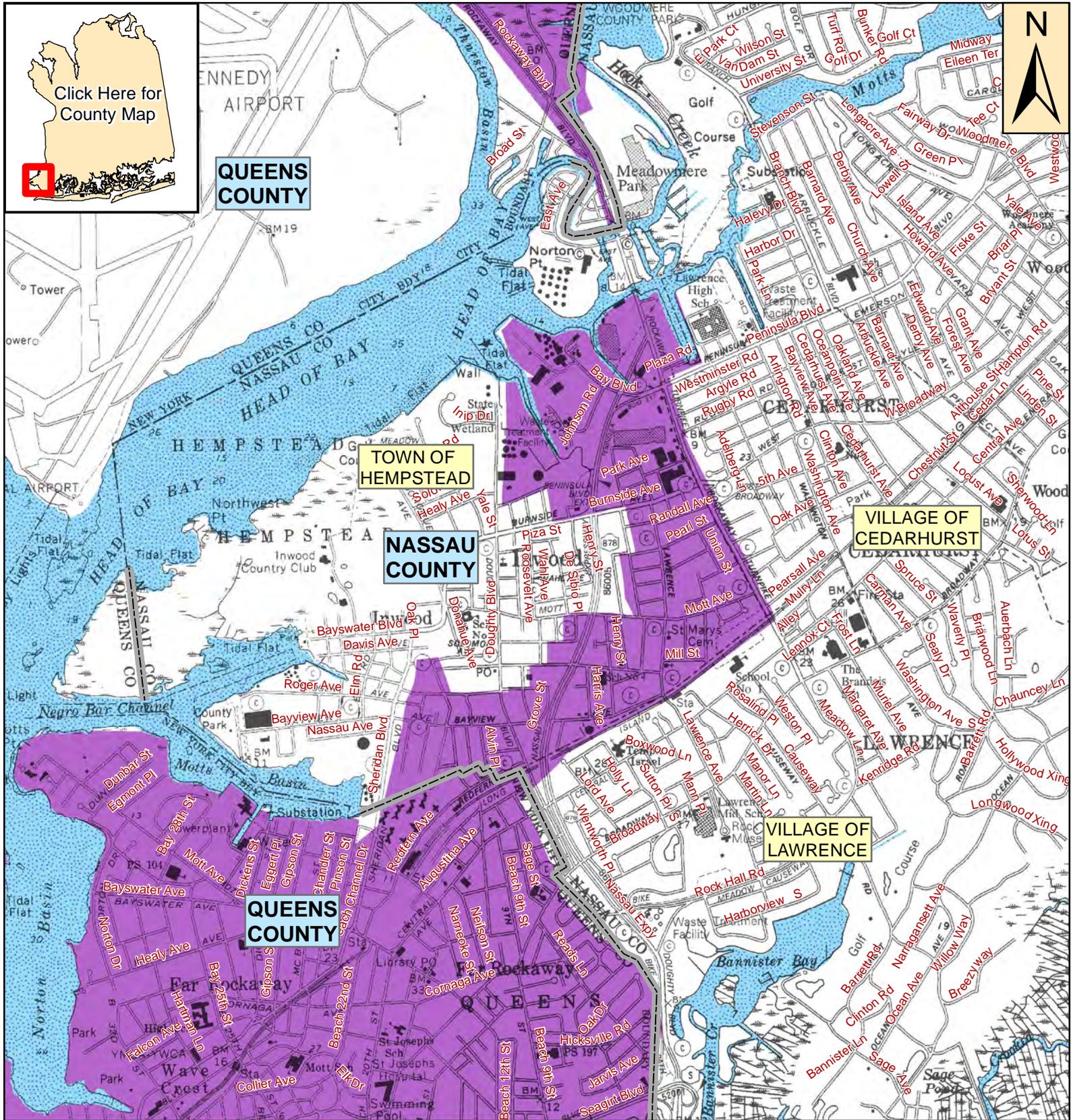
- Potential EJ Area
- County Boundary
- Waterways

Miles  
0 0.2 0.4 0.6 0.8 1  
SCALE: 1:45,000

For questions about this map contact:  
New York State Department of  
Environmental Conservation  
Office of Environmental Justice  
625 Broadway, 14th Floor  
Albany, New York 12233-1500  
(518) 402-8556  
ej@gw.dec.state.ny.us



# Potential Environmental Justice Areas in the Town of Hempstead (southwest detail), Nassau County, New York



This computer representation has been compiled from supplied data or information that has not been verified by EPA or NYSDEC. The data is offered here as a general representation only and is not to be used for commercial purposes without verification by an independent professional qualified to verify such data or information.

Neither EPA nor NYSDEC guarantee the accuracy, completeness, or timeliness of the information shown and shall not be liable for any loss or injury resulting from reliance.

Data Source for Potential Environmental Justice Areas: U.S. Census Bureau, 2000 U.S. Census

## Legend

- Potential EJ Area
- County Boundary
- Waterways

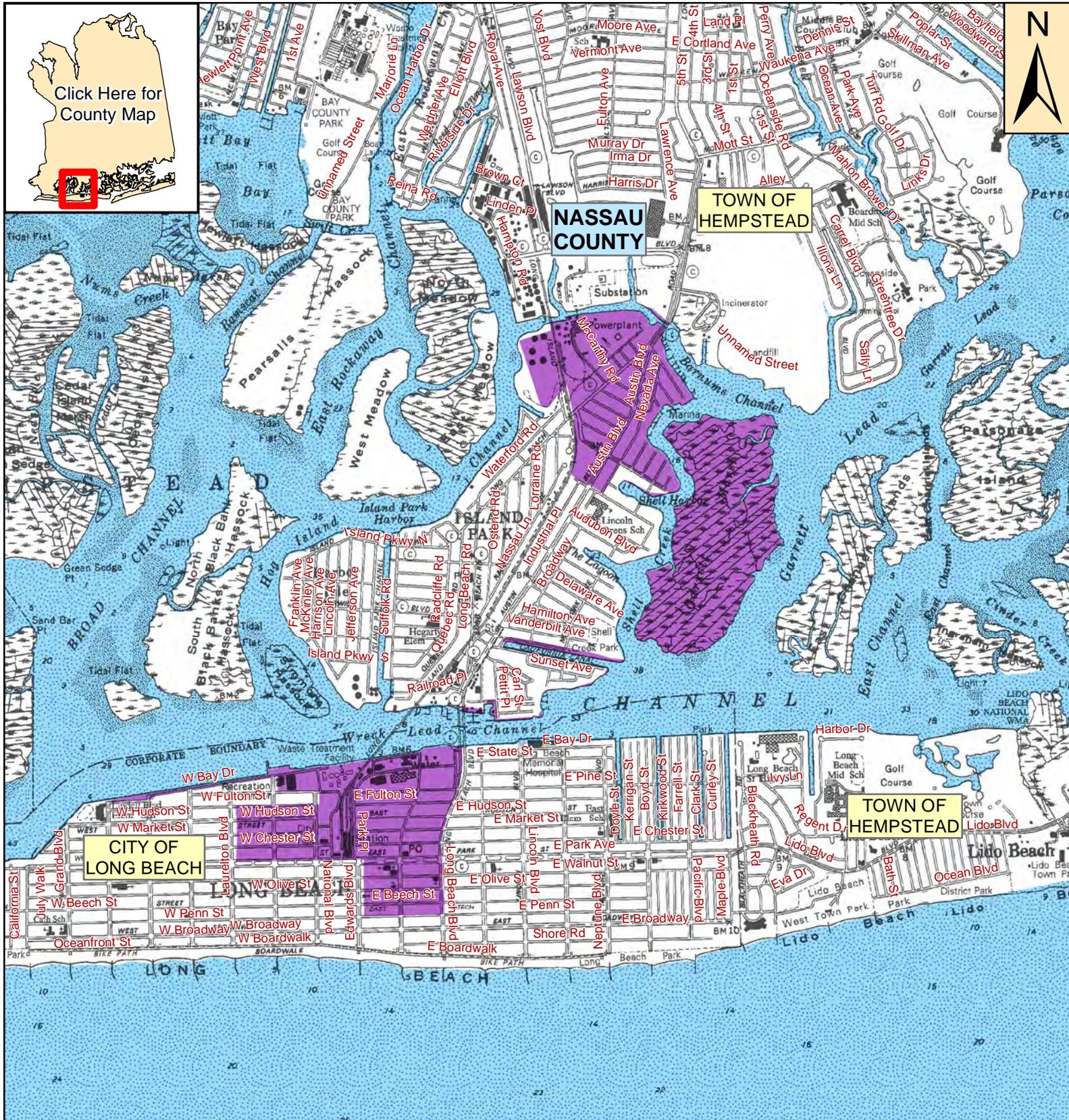
0 0.2 0.4 0.6 0.8 1 Miles

SCALE: 1:24,000

For questions about this map contact:  
 New York State Department of  
 Environmental Conservation  
 Office of Environmental Justice  
 625 Broadway, 14th Floor  
 Albany, New York 12233-1500  
 (518) 402-8556  
 ej@gw.dec.state.ny.us



# Potential Environmental Justice Areas in the Town of Hempstead (south detail) and City of Long Beach, Nassau County, New York



This computer representation has been compiled from supplied data or information that has not been verified by EPA or NYSDEC. The data is offered here as a general representation only and is not to be used for commercial purposes without verification by an independent professional qualified to verify such data or information.

Neither EPA nor NYSDEC guarantee the accuracy, completeness, or timeliness of the information shown and shall not be liable for any loss or injury resulting from reliance.

Data Source for Potential Environmental Justice Areas: U.S. Census Bureau, 2000 U.S. Census

## Legend

-  Potential EJ Area
-  County Boundary
-  Waterways

0 0.2 0.4 0.6 0.8 1 Miles

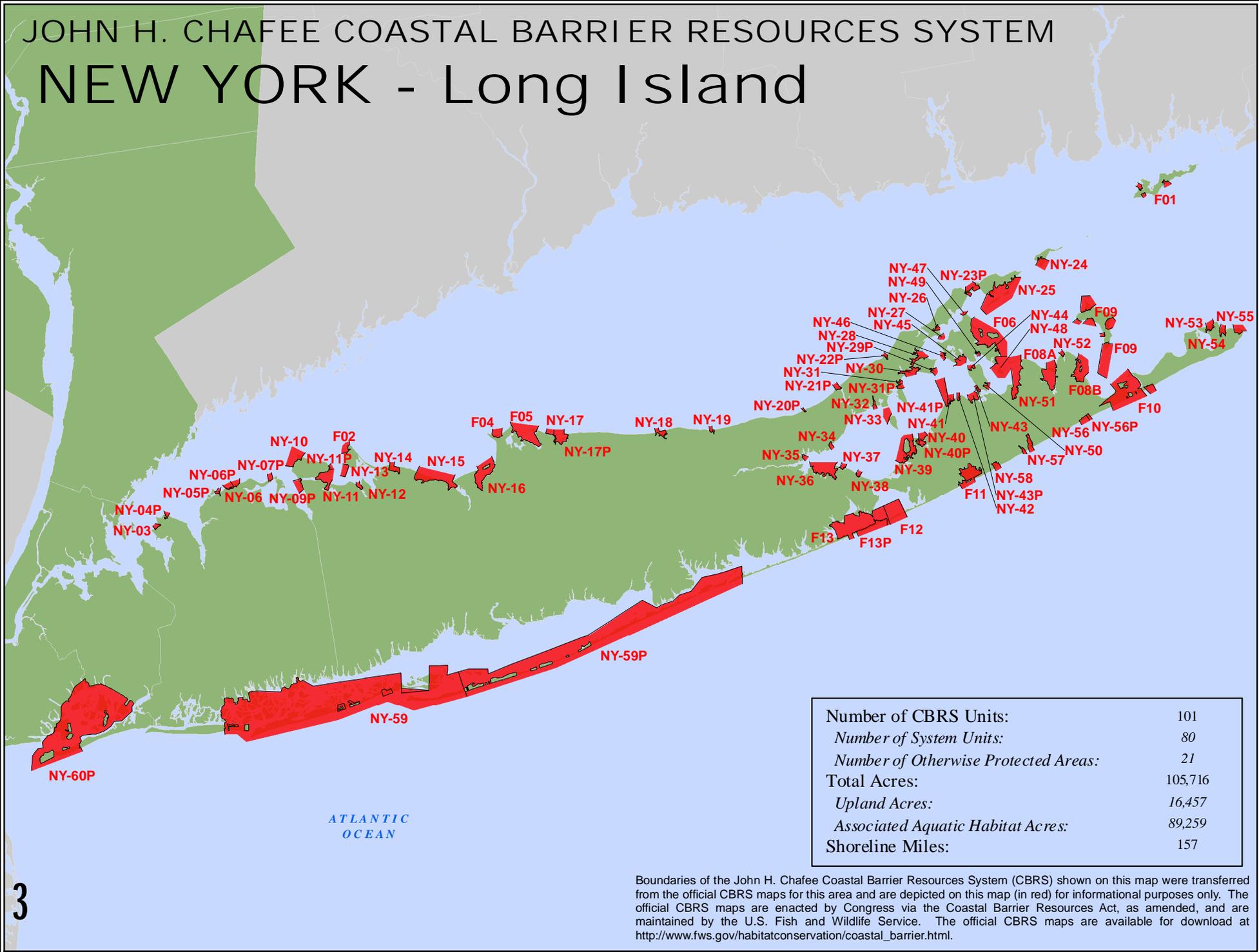
SCALE: 1:30,000

For questions about this map contact:  
 New York State Department of  
 Environmental Conservation  
 Office of Environmental Justice  
 625 Broadway, 14th Floor  
 Albany, New York 12233-1500  
 (518) 402-8556  
 ej@gw.dec.state.ny.us



**Appendix G:**  
**Coastal Barrier Resources Map**

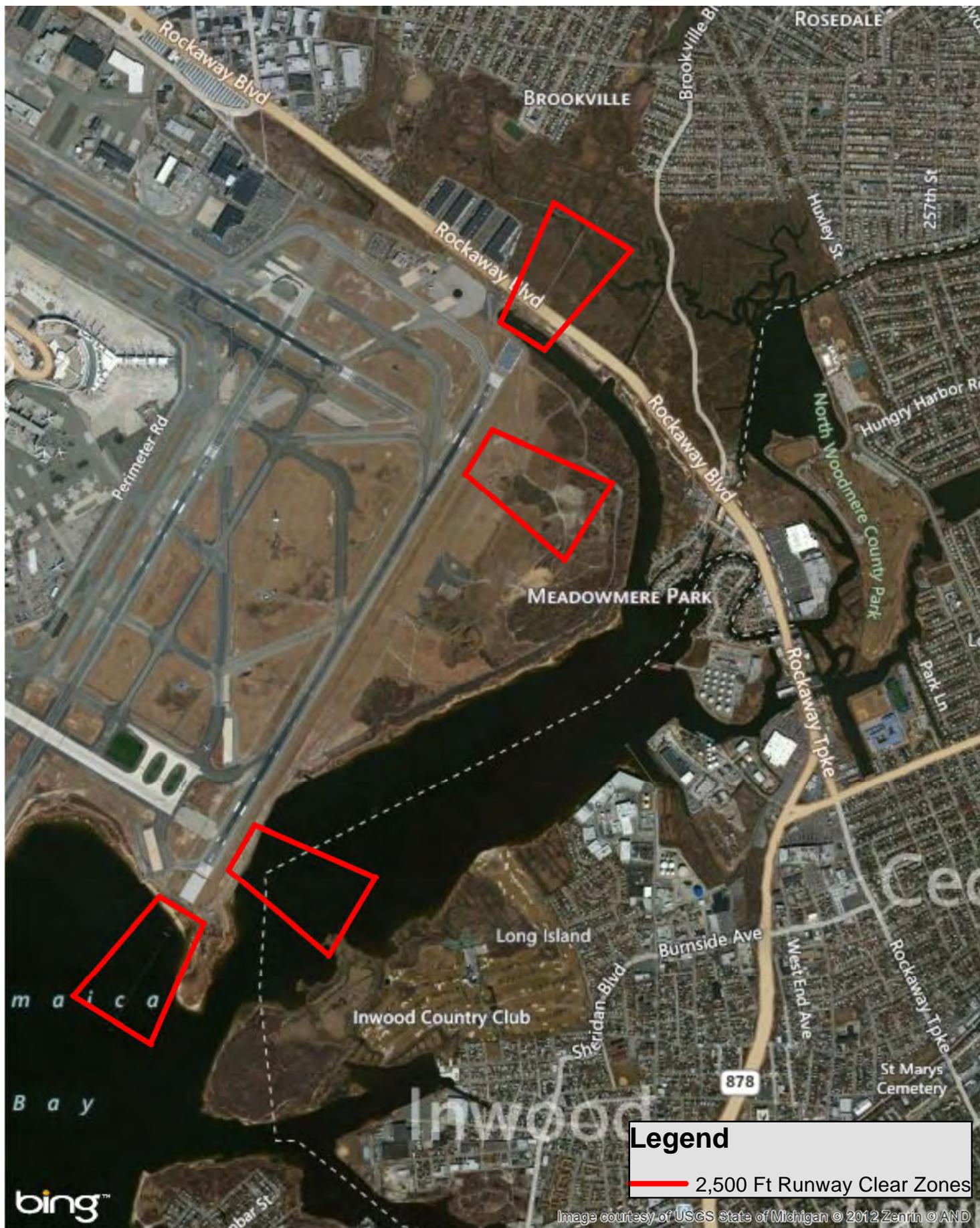
# JOHN H. CHAFEE COASTAL BARRIER RESOURCES SYSTEM NEW YORK - Long Island



Number of CBRS Units:	101
Number of System Units:	80
Number of Otherwise Protected Areas:	21
Total Acres:	105,716
Upland Acres:	16,457
Associated Aquatic Habitat Acres:	89,259
Shoreline Miles:	157

Boundaries of the John H. Chafee Coastal Barrier Resources System (CBRS) shown on this map were transferred from the official CBRS maps for this area and are depicted on this map (in red) for informational purposes only. The official CBRS maps are enacted by Congress via the Coastal Barrier Resources Act, as amended, and are maintained by the U.S. Fish and Wildlife Service. The official CBRS maps are available for download at [http://www.fws.gov/habitatconservation/coastal\\_barrier.html](http://www.fws.gov/habitatconservation/coastal_barrier.html).

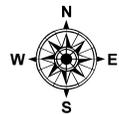
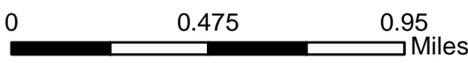
**Appendix H:**  
**Airport Clear Zones Maps**



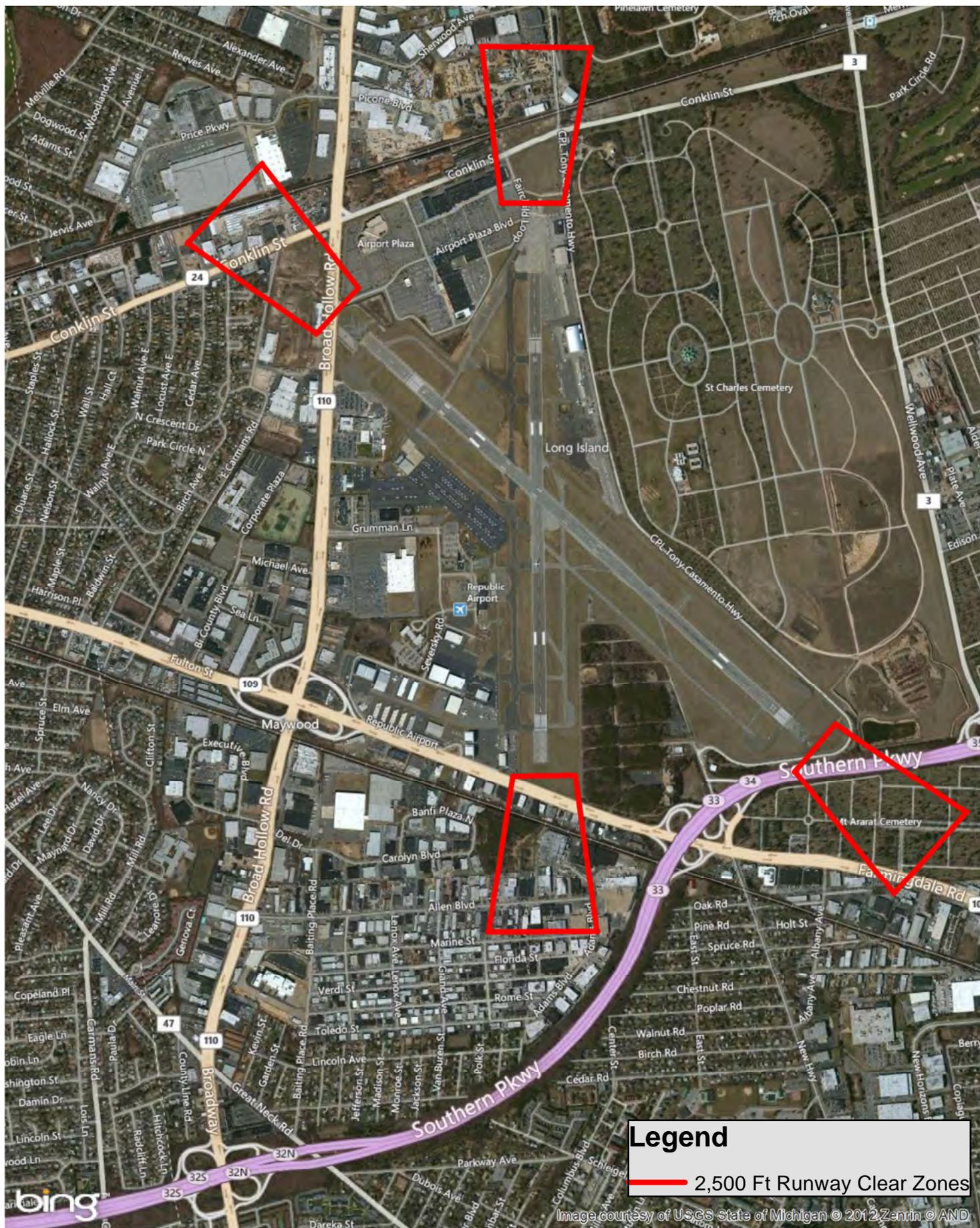
**Legend**  
▬ 2,500 Ft Runway Clear Zones

Image courtesy of USGS State of Michigan © 2012 Zenrin © AND

JFK International Airport  
 Runway Clear Zones

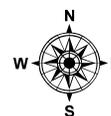


**ProSource**  
 TECHNOLOGIES



# Republic Airport Runway Clear Zones

0 0.4 0.8 Miles



**ProSource**  
TECHNOLOGIES

**Appendix I:**  
**Nassau County Wild, Scenic, and Recreational Rivers**



## Wild, Scenic and Recreational Rivers

### Wild Rivers

1. Cedar River: (a) Approximately seven miles from the southwest boundary of lot 82, Township 17, Totten and Crossfield's Purchase to the Hamilton County line; and  
(b) Approximately seven and three-tenths miles from the outlet of Cedar Lakes to a point where a road crosses the river approximately one and one-half miles upstream of Cedar River flow.
2. Cold River: Approximately fourteen miles from the Duck Hole to the confluence with the Raquette River and the entire three-mile length of Ouluska Pass Brook.
3. Hudson River: Approximately ten and one-half miles from the confluence of the Cedar River to the confluence with the Boreas River.
4. Indian River: Approximately thirteen miles from Brook Trout lake to the confluence with the South Branch of the Moose River.
5. Kunjamuk River: Approximately eight miles from the outlet of South Pond to a fish barrier dam near the southwest boundary of Lot 9, Township 31, Gorton Tract.
6. Opalescent River: Approximately eleven miles from Flowed Lands to the confluence with the Hudson River.
7. Oswegatchie River, Main Branch: Approximately eighteen and one-half miles from the Partlow Mill Dam to the southernmost boundary between private and state land at Inlet.
8. Oswegatchie River, Middle Branch: Approximately fourteen and one-half miles from the north boundary of Lot 27, Watson's East Triangle to a point one mile downstream of the confluence with Wolf Creek.
9. Piseco Outlet: Approximately four and one fifth miles from a point one-half mile east of the Route 10 bridge crossing to the confluence with the West Branch of the Sacandaga River.
10. Sacandaga River, East Branch: Approximately eleven and one-half miles from Botheration Pond to a point one-half mile above the confluence with Cook Brook.
11. Sacandaga River, West Branch: (a) Approximately seven miles from the confluence of the Piseco Lake outlet to the confluence with Dugway Creek;  
(b) Approximately nine miles from the source near Silver Lake Mountain to the Silver Lake wilderness boundary near Route 10; and  
(c) Approximately two and seven-tenths miles from the confluence with Cow Creek to the confluence with Piseco outlet.
12. West Canada Creek: Approximately eight miles from Mud Lake to the Old Mitchell dam site.
13. West Canada Creek, South Branch: Approximately five and nine-tenths miles from the headwaters near T-Lake Falls to a footbridge crossing located approximately one mile upstream of the Floe.

### Scenic Rivers

1. Ampersand Brook: Approximately eight miles from Ampersand Pond to the confluence with the Raquette River.
2. Ausable River: Approximately nine miles from Marcy swamp to St. Hubert's.

3. Black River: Approximately seven and eight-tenths miles from the point where Farr Road crosses the river to the point where the river intersects the Adirondack Park boundary.
4. Blue Mountain Stream: Approximately nine miles from the outlet of Clear Pond to the confluence with Pleasant Lake stream.
5. Bog River: Approximately seven and three-tenths miles from the dam below Hitchens Pond to Big Tupper Lake.
6. Boreas River: Approximately eleven and one-half miles from Cheney Pond to the confluence with the Hudson River.
7. Bouquet River: (a) Approximately six miles of the North Fork from the headwaters on Dial Mountain to the bridge on Route 73; and  
(b) Approximately five and one-half miles of the South Fork from the headwaters to the bridge on Route 73.
8. Carmens River: (a) Approximately two and one-quarter miles from its headwaters at the north boundary of Cathedral Pines Park (formerly Camp Wilderness), Suffolk County, southerly to its intersection with the southern boundary of Camp Sobaco (Girl Scout Camp);  
(b) Approximately two and one-half miles from Yaphank Avenue, Suffolk County, southerly to the Concrete Wing Dam in Southaven Park; and  
(c) Approximately two and one-half miles from the south side of Sunrise Highway, Suffolk County, southerly to the mouth of the river (a line between Long Point and Sandy Point) at its confluence with Great South Bay.
9. Cedar River: (a) Approximately five miles from the Hamilton County line to the confluence with the Hudson River; and  
(b) Approximately ten miles from a point where a road crosses the river one and one-half miles pstream of Cedar River flow to a point where a southerly extension of the northeast state land boundary of Lot 96, Township 33, Totten and Crossfield's Purchase, would intersect the river.
10. Deer River: Approximately six and two-tenths miles from the outlet of Deer River flow to a point where the river intersects the Adirondack Park boundary.
11. East Canada Creek: Approximately twenty and nine-tenths miles from Powley Place to a point at which the creek intersects the Adirondack Park boundary near Sprite Creek at the southwest corner of Lot 45, Town of Oppenheim, Lott and Low's Patent.
12. Genesee River: Within Letchworth State Park.
13. Grasse River, Middle Branch: Approximately fourteen and one-half miles from the confluence of Blue Mountain stream and Pleasant Lake stream to the confluence of the South Branch of the Grasse River.
14. Grasse River, North Branch: Approximately twentyfive and four-tenths miles from the outlet of Church Pond to a point where the North Branch intersects the Adirondack Park boundary.
15. Grasse River, South Branch: (a) Approximately thirtyfive and two-tenths miles from the outlet of Center Pond to the confluence with the outlet of Allen Pond; and  
(b) Approximately three and seven-tenths miles from the most southerly point where the South Branch of the Grasse River intersects the Adirondack Park boundary, north to the confluence with the Middle Branch of the Grasse River.
16. Hudson River: (a) Approximately nine miles from the hamlet of Newcomb to the confluence with the Cedar River; and  
(b) Approximately four miles from the confluence with the Boreas River to a point one mile north of the hamlet of North River.

17. Independence River: Approximately twenty-six miles from the outlet of Little Independence Pond to the point where the Sperryville Bridge crosses the river.
18. Jordan River: Approximately eighteen miles from the outlet of Marsh Pond to Carry Falls Reservoir.
19. Kuniemuk River: Approximately ten and four-tenths miles from a fish barrier dam near the southwest boundary of Lot 9, Township 31, Gorton Tract, to the confluence with the Sacandaga River.
20. Long Pond Outlet: Approximately sixteen miles from the outlet of Long Pond to the confluence with the West Branch of the St. Regis River.
21. Marion River: Approximately five miles from the outlet of Utowana lake to Raquette Lake.
22. Moose River, Main Branch: Approximately fifteen and four-fifths miles from the confluence of the South and Middle Branches of the Moose River to a point where the Main Branch intersects the Adirondack Park boundary.
23. Moose River, North Branch: Approximately six miles from the outlet of Big Moose Lake to the confluence with the outlet of Goose Pond.
24. Moose River, South Branch: (a) Approximately eighteen miles from the east boundary of the state land immediately west of Little Moose Lake to the west boundary of the state land near Rock Dam;  
(b) Approximately six and one-half miles from the east boundary of the state land just north of Woodhull Mountain downstream to the state land boundary near the confluence with the middle branch of the Moose River; and  
(c) Approximately fourteen and two-fifths miles from the west boundary of state land near Rock Dam to the east boundary of state land north of Woodhull Mountain.
25. Nissequoque River: Approximately one and four-tenths miles from the dam at the outlet of New Mill Pond to the pedestrian bridge south of Route 25/25A including its tributaries and ponds identified as P288 Phillips Millpond, P289 Willow Pond, P290 Upper Vail Pond, P291 Webster Pond, and P291a Lower Vail Pond (on a certain map titled "Official Classifications - Surface Waters of Western Suffolk County," published by the Water Resources Council and prepared by the New York Department of Health) in Suffolk County.
26. Oswegatchie River, Middle Branch: (a) Approximately nine miles from the outlet of Walker Lake to the north boundary of Lot 27, Watson's East Triangle; and  
(b) Approximately fourteen and two-fifths miles from a point one mile downstream of the confluence with Wolf Creek to a point where the Middle Branch intersects the Adirondack Park boundary at the southeast boundary of Lot 993, Township of Diana, Macomb's Purchase, Great Tract 4.
27. Oswegatchie River, West Branch: Approximately seven miles from the outlet of Buck Pond to a point approximately one mile upstream of Round Pond at the point where a foot and snowmobile bridge crosses the West Branch.
28. Otter Brook: Approximately ten miles from the outlet of Lost Pond to the confluence with the South Branch of the Moose River.
29. Peconic River: (a) Approximately ten and one-half miles from the western boundary of the Red Maple swamp to the Long Island railroad bridge between Connecticut and Edwards Avenue; and  
(b) Approximately three miles from Middle Country Road (State Route 25) to the confluence with the previously described segment of the Peconic including tributaries T112-5, T112-6 and T112-7.

30. Raquette River: (a) Approximately twenty miles from the outlet of Long Lake to the confluence with a small stream from the northeast, located approximately one mile downstream from Trombley Landing; and  
(b) Approximately thirteen and eight-tenths miles from the confluence with Dead Creek to a point where the river intersects the north boundary of Lot 1, Township 5, Tannery Lot near Carry Falls Reservoir.
31. Red River: Approximately nine and seven-tenths miles from the headwaters of the river to the confluence with the South Branch of the Moose River.
32. Rock River: Approximately six and nine-tenths miles from the O'Neil flow road crossing to the confluence with the Cedar River.
33. Round Lake Outlet: Approximately two and seven-tenths miles from the outlet of Round Lake to the confluence with the Bog River.
34. St. Regis River, East Branch: Approximately fourteen and one-half miles from a point where Route 30 crosses the East Branch near Meacham Lake, to a point one-half mile upstream from Everton Falls.
35. St. Regis River, Main Branch: Approximately fifteen and five-tenths miles from a point where a private road to Bay Pond crosses the Main Branch in Lot 16, Township 17, Macomb's Purchase, Great Tract 1, to the confluence with Balsam Brook.
36. St. Regis River, West Branch: Approximately thirtyfive miles from the outlet of Little Fish Pond to a point one-half mile downstream from the confluence with Fenner Meadow Brook.
37. West Canada Creek: Approximately seventeen miles from a point where the creek intersects that state land boundary approximately two miles upstream of the Old Mitchell Dam site, to the Route 8 bridge crossing near Nobleboro.
38. West Stoney Creek: Approximately seven and seven-tenths miles from the Tannery Road crossing to the confluence with Hatch Brook.

## Recreational Rivers

1. Ausable River, East Branch: Approximately twenty-eight and three-tenths miles from St. Huberts to the confluence with the West Branch.
2. Ausable River, Main Branch: Approximately twenty-two miles from the confluence of the East and West Branches of the Ausable River to Lake Champlain.
3. Ausable River, West Branch: (a) Approximately five miles from the state boundary along the River Road east of Big Cherry Patch Pond downstream to the state boundary immediately west of High Falls; and  
(b) Approximately twenty-nine and one-half miles from the headwaters of the West Branch near Heart Lake to the confluence with the East Branch.
4. Black River: Approximately six and three-fifths miles from the outlet of North Lake to a point where Farr Road crosses the river.
5. Bouquet River: Approximately forty-seven and seven-tenths miles from the confluence with the North Fork of the Bouquet River to Lake Champlain.
6. Carmens River: (a) Approximately two miles from its intersection with the southern boundary of Camp Sobaco (Girl Scout Camp), southerly to Yaphank Avenue, Suffolk County; and  
(b) Approximately one mile southerly from the Concrete Wing Dam in Southaven Park, Suffolk County, to Sunrise highway.

7. Cedar River: Approximately eleven miles from a point at which a southerly extension of the northeast state land boundary parallel to the southwest boundary of Lot 96, Township 33, Totten and Crossfield's Purchase would intersect the river to the southwest boundary of Lot 82, Township 17, Totten and Crossfield's Purchase.
8. Connetquot River: Approximately five and three-fourths miles from Johnson Avenue, Suffolk County, south to the Sunrise highway.
9. Fall Creek: Approximately 1.8 miles from the southern boundary of Cayuga Lake to the west face of the foot bridge running across Fall Creek, which foot bridge is located between Thurston Avenue on the west and Beebe Lake on the east (in the City of Ithaca, Tompkins County).
10. Grasse River, South Branch: Approximately five and one-fifth miles from the confluence with the outlet of Allen Pond to the most southerly point where the South Branch intersects the Adirondack Park boundary.
11. Hudson River: (a) Approximately twelve and seven-tenths miles from the confluence with the Opalescent River to a point where Route 28N crosses the Hudson River at Newcomb; (b) Approximately forty-five and nine-tenths miles from a point one mile north of North River to the confluence with the Sacandaga River.
12. Independence River: Approximately one-half mile from a point where the Sperryville bridge crosses the river to a point where the river intersects the Adirondack Park boundary.
13. Indian River: Approximately eight and three-tenths miles from the outlet of Indian Lake to the confluence with the Hudson River.
14. Moose River, Middle Branch: Approximately thirteen and four-tenths miles from the confluence with the North Branch of the Moose River to the confluence with the South Branch of the Moose River.
15. Moose River, North Branch: Approximately thirteen miles from the confluence with the outlet of Goose Pond to the confluence with the Middle Branch of the Moose River.
16. Nissequogue River: (a) Approximately one and four-tenths miles from State Route 347 to the dam at the outlet of New Mill Pond including its tributaries identified as P292-1 to Brooksite Drive and two unnamed tributaries P292-2 and P292-3; and (b) Approximately five miles from the pedestrian walkway and dam at the outlet of Phillips Millpond to its confluence with Long Island Sound including its tributaries and ponds connected therewith [specifically described as T-62 on a certain map entitled "Official Classifications - Surface Waters of Western Suffolk County," prepared by the New York State Department of Health and published by the Water Resources Council].
17. Oswegatchie River, Main Branch: Approximately two and three-tenths miles from the southernmost boundary between private and state land at Inlet to Wanakena.
18. Oswegatchie River, West Branch: Approximately six and one-tenth miles from a point approximately one mile upstream of Round Pond at the point where a foot and snowmobile bridge crosses the West Branch to a point where the river intersects the Adirondack Park boundary.
19. Peconic River: (a) Approximately five and one-half miles from the Long Island railroad bridge between Connecticut and Edwards Avenue to Grangabel Park dam in Riverhead; (b) Approximately two miles of the Little River (tributary T112-2) from and including Wildwood Lake to its confluence with the Peconic River.
20. Ramapo River: Approximately three and one-half miles from the Orange County line to the site of an abandoned power dam in the hamlet of Ramapo.

21. Raquette River: (a) Approximately twenty-two miles from the outlet of Raquette Lake to the outlet of Long Lake; and  
(b) Approximately seventeen miles from the confluence of the Raquette River and a small stream from the northeast, at a point approximately one mile downstream from Trombley Landing to the confluence with Dead Creek.
22. Rock River: Approximately one and one-fifth miles from the outlet of Lake Durant to the O'Neil flow road crossing.
23. St. Regis River, East Branch: Approximately six and one-tenth miles from a point one-half mile upstream of Everton Falls to the confluence with the Main Branch of the St. Regis River.
24. St. Regis River, Main Branch: (a) Approximately seven miles from the St. Regis Church to a point where a private road to Bay Pond crosses the Main Branch in Lot 16, Township 17, Macomb's Purchase, Great Tract 1; and  
(b) Approximately eighteen miles from the confluence with Balsam Brook to a point at which the river intersects the Adirondack Park boundary.
25. St. Regis River, West Branch: Approximately five and one-half miles from a point one-half mile downstream of the confluence with Fenner Meadow Brook to a point where the West Branch intersects the Adirondack Park boundary.
26. Sacandaga River, East Branch: Approximately fourteen miles from a point approximately one-half mile above Cook Brook to the confluence with the Main Branch of the Sacandaga River.
27. Sacandaga River, Main Branch: Approximately thirty-one miles from the outlet of Lake Pleasant to the inlet of Great Sacandaga Lake.
28. Sacandaga River, West Branch: (a) Approximately ten and three-fifths miles from the Silver Lake wilderness boundary near the most upstream Route 10 bridge crossing to the confluence with Cow Creek; and  
(b) Approximately seven and two-tenths miles from the confluence of Dugway Creek to the confluence with the Main Branch of the Sacandaga River.
29. Salmon River: Approximately twelve and three-tenths miles from the outlet of Elbow Ponds to the point where the river intersects the Adirondack Park Boundary.
30. Saranac River, Main Branch: Approximately sixty and two-fifths miles from the outlet of Upper Saranac Lake to the point where the river intersects the Adirondack Park boundary.
31. Schroon River: Approximately sixty-six and seven-tenths miles from the outlet of the former Dead Water Pond to the confluence with the Hudson River.
32. Shawangunk Kill River: From the border of Ulster and Orange Counties to its confluence with the Wallkill River.
33. West Canada Creek: Approximately eleven miles from the Route 8 bridge crossing near Nobleboro to the Harvey Road bridge crossing.
34. West Canada Creek, South Branch: Approximately nine and seven-tenths miles from the footbridge crossing one mile upstream of the Floe to the confluence with the Main Branch of the West Canada Creek.
35. West Stony Creek: (a) Approximately six miles from the Persch Road crossing (to Tannery Road Crossing); and  
(b) Approximately two and seven-tenths miles from the confluence with Hatch Brook to the confluence with the Main Branch of the Sacandaga River.

**Appendix I:**

**Nassau County Sole Source Aquifer Map and  
Memorandum of Understanding**



OPTIONAL FORM 99 (7-90)

<b>FAX TRANSMITTAL</b>		# of pages <b>14</b>
To: <b>Jeff Hollman</b>	From: <b>Steve Gomb</b>	
Dept./Agency	Phone #	
Fax #	Fax #	

## MEMORANDUM OF UNDERSTANDING

BETWEEN

THE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT  
REGION II, NEW YORK, NEW YORK

AND

THE ENVIRONMENTAL PROTECTION AGENCY  
REGION II, NEW YORK, NEW YORK

PURPOSE and GOAL

This Memorandum of Understanding (MOU) is established to assist the Environmental Protection Agency (EPA), Region II, and the Department of Housing and Urban Development (HUD), Region II, in meeting the Sole Source Aquifer (SSA) project review requirements of Section 1424(e) of the 1974 Safe Drinking Water Act (SDWA) PL 93-523.

The MOU establishes a formal agreement of each agency's responsibilities and the procedures to be followed in evaluating the potential groundwater impact of projects/activities submitted for HUD Federal financial assistance which are located within the project review area of a designated SSA in Region II.

Under Section 1424(e), an aquifer may be designated by EPA as a SSA if it is determined that the aquifer is the sole or principal source of drinking water for an area and, if contaminated, would create a significant hazard to public health. Following designation, no commitment of Federal financial assistance may be entered into for any project/activity within the SSA project review area which the EPA Administrator determines may contaminate the aquifer so as to create a significant hazard to public health.

The overall goal is to ensure that each project/activity receiving Federal financial assistance in a SSA project review area is designed and constructed in a manner that will prevent the introduction of contaminants into the SSA in quantities that may create a significant hazard to public health.

GEOGRAPHIC AREAS AFFECTED

This MOU applies to HUD Federal financially assisted projects/activities in the project review area of all current and future designated SSAs in Region II.

-2-

Attachment 1, Designated SSAs in Region II, lists the designated SSA areas within the states of New York and New Jersey in EPA, Region II; the date of designation; and the Federal Register Notice citation. Attachment 1 also provides a map of the SSA project review area boundary for each of the designated aquifers. When any other SSAs are designated in Region II, EPA will notify HUD in writing.

#### DEFINITIONS

##### Significant Hazard to Public Health:

A level of contaminant which causes or may cause the aquifer to:

- (a) Exceed any (1) maximum contaminant level set forth in any promulgated National Primary Drinking Water Standard; (2) state standard where more stringent than the Federal standard; (3) public health advisory level for currently unregulated contaminants; at any point where the water may be used for drinking purposes, or
- (b) May otherwise adversely affect the health of persons, or
- (c) May require a public water system to install additional treatment to prevent such adverse effect.

##### Federal Financial Assistance:

Financial benefits provided directly as aid to a project by a department, agency, or instrumentality of the federal government in any form including contracts, grants and loan guarantees. Actions or projects carried out by the federal government itself do not involve federal financial assistance.

Actions performed for the federal government by contractors should be distinguished from contracts entered into specifically for the purpose of providing financial assistance, and will not be considered programs or actions receiving Federal financial assistance.

Federal financial assistance is limited to benefits earmarked for a specific project or action and directly awarded to the project or action. Indirect assistance, e.g., in the form of a loan to a developer by a lending institution which in turn receives federal assistance not specifically related to the project in question is not federal financial assistance under Section 1424(e).

-3-

SSA Project Review Areas

The area within which federal financially assisted projects/activities will be reviewed, which includes the designated area and may include all or a portion of the streamflow source area(s). The designated area can include the area above the aquifer, the area which recharges the aquifer (possibly including all or a portion of the streamflow source area) and the area where the population served by the aquifer resides. Streamflow source zone is defined as the upstream headwaters area of losing streams (streams contributing to recharge to Ground Water) that drain into the recharge area. The extent of the SSA project review area is outlined in the Federal Register designation notice for that SSA. Attachment 1 lists the Federal Register Notice citation and provides a map of the SSA project review area.

MOU ATTACHMENTS

- Attachment 1: Designated SSAs in Region II
- Attachment 2: A. Non-Housing Initial Screen Criteria  
B. Housing Initial Screen Criteria
- Attachment 3: SSA Preliminary Review Information Requirements
- Attachment 4: Hazardous Constituents

ENVIRONMENTAL REVIEW RESPONSIBILITY

Pursuant to Section 1424(e) of the SDWA, EPA is responsible for designating SSAs and reviewing federal financially assisted projects/activities within SSA project review areas.

Pursuant to the National Environmental Policy Act (NEPA) and other provisions of law, HUD is responsible for environmental review and decision making except in those cases delegated by law such as with Community Development Block Grant Program (CPD). Environmental responsibility includes compliance with Section 1424(e) of the SDWA.

EIS EARLY NOTIFICATION/SCOPING

If an Environmental Impact Statement (EIS) is prepared for a project/activity in a SSA project review area, HUD or its grant recipients that assume by law environmental responsibilities and EPA shall coordinate at the earliest possible time so that the draft EIS contains EPA's SSA review determination. This is to ensure that any possible groundwater contamination has been considered.

-4-

This early notification will serve to initiate consultations with the developer to determine the scope of study that may be necessary if any formal groundwater quality assessment is required.

REVIEW PROCESS:

COMMUNITY PLANNING AND DEVELOPMENT (CPD) and HOUSING PROGRAM

The general procedures to be followed by HUD, its delegated agencies and EPA in reviewing HUD federal financially assisted activities and determining their potential impact on the SSA are outlined below. The overall goal is to ensure that each project/activity receiving federal financial assistance is designed and constructed in a manner that will prevent the introduction of contaminants into the SSA in quantities that may create a significant hazard to public health. Two levels of potential review are: (1) Initial Screen/Preliminary Review, and (2) Formal Section 1424(e) Review.

I. Excluded Projects/Activities

EPA and HUD mutually agree that the following list of project/activity categories would not create a significant hazard to public health:

- Construction of individual new residential structures containing from one to four units
- Funding of planning grants
- Rehabilitation of residential units
- Funding of all other grants for non-construction projects/activities
- Projects identified as exempt in 24 CFR 58.34

These categories of projects/activities are therefore excluded from the Initial Screen/Preliminary Review requirements as outlined in Sections II and III below. Potential CPD recipients; states; other delegated agencies and HUD are responsible for making this determination for their respective programs. EPA may request information on these projects/activities and conduct a review if EPA determines it to be necessary.

II. CPD Applications/Final Statements

A. Initial Screen/Preliminary Review

-5-

HUD shall notify all potential CPD recipients, including states that are administering HUD programs (Non-Entitlement Small Cities Program, etc.) and other delegated agencies with jurisdiction in SSA project review areas of the SSA review requirements under Section 1424(e) and of their responsibility as outlined in this MOU.

Potential CPD recipients shall conduct an initial screen of CPD projects/activities proposed for HUD federal financial assistance prior to submission of an application or final statement to HUD. Attachment 2.A, Non-Housing Initial Screen Criteria, shall be used for CPD projects/activities that do not involve housing; and Attachment 2.B, Housing Initial Screen Criteria, for CPD projects/activities involving housing only.

EPA shall be notified of any projects/activities which result in a positive response to one of the criteria questions in Attachment 2. Where a project/activity meets one of the criteria in Attachment 2, the information in Attachment 3, SSA Preliminary Review Information Requirements, shall also be completed and forwarded to EPA along with applicable project/final statement information.

Upon receipt of the above, EPA will conduct its Preliminary Review. If additional information is required, EPA will inform the potential CPD recipient and HUD. The potential CPD recipient shall be responsible for submitting to EPA any additional information requested in a timely manner.

Based on the information provided, EPA will make its determination on whether to complete its review at this stage and provide SSA review clearance, or proceed to a Formal Section 1424(e) Review. The project/activity may be cleared as is, or with modifications.

#### B. Timeframe for Preliminary Review and Notification

Within fifteen calendar days of EPA's receipt of the project's final statement, Attachment 2 and Attachment 3, EPA will notify the potential CPD recipient and HUD of one or more of the following:

- the project/activity has received SSA review clearance
- the project/activity requires modifications to receive SSA review clearance
- additional environmental information is required
- additional time to review the project, is required
- the project/activity raises major environmental concerns requiring interagency consultation
- a Formal Section 1424(e) Review is required

-6-

If EPA does not notify HUD within 15 days of receipt of the project, HUD should proceed with its project review.

HUD shall not authorize a release of funds until all outstanding issues with regard to the subject project/activity have been resolved.

#### C. Formal Section 1424(e) Review

Should a Formal Section 1424(e) Review be required, EPA shall formally notify the potential CPD recipient and HUD of this decision. If additional information is required, the potential CPD recipient shall be responsible for submitting the requested information to EPA in a timely manner. EPA may also schedule a public hearing to gather additional information.

Based on the information provided, EPA shall make a determination to either approve the project/activity, request more information, suggest modifications or disapprove the project/activity.

### III. Housing Program Applications

#### A. Initial Screen/Preliminary Review

HUD shall notify all of its field offices of the SSA review requirements under Section 1424(e) and of their responsibilities as outlined in this MOU.

HUD shall conduct an initial screen of housing projects proposed for HUD Federal financial assistance. Attachment 2.B, Housing Initial Screen Criteria, shall be used for this review. EPA shall be notified of any projects which result in a positive response to one of the criteria questions in Attachment 2.B. Where a project meets one of the criteria in Attachment 2.B, the information in Attachment 3, SSA Preliminary Review Information Requirements, shall also be completed and forwarded to EPA along with the applicable project information.

Upon receipt of the above, EPA will conduct its Preliminary Review. If additional information is required, EPA will inform the HUD field office who shall then be responsible for submitting to EPA the requested information in a timely manner.

Based on the information provided, EPA will make its determination on whether to complete its review at this stage and provide SSA review clearance or proceed to a Formal Section 1424(e) Review. The project may be cleared in its existing form, or with modifications.

-7-

#### B. Timeframe for Preliminary Review and Notification

Within fifteen calendar days of EPA's receipt of the pertinent environmental information from the housing application, Attachment 2 and Attachment 3, EPA will notify HUD of one or more of the following:

- the project has received SSA review clearance
- the project requires modifications to receive SSA review clearance
- additional environmental information is required
- additional time to review the project is required
- the project raises major environmental concerns requiring interagency consultation
- a Formal Section 1424(e) Detailed Review is required

The project environmental clearance needed for project approval shall not be considered complete (appropriate sign-offs) until outstanding SSA issues with regard to the subject project have been satisfactorily resolved.

If EPA does not notify HUD within 15 days of receipt of the project, HUD should proceed with its project review.

#### C. Formal Section 1424(e) Review

Should a Formal Section 1424(e) Review be required, EPA shall formally notify HUD of this decision. If additional information is required, HUD shall be responsible for submitting the requested information to EPA in a timely manner. A public hearing may be held to gather additional information.

Based on the information provided, EPA shall make a determination to either approve the project, request more information, suggest modifications or disapprove the project.

#### D. Local Area Certification For Housing Environmental Review

If the community is wholly or partially within a SSA project review area boundary, the local certified agency shall have the same responsibility as HUD in meeting the SSA review requirements as outlined in Section 1424(e) and this MOU.

GENERAL PROCEDURAL MATTERS

Materials submitted to IPA by HUD or the applicant will be addressed to the attention of:

Chief, Environmental Impacts Branch  
U.S. EPA Region II  
26 Federal Plaza, Room 500  
New York, New York 10278

The following representatives will serve as liaisons for HUD and EPA respectively. The liaisons will maintain communication as needed regarding projects/activities affecting the SSAs and this MOU.

HUD: Regional Office Environmental Officer  
(212) 264-0793

EPA: Chief, Environmental Impacts Branch  
(212) 264-1840

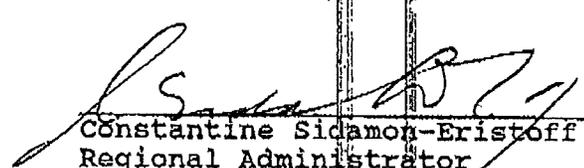
This MOU is subject to revision upon agreement by both parties.

U.S. Department of Housing and  
Urban Development



A. M. Villane, Jr., DDS  
Regional Administrator/  
Regional Housing Commissioner

U.S. Environmental Protection  
Agency



Constantine Sidamon-Eristoff  
Regional Administrator

AUG 24 1990

Date: \_\_\_\_\_

Date: 8/10/90

ATTACHMENT 2.A

NON-HOUSING PROJECT/ACTIVITY INITIAL SCREEN CRITERIA  
(For projects in a designated Sole Source Aquifer area)

The following list of criteria questions are to be used as an initial screen to determine which non-housing projects/activities should be forwarded to the Environmental Protection Agency (EPA) for Preliminary Sole Source Aquifer (SSA) Review. (For housing projects/activities see Attachment 2.B) If any of the questions are answered affirmatively, Attachment 3, SSA Preliminary Review Requirements, should also be completed. The application/final statement, this Attachment, Attachment 3, and any other pertinent information should then be forwarded to EPA at the address below.

Any project/activity not meeting the criteria in this Attachment, but suspected of having a potential adverse effect on the Sole Source Aquifer should also be forwarded. Contact EPA if you have any questions.

Chief, Environmental Impacts Branch  
USEPA Region II  
26 Federal Plaza, Room 500  
New York, New York 10278  
(212) 261-1840

CRITERIA QUESTIONS

YES NO N/A

- 1. Is the project/activity located within a currently designated or proposed groundwater sensitive area such as a special Ground Water Protection Area, Critical Supply Area, Wellhead Protection Area etc.? [This information can be obtained from the County or Regional planning board, the local health department, the State health department or the State environmental agency.]
  
- 2. Is the project/activity located within a one half mile radius (2640 feet) of a current or proposed public water supply well or wellfield? [This information can be obtained from the local health department, the State health department or the State environmental agency.]

_____	_____	_____
_____	_____	_____

- 3. Will the project/activity include or directly cause: (check appropriate items)
  - construction or expansion of solid waste disposal, recycling or conversion facilities
  - construction or expansion or closure of landfills
  - construction or expansion of water supply facilities (i.e., treatment plant, pump house, etc.)
  - construction or expansion of on-site wastewater treatment plants or sewage trunk lines, greater than 1/4 mile
  - construction or expansion of gas or petroleum trunk lines, greater than 1200 feet
  - construction or expansion of railroad spurs or similar extensions
  - construction or expansion of municipal sewage treatment plants
  
- 4. Will the project/activity include storage or handling of any hazardous constituents as listed in Attachment 4, Hazardous Constituents?   

If these constituents are used during the construction phase of the project, than an assurance statement must be provided indicating that chemicals will be used in a safe and proper manner, and that they will be promptly removed after construction is completed.
  
- 5. Will the project/activity include bulk storage of petroleum in underground or above ground tanks in excess of 1100 gallons?
  
- 6. Will the project/activity require a federal or state discharge elimination permit or modification of an existing permit?

This attachment was completed by:

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

Telephone number: \_\_\_\_\_

Date: \_\_\_\_\_

ATTACHMENT 2.B

HOUSING/PROJECT INITIAL SCREEN CRITERIA  
(For projects in a designated Sole Source Aquifer area.)

The following list of criteria questions are to be used as an initial screen to determine which housing projects/activities should be forwarded to the Environmental Protection Agency (EPA) for Preliminary Sole Source Aquifer (SSA) Review. (For non-housing projects see Attachment 2.A). If any of the questions are answered affirmatively, Attachment 3, SSA Preliminary Review Requirements, should also be completed. The application/final statement, this Attachment, Attachment 3, and applicable project information than be forwarded to EPA at the address below.

Any project not meeting the criteria in this Attachment, but suspected of having a potential adverse effect on the Sole Source Aquifer should also be forwarded. Contact EPA if you have any questions.

Chief, Environmental Impacts Branch  
USEPA Region III  
26 Federal Plaza, Room 500  
New York, New York 10278  
(212) 264-3840

CRITERIA QUESTIONS:

	YES	NO	N/A
1. Is the project located within a currently designated or proposed ground water sensitive area such as a Special Ground Water Protection Area, Critical Supply Area, Wellhead Protection Area etc.? [This information can be obtained from the County or Regional planning board, the local health department, the State health department or the State environmental agency.]	_____	_____	_____
2. Is the project located within a one half mile radius (2640 feet) of a current or proposed public water supply well or wellfield? [This information can be obtained from the local health department, the State health department or the State environmental agency.]	_____	_____	_____
3. Will the total impervious surfaces be greater than 75 percent?	_____	_____	_____
4. Is the proposed project site greater than 30 acres?	_____	_____	_____
5. Will the proposed density of the project be greater than 150 units per acre ?	_____	_____	_____

- 6. Will the project include or directly cause:  
(check appropriate items)
  - construction or expansion of water supply facilities (i.e., treatment plant, pumphouse, etc.)
  - construction or expansion of on-site wastewater treatment plants
  - construction or expansion of sewage trunk lines greater than 1320 feet in length
  - construction or expansion of gas or petroleum trunk lines greater than 1320 feet
  
- 7. Will the project include storage or handling of any hazardous constituents as listed in Attachment 4, Hazardous Constituents? If these constituents are used during the construction phase of the project, an assurance statement must be provided indicating that chemicals will be used in a safe and proper manner, and they will be promptly removed after construction is completed.
  
- 8. Will the project include bulk storage of petroleum in underground or above ground tanks in excess of 10,000 gallons or permit verification?
  
- 9. Will the project require a federal or state pollutant discharge elimination permit or modification of an existing permit?

_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

This attachment was completed by:

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Telephone number: \_\_\_\_\_

Date: \_\_\_\_\_

ATTACHMENT 3

SSA PRELIMINARY REVIEW INFORMATION REQUIREMENTS

Where currently available, the information in this Attachment should be provided to the Environmental Protection Agency (see address below) along with the application/final statement; Attachment 2.A, Non-Housing Initial Screen Criteria or Attachment 2.B, Housing Initial Screen Criteria; and any other information which may be pertinent to a Sole Source Aquifer review. Where applicable, indicate the source of your information.

Chief, Environmental Impacts Branch  
USEPA Region II  
26 Federal Plaza, Room 500  
New York, New York 10278  
(212) 264-1840

ENCLOSED  
YES NO

I. Project/Activity Location

- 1. Provide the geographic location and total acreage of the project/activity site. Include a site location map which identifies the site in relation to the surrounding area. [Examples of maps which can be used include: 1:24,000 or 1:25,000 U.S. Geological Survey quadrangle sheet, Hagstroms Street Map.]
- 2. If applicable, identify which groundwater sensitive areas (Special Ground Water Protection Area, Critical Supply Area, Wellhead Protection Area etc.) the project/activity is located within or adjacent to. [This information may be obtained from the County or Regional planning board, the local health department, the State health department or the State environmental agency.]

\_\_\_\_\_

\_\_\_\_\_

II. Nature of Project/Activity

- 3. Provide a general narrative describing the project/activity including but not limited to: type of facility; type of activities to be conducted; number and type of units; number of residents etc. Provide the general layout of the project/activity site and a site-plan if available.

\_\_\_\_\_

III. Public Water Supply

- 4. Provide a description of plans to provide water supply.
- 5. Provide the location of nearby existing or proposed public water supply wells or wellfields within a one half mile radius (2640 feet) of the project/activity. Provide the name of the supplier(s) of those wells or wellfields. This information should be available from the local health department, State health department or the State environmental agency. If private wells are to be used, then information necessary to obtain a well drilling permit should be provided.


V. Wastewater and Sewage Disposal

- 6. Provide a description of plans to handle wastewater and sewage disposal. If the project/activity is to be served by existing public sanitary sewers provide the name of the sewer district.
- 7. Provide a description of plans to handle storm water runoff.
- 8. Identify the location, design, size of any on-site recharge basins, dry wells, leaching fields, retention ponds etc.


VI. Use, Storage, Transport of Hazardous or Toxic Materials (Applies only to non-housing projects/activities)

- 9. Identify any products listed in Attachment 3, Hazardous Constituents, of the Housing and Urban Development-Environmental Protection Agency Memorandum of Understanding which may be used, stored, transported, or released as a result of the construction activity.
- 10. Identify the number and capacity of underground storage tanks at the project/activity site. Identify the products and volume to be stored, and the location on the site.
- 11. Identify the number and capacity of above ground storage tanks at the project/activity site. Identify the products and volume to be stored, and the location on the site.


**Appendix K:**  
**USFWS Natural Resources of Concern**



U.S. Fish and Wildlife Service

## Natural Resources of Concern

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

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

**Long Island Ecological Services Field Office**  
340 SMITH ROAD  
SHIRLEY, NY 11967  
(631) 286-0485

***Project Name:***

Nassau County CDBG-DR

***Project Counties:***

Nassau, NY

***Project Type:***

\*\* Other \*\*

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

There are a total of 6 threatened, endangered, or candidate species on your species list. Species on this list should be considered in an effects analysis for your project and could include species that exist in another geographic area. For example, certain fishes may appear on the species list because a project could cause downstream effects on the species. Critical habitats listed under the **Has Critical Habitat** column may or may not lie within your project area. See the **Critical habitats within your project area** section below for critical habitat that lies within your project area. Please contact the designated FWS office if you have questions.

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

Birds	Status		Has Critical Habitat	Contact
-------	--------	--	----------------------	---------



## Natural Resources of Concern

Piping Plover ( <i>Charadrius melodus</i> ) Population: except Great Lakes watershed	Threatened	<a href="#">species info</a>	<a href="#">Final designated critical habitat</a> <a href="#">Final designated critical habitat</a>	Long Island Ecological Services Field Office
Red Knot ( <i>Calidris canutus rufa</i> )	Proposed Threatened	<a href="#">species info</a>		Long Island Ecological Services Field Office
Roseate tern ( <i>Sterna dougallii dougallii</i> ) Population: northeast U.S. nesting pop.	Endangered	<a href="#">species info</a>		Long Island Ecological Services Field Office
Flowering Plants				
Sandplain gerardia ( <i>Agalinis acuta</i> )	Endangered	<a href="#">species info</a>		Long Island Ecological Services Field Office
Seabeach amaranth ( <i>Amaranthus pumilus</i> )	Threatened	<a href="#">species info</a>		Long Island Ecological Services Field Office
Mammals				
northern long-eared Bat ( <i>Myotis septentrionalis</i> ) Population:	Proposed Endangered	<a href="#">species info</a>		Long Island Ecological Services Field Office

### Critical habitats within your project area:

*There are no critical habitats within your project area.*

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

There are 3 refuges in your refuge list



## Natural Resources of Concern

Oyster Bay National Wildlife Refuge (631) 286-0485 C/O LONG ISLAND NWR COMPLEX 340 SMITH ROAD SHIRLEY, NY11967	<a href="#">refuge profile</a>
Lido Beach Wildlife Management Area (631) 286-0485 C/O LONG ISLAND NWR COMPLEX 340 SMITH ROAD SHIRLEY, NY11967	<a href="#">refuge profile</a>
Target Rock National Wildlife Refuge (631) 286-0485 C/O LONG ISLAND NWR COMPLEX 340 SMITH ROAD SHIRLEY, NY11967	<a href="#">refuge profile</a>

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

Most species of birds, including eagles and other raptors, are protected under the Migratory Bird Treaty Act (16 U.S.C. 703). Bald eagles and golden eagles receive additional protection under the [Bald and Golden Eagle Protection Act](#) (16 U.S.C. 668). The Service's [Birds of Conservation Concern \(2008\)](#) report identifies species, subspecies, and populations of all migratory nongame birds that, without additional conservation actions, are likely to become listed under the Endangered Species Act as amended (16 U.S.C 1531 et seq.).

*Migratory bird information is not available for your project location.*

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

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



U.S. Fish and Wildlife Service

## Natural Resources of Concern

requirements to their project with the Regulatory Program of the appropriate [U.S. Army Corps of Engineers District](#).

*IPaC is unable to display wetland information at this time.*

**Appendix L:**  
**Farmland Protection Checklist**

# Farmland Protection

## Checklist for HUD or Responsible Entity

General requirements	Legislation	Regulation
The Farmland Protection Policy Act discourages Federal activities that would convert farmland to nonagricultural purposes.	Farmland Protection Policy Act of 1981 (7 U.S.C. 4201 et seq.)	7 CFR Part 658

### 1. Does your project include new construction, acquisition of undeveloped land or change in use of land or property?

Yes: PROCEED to #2

No: STOP here. The Farmland Protection Policy Act does not apply. Record your determination

Maintain, in your ERR, a determination that the project does not include new construction, acquisition of undeveloped land or change in use of a property

### 2. Does your project meet one of the following exemptions?

- Construction limited to on-farm structures needed for farm operations.
- Construction limited to new minor secondary (accessory) structures such as a garage or storage shed
- Project on land used for water storage or already in or committed urban development (this includes land with a density of 30 structures per 40 acre area. It also includes lands identified as “urbanized area” (UA) on the Census Bureau Map, or as urban area mapped with a “tint overprint” on the USGS topographical maps, or as “urban built-up” on the USDA Important Farmland Maps. Please note that land “zoned” for development, i.e. non-agricultural use, does not exempt a project from compliance with the FPPA).

Yes: STOP here. The Farmland Protection Policy Act does not apply. Record your determination

Maintain, in your ERR, documentation to evidence the project meets one of the exemptions. If the project is already in urban development provide a map as described above with your site marked or documentation from another credible source.

No: PROCEED to #3

### 3. Does “important farmland” regulated under the Farmland Protection Policy Act occur on the project site? This includes prime farmland, unique farmland and/or land of statewide or local importance

You may use the links below to determine if important farmland occurs on the project site:

- Utilize USDA Natural Resources Conservation Service’s (NRCS) Web Soil Survey <http://websoilsurvey.nrcs.usda.gov/app/HomePage.htm>

- Check with your city or county’s planning department and ask them to document if the project is on land regulated by the FPPA (zoning important farmland as non-agricultural does not exempt it from FPPA requirements)
- Contact NRCS at the local USDA service center <http://offices.sc.egov.usda.gov/locator/app?agency=nrcs> or your NRCS state soil scientist [http://soils.usda.gov/contact/state\\_offices/](http://soils.usda.gov/contact/state_offices/) for assistance

No: STOP here. The project does not convert farmland to nonagricultural purposes. Record your determination on the Statutory Worksheet and attach documentation used to make your determination

Yes: PROCEED to #4

**4. Consider alternatives to completing the project on important farmland and means of avoiding impacts to important farmland.**

Complete form AD-1006, “Farmland Conversion Impact

Rating” [http://www.nrcs.usda.gov/Internet/FSE\\_DOCUMENTS/stelprdb1045394.pdf](http://www.nrcs.usda.gov/Internet/FSE_DOCUMENTS/stelprdb1045394.pdf) and contact the state soil scientist before sending it to the local NRCS District Conservationist. Work with NRCS to minimize the impact of the project on the protected farmland.

Return a copy of Form 1006 to the USDA-NRCS State Soil Scientist or his/her designee informing them of your determination once you have finished the analysis.

Record your determination on the Statutory Worksheet and attach documentation used to make your determination. Include any mitigation required in the review.

**DISCLAIMER:** This document is intended as a tool to help Region X HUD grantees and HUD staff complete environmental requirements. This document is subject to change. This is not a policy statement, and the Farmland Protection Legislation and Regulations take precedence over any information found in this document.

**Appendix M:**  
**NYSDEC Air Quality Consultation**  
**and**  
**Conformity with State**  
**Implementation Plans**

**New York State Department of Environmental Conservation**

**Division of Environmental Permits, 4<sup>th</sup> Floor**

625 Broadway, Albany, NY 12233-1750

Phone: (518) 402-9167 • Fax: (518) 402-9168

Website: [www.dec.ny.gov](http://www.dec.ny.gov)



Joe Martens  
Commissioner

February 6, 2014

Heather M. Spitzberg, Esq.  
NYS Homes and Community Renewal  
38-40 State Street Hampton Plaza  
Albany, NY 12207

Re: CDBG-DR NY Rising Bulkhead Repair Program – Air Quality

Dear Ms. Spitzberg:

This responds to your February 3, 2014 letter to Mr. Jack Nasca of this office. Your correspondence augments your August 3, 2013 letter to Mr. Nasca concerning NYS Homes and Community Renewal (HCR) implementation of US Department of Housing and Urban Development Community Development Block Grant – Disaster Recovery (CDBG-DR) NY Rising Recovery Program.

Your February 3, 2014 letter described the NY Rising Bulkhead Repair Program, under which bulkhead repair and replacement activities will be eligible for CDBG-DR funding. HCR is preparing NEPA Tier 1 Programmatic Environmental Reviews for this program and as part of that exercise requested “initial consultation regarding Air Quality Standards” with this Department. In reply, please be advised that the activities described in your February 3, 2014 letter require no air quality permits from this Department under applicable New York Environmental Conservation Law (ECL).

Although no air quality permits are required for the program activities, as has been discussed between our offices other Department permits may be required, such as Use and Protection of Water, ECL Article 15 (implemented by 6 NYCRR Part 608); Tidal Wetlands, Article 25 (Part 661); Freshwater Wetlands, ECL Article 24 (Parts 662-663); and others that may be identified as review continues.

If you have any questions please feel free to contact me at the above number.

Respectfully,

A handwritten signature in blue ink, appearing to read 'John J. Ferguson', with a horizontal line extending to the right.

John J. Ferguson  
Chief Permit Administrator

cc: Rebecca Steffen, ProSource  
Jennifer Wolff, ProSource



ANDREW M. CUOMO  
GOVERNOR

DARRYL C. TOWNS  
COMMISSIONER/CEO

NEW YORK STATE  
DIVISION OF HOUSING  
& COMMUNITY  
RENEWAL

February 3, 2014

HOUSING  
TRUST FUND  
CORPORATION

STATE OF  
NEW YORK MORTGAGE  
AGENCY

NEW YORK STATE  
HOUSING FINANCE  
AGENCY

NEW YORK STATE  
AFFORDABLE HOUSING  
CORPORATION

STATE OF  
NEW YORK MUNICIPAL  
BOND BANK AGENCY

TOBACCO SETTLEMENT  
FINANCING  
CORPORATION

Jack Nasca  
Director, Division of Environmental Permits  
New York State Department of Environmental Conservation  
625 Broadway  
Albany, New York 12233-1750

**Re: Introduction of CDBG-DR NY Rising Bulkhead Repair Program - Air Quality Standards**

Dear Mr. Nasca,

On August 29, 2013, New York State (NYS) Homes and Community Renewal (HCR) submitted a program introduction letter regarding the U.S. Department of Housing and Urban Development (HUD) Community Development Block Grant – Disaster Recovery (CDBG-DR) NY Rising Recovery Program (Program) (referred to as Housing Assistance Program in previous coordination) for coordination of Air Quality Standards.

The purpose of this letter is to introduce the NY Rising Bulkhead Repair Program. Since submittal of the previous update letter, HCR has identified bulkhead repair and replacement as activities that are eligible for CDBG-DR funding. HCR is preparing NEPA Tier 1 Programmatic Environmental Reviews (PEAs) for the Bulkhead Repair Program in various NYS counties. HCR would like to take this opportunity to engage in initial consultation regarding Air Quality Standards with the NYS Department of Environmental Conservation (NYSDEC) for the Bulkhead Repair Program and is requesting a response letter from DEC, acknowledging the updated activities described in this letter.

**Program Overview**

A detailed description of the activities to be funded under the Bulkhead Repair Program has been included in **Attachment A**. A map of affected counties included in the Bulkhead Repair program, is included in **Attachment B**. As noted in previous consultation letter, the Program includes the following recovery activities:

1. **Housing Recovery:** This program provides funding for the repair and reconstruction of residential properties, along with funding appropriate storm mitigation measures. Rehabilitated properties within a floodplain will require raising foundations above the base flood elevation.
2. **Reimbursement:** As part of Housing Recover, qualifying applicants will be reimbursed for costs associated with repair of storm damaged homes that were completed before the CDBG-DR program funds were available.
3. **Buyouts:** Under the Buyout Program, NYS will purchase 1-2 unit storm-damaged homes, demolish existing structures on the properties, and return the properties to a natural state. These properties will remain as open space in perpetuity.
4. **Acquisitions:** Under the Acquisition Program, NYS will purchase 1-2 unit storm-damaged homes, leaving open the potential for future development.
5. **Economic Development:** Eligible businesses may receive funding for structural repairs, equipment replacement, and general economic recovery, contributing to improvement of the local economy.
6. **Bulkhead Repair:** Applicants will receive funding to repair or replace storm-damaged bulkheads on residential properties. This program includes reimbursement for work that has been completed, subject to the eligibility requirements of the program.

The *State of New York Action Plan for Community Development Block Grant Program Disaster Recovery*, dated April 2013 (Federal Register Docket # FR-5696-N-01) is available for review at <http://www.nyshcr.org/Publications/CDBGActionPlan.pdf>.

NYSHCR is requesting a response letter to document that coordination with DEC is underway for the Bulkhead Repair program. NYSHCR also requests DEC review the Bulkhead Repair Program information and determine whether a programmatic coverage letter for Air Quality Standards compliance can be provided.

If you have question or require additional information regarding this request, please contact me at (518) 486-3379 or [hspitzberg@nyshcr.org](mailto:hspitzberg@nyshcr.org). Thank you for your time and consideration.

Sincerely,



Heather M. Spitzberg, Esq.  
NEPA Certifying Officer  
NYS Homes and Community Renewal  
38-40 State Street  
Hampton Plaza  
Albany, NY 12207

cc. Jennifer Wolff, ProSource Technologies, LLC

Attachment A – Bulkhead Repair Program Description

Attachment B – Map of affected counties included in the Bulkhead Repair program

The NY Rising Bulkhead Repair Program for Residential Properties is designed to provide assistance for repairing damaged bulkheads on residential properties with any number of housing units, including reimbursing homeowners who have already begun repairing or have completed repairs to bulkheads.

### **Bulkhead Definitions:**

Bulkheads are defined as vertical structures constructed parallel to the shoreline or banks of a waterway, with retaining walls for the purpose preventing overtopping and flooding of the adjacent properties. Bulkheads are usually placed along an eroding bank or escapement to hold back the land and prevent erosion. Sometimes referred to as seawalls, gravity walls, quay walls, or riprap revetments, bulkheads are a long-lasting hardy structure that can stand up to moderate to high wave energy.

Residential bulkheads protect the banks and bluffs on a residential property by completely separating land from water. These bulkheads act as retaining walls, keeping the earth or sand behind them from crumbling or slumping. They also are used to resist wave action and protect property.

Bulkheads can be built in three basic types of design. They may consist of:

- 1) Thin, interlocking sheet piles driven deeply into the ground;
- 2) Individual piles used to support an aboveground structure; or
- 3) Massive gravity construction resting on the shore bottom or embedded slightly into it, supported by its own weight rather than by piling.

From these three basic design types, a wide variety of bulkhead designs have been developed. Common and uncommon types of bulkheads include:

- Common bulkheads:
  - Cantilever wall – typically used where there is no room for the installation of an anchor wall
  - Anchored wall with single layer of anchorage – most commonly used
    - Relieving platforms may be added to reduce lateral pressure
    - Batter piles may be driven to use as anchors behind the wall, but should only be considered if there is insufficient room for an anchor and the height of the walls exceeds the design parameters for a cantilever wall.
  - Soldier pile wall, also known as a “King” pile wall, consisting of piles added to the front of an anchored wall to help prevent deflection
  - Soldier beams and lagging
  - Close pile wall
  - Double wall
  - Various combinations can be used of the above general designs to meet the conditions of the site
- Some uncommon bulkhead types are listed below. They are unlikely to be encountered, but are listed for reference.
  - Railroad ties and steel H-piles
  - Treated timber
  - Untreated log

- Hogwire fencing and sandbags – this type would not meet the criteria provided in the general permit
- Used rubber tire and timber post
- Timber cribbing
- Stacked rubber tires
- Used concrete pipes
- Longard tubes
- Stacked bags
- Gabbions

#### Damage to Bulkheads

Bulkheads are susceptible to various forms of damage due to their presence in the interface between land and water. The action of water, both in front of the wall and behind it, can cause bulkhead damage. Waves that lap over the top can erode the land behind the structure as if the wall were not there, so the structure must be built high enough to prevent such overtopping. Groundwater and rain percolating through the soil may build up pressure behind the wall, eventually pushing it over. Scour at the toe of the bulkhead can undermine the structure and tip it over. Water flowing around the sides of the bulkhead can also cause severe erosion damage, so the structure should cover the entire surface that could be eroded.

Typical storm damage that has been seen from Hurricane Sandy and other similar events has included erosion of the toe of the bulkhead, washout of fill behind the bulkheads, impact damage to sheet piling or other sheeting, and the loss of decking and sheeting from flooding. Most references to historical storm events indicate that the damage incurred was an acceleration of typical wear to bulkheads.

#### **Program description:**

Residential property owners in disaster-declared counties who sustained damage to bulkheads have been invited to submit an application for assistance to repair damage caused by any of the storms identified in the Action Plan. Funding for repair and mitigation will include costs for the repair/replacement of damaged bulkheads, seawalls, quay wall, and coastal revetments. It will cover costs for unmet repair or replacement needs after accounting for all federal, state, local and/or private sources of disaster-related assistance. Assistance for repair, rehabilitation, replacement, and reimbursement funding will be capped at the lesser of a specified dollar amount to be determined by NYS, or the unmet repair, rehabilitation, replacement, and reimbursement need as described above. To direct sufficient levels of assistance to those most in need, especially low- or moderate-income and minority households, a higher overall dollar cap amount may be applied to those households of low- or moderate-income, where the need is justified.

The discussion below outlines the activities that would be carried out under the NY Rising Bulkhead Repair Program to address storm-related damage to bulkheads. The following steps will be implemented:

#### Inspection and Reporting

The condition of the existing bulkhead will be identified, and qualified personnel will determine whether to repair or replace the damaged structure. The inspector will provide photographs,

sketches, and a detailed narrative of the existing site conditions and proposed method of repair or replacement, including a cost estimate.

### Documentation

Documentation will be prepared to satisfy General Permit GP-0-13-006, which includes plans and sections. These documents may require the signature and seal of a civil and/or structural engineer.

### Activity Summary

Bulkhead repair activities will be conducted in accordance with the federally issued design criteria documents.

As project activity begins, certain portions of the existing wall that could not previously be inspected will be exposed and/or accessible, and should be assessed for additional damage. While most of these materials are unlikely to have been damaged during a storm event, depending on the age of the wall, there is the potential for wear. These previously inaccessible features include:

- Tiebacks
- Anchor walls
- Batter piles
- Relieving platforms
- Backfill
- Scour protection materials

The applicability of the existing bulkhead design to the local conditions will be reviewed. For replacement walls, the following design issues will be considered:

- Exposure to wave attack
- Foundation condition
- Scour, in particular wave reflection from vertical walls for bulkheads
- Overtopping by wave action (in particular during storm events)

During storm events, excessive waves may cause increased scour and overtopping, while debris carried in the storm event may damage walls and piles. To ensure protection during storm events, the review of existing walls and the design or replacements or repairs will include assessment of:

- Compartmentation: The design of the wall should be such to allow for repair only of the area damaged rather than the entire wall
- The potential for inundation of the backfill of the wall, which could cause wash out or subsidence, should be reviewed, and if necessary adequate drainage should be provided
- Impact to the wall, including storm debris

Methods for construction or repairs of the walls will vary based on site conditions. An example of construction methods for a sheet pile wall is provided below:

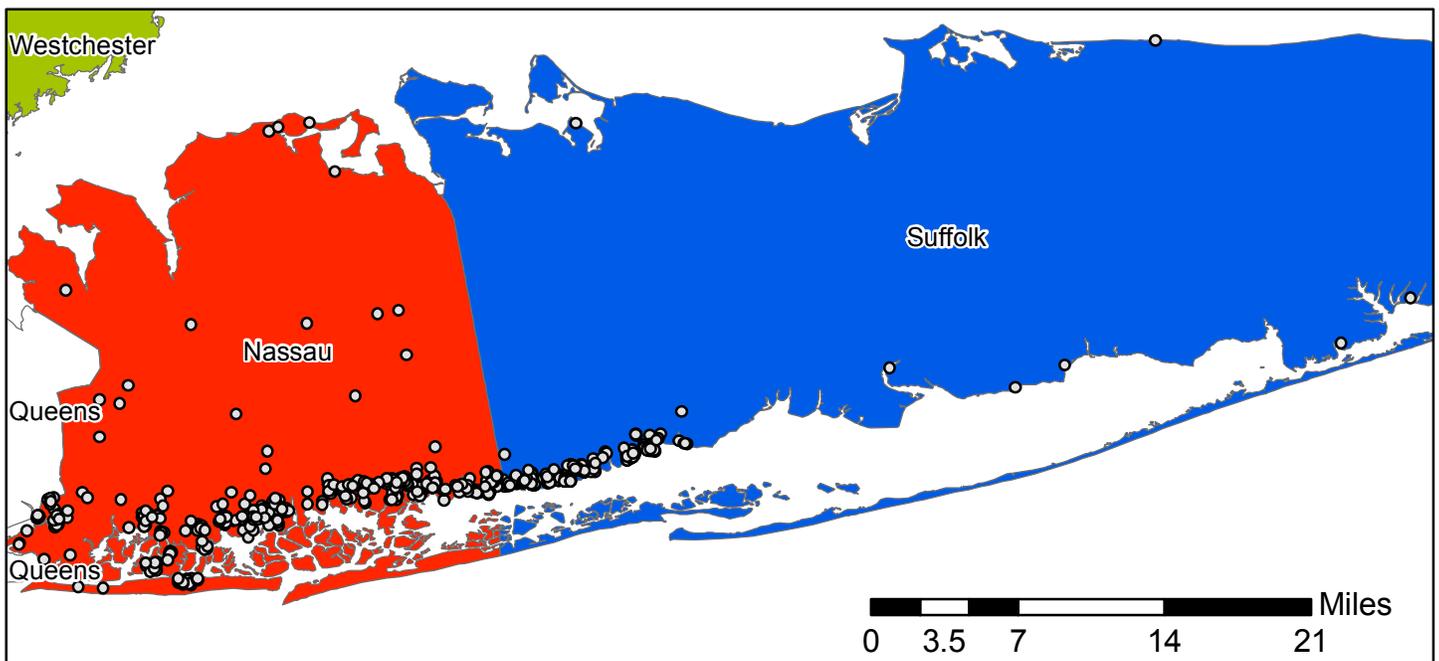
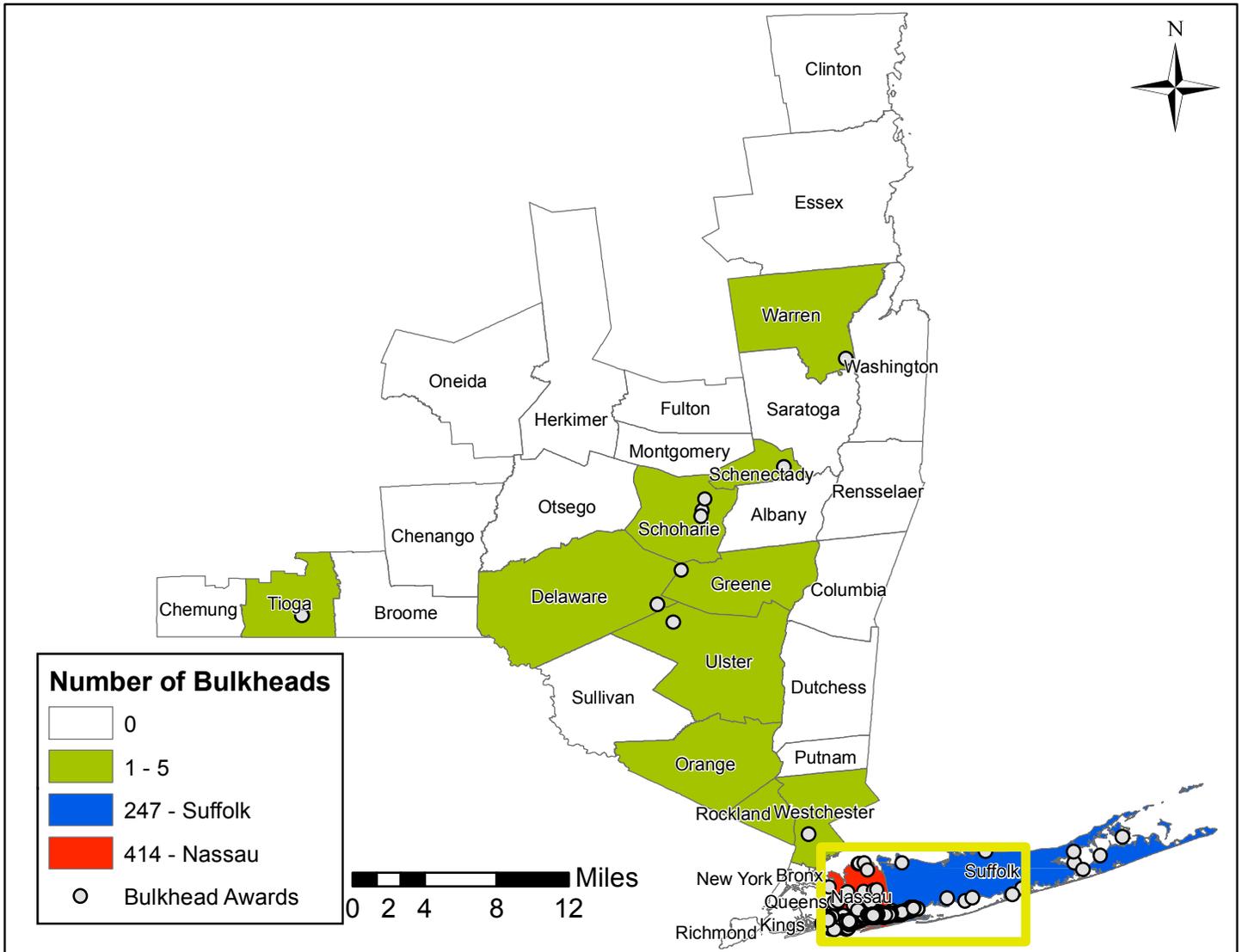
- Where removal of soft material is contemplated, dredging should precede the driving of sheet piling.

- Where existing material behind the bulkhead is to remain in place, it is advisable to dredge in front of the bulkhead after completion of the structure. This emphasizes arching in the material behind the wall and reduces bending stresses. Dredging adjacent to sheet piling after completion should be done in two or three vertical stages to avoid rapid changes and load differentials.
  - Add fill behind the wall in areas of broad extent so that the concentration of lateral pressure does not cause differential alignment along the length of the wall.
  - Consider compaction pressure due to the driving of support piles (relieving platform or track supports) behind the front wall. If dredging in front of the wall is done after the piles are driven, deflection of the wall will tend to relieve these pressures. Specify the driving sequence for such piles to avoid a progressive increase of the wedging effect.
  - Tie rods would be pre-tensioned as uniformly as is practicable. It is emphasized, however, that uniform load in the tie rods is an unlikely occurrence. The provisions relating to allowable stresses in the anchor system are intended to provide for this situation. The implications are more general, however. The anchor system must be able to deform inelastically.
  - Concrete walls and anchor walls should be reinforced on both faces and not simply in accordance with the theoretical moment diagram. The use of high steel in tie rods should be approached with caution to assure that the steel is capable of several percent elongation without fracture.
  - Where the anchorage depends on passive earth pressure, place and compact backfill around the anchorage before filling against the bulkhead.
- 
- In the filling of a relieving platform-type structure, the area at the back end of the platform should be filled to deck level, the deck placed over the batter piles, and filling continued to grade. This will provide load on the batter piles to assist in resisting the tension which will be caused by the tension in the tie rod. The deck area adjacent to the sheets may then be placed and fill completed.
  - When placing hydraulic fill, the discharge line should be located on or in front of the anchorage line. Drainage openings should be provided in sheet piles at about 100 foot (30.5 meter) intervals.
    - Depending on the wall type, a coffer dam may be necessary to perform repairs or construction.
    - For the installation of sheet piles, it is important to ensure that the base of the pile has been adequately seated to prevent deflection of the wall.
  - In a soft bottom, it should be possible to develop adequate toe resistance while driving the pile to adequately seat the pile. If adequate toe resistance cannot be obtained, excavating and replacing of the bottom should be considered
  - In a hard bottom with shallow impenetrable material, consider using soldier piles for support or trenching for the base of the wall.
  - Various materials are available for construction of the front wall. For the majority of the materials, such as steel, timber, and concrete, standard pile and sheet piling techniques, as well as the manufacturer's recommendation, will insure proper

installation. More recently, newer materials, including galvanized corrugated sheet metal, corrugated fiberglass, and corrugated aluminum have become available on the market. The use of these materials at existing locations should be reviewed based on:

- Freeze thaw cycles
  - Corrosion
  - Marine borers
  - Ultraviolet light reactions
  - Abrasion
  - Wave and ice forces
- It is recommended that regardless of the materials selected, the manufacturer should be consulted for proper installation techniques.
  - For the construction of the anchorage, a simple concrete wall or sheet pile deadman should be used. If there is limited area, pile-supported anchorage (batter piles) may be used, but this should be a last resort.

# Number of Bulkhead Awards by County



**From:** [Shawn Williams](#)  
**To:** [depprmt@gw.dec.state.ny.us](mailto:depprmt@gw.dec.state.ny.us)  
**Cc:** [Jennifer Wolff](#); [Rebecca Steffen](#)  
**Subject:** New York State Homes and Community Renewal (NYSHCR) CDBG-DR Program Update- Introduction of Bulkhead Repair and Replacement program - Air Quality Compliance review  
**Date:** Thursday, January 30, 2014 12:32:14 PM  
**Attachments:** [DEC Air NYSHCR CDBG-DR CoordinationLetter 8-29-13.pdf](#)  
[NY Rising Bulkhead Repair Program Description 1-30-2014.pdf](#)  
[AwardedBulkheads County 172014.pdf](#)

---

Good Afternoon Mr. Nasca,

On behalf of NYSHCR, we are contacting the New York Department of Environmental Conservation (DEC), Division of Environmental Permits (for Air Quality Compliance) to introduce the Bulkhead Repair and Replacement program (description is attached). Previous correspondence has also been attached for reference, as a reminder of the previous programs coordinated.

Since the August 29, 2013 program coordination letter was provided to DEC, NYSHCR has determined that a Bulkhead Repair and Replacement program is necessary to incorporate under the greater CDBG-DR program being implemented in various counties throughout the State (attached map). Many residents had storm-related damage to their bulkheads. Accordingly NYSHCR is introducing this program, which allows qualifying participants to receive CDBG-DR funds to repair or replace their bulkheads.

The attached map shows upwards of 700 applicants for bulkhead program, throughout the disaster-declared counties, and the number continues to change.

Therefore, as part of the Tier 1 Environmental Review Record being prepared for this program (action), we are providing DEC notice of this program. We are requesting a written response from DEC, acknowledging the Bulkhead program, as well as any specific conditions or requirements NYSHCR will need to comply with, as the program is implemented.

Please let us know if you have questions or require additional information.

Thank you,

**Shawn Williams** | Wetland/Permitting Specialist  
ProSource Technologies, LLC | [swilliams@prosource-tech.com](mailto:swilliams@prosource-tech.com)  
763.786.1445 | cell: 952.913.2962 | fax 763.786.1030

---

**From:** Shawn Williams  
**Sent:** Thursday, August 29, 2013 11:00 AM  
**To:** 'depprmt@gw.dec.state.ny.us'  
**Cc:** Heather Spitzberg (HSpitzberg@nyshcr.org); Ishirley@nyshcr.org; CLeo@nyshcr.org; rkeegan@nyshcr.org; Jennifer Wolff; Erica Davis  
**Subject:** New York State Homes and Community Renewal (NYSHCR) Community Development Block Grant-Disaster Recovery (CDBG-DR) Program Introduction- Air Quality Compliance review

Good Morning Mr. Nasca,

On behalf of New York State Homes & Community Renewal, ProSource Technologies, LLC is submitting this Program Introduction letter for review by the New York Department of Environmental Conservation (DEC), Division of Environmental Permits for Air Quality Compliance review. Thank you for reviewing this information, and we look forward to DEC's response.

Regards,

**Shawn Williams** | Wetland/Permitting Specialist  
ProSource Technologies, LLC | [swilliams@prosourcetech.com](mailto:swilliams@prosourcetech.com)  
763.786.1445 | cell: 952.913.2962 | fax 763.786.1030



ANDREW M. CUOMO  
GOVERNOR

DARRYL C. TOWNS  
COMMISSIONER/CEO

NEW YORK STATE  
DIVISION OF HOUSING  
& COMMUNITY  
RENEWAL

August 29, 2013

HOUSING  
TRUST FUND  
CORPORATION

STATE OF  
NEW YORK MORTGAGE  
AGENCY

NEW YORK STATE  
HOUSING FINANCE  
AGENCY

NEW YORK STATE  
AFFORDABLE HOUSING  
CORPORATION

STATE OF  
NEW YORK MUNICIPAL  
BOND BANK AGENCY

TOBACCO SETTLEMENT  
FINANCING  
CORPORATION

Jack Nasca  
Director, Division of Environmental Permits  
New York Department of Environmental Conservation  
625 Broadway  
Albany, New York 12233-1750

**Re: Program Introduction for U.S. Department of Housing and Urban Development (HUD) Community Development Block Grant-Disaster Recovery (CDBG-DR) Housing Assistance Program, administered by New York State Homes and Community Renewal (NYSHCR): Air Quality Standards Compliance**

Dear Mr. Nasca:

New York State Homes and Community Renewal (NYSHCR) has been authorized to implement the U.S. Department of Housing and Urban Development (HUD) Community Development Block Grant – Disaster Recovery (CDBG-DR) Housing Assistance Program (Program) in accordance with the *State of New York Action Plan for Community Development Block Grant Program Disaster Recovery*, dated April 2013 (Federal Register Docket # FR-5696-N-01). This document is available for review at <http://www.nyshcr.org/Publications/CDBGActionPlan.pdf>.

The purpose of this letter is to provide the New York Department of Environmental Conservation (DEC) notice of the Program and to obtain written confirmation from DEC that the proposed activities will be in compliance with Federal and New York State air quality standards.

### **Program Overview**

The Implementation of the Program will be large-scale and will encompass several Counties throughout New York (refer to Action Plan). Program descriptions are included in **Attachment A**, and a brief overview is included below. A list of affected counties included in the CDBG-DR program is included in **Attachment B**. Specific Federal Actions related to the program include:

1. **Rehabilitation** and repair of 1-4 unit homes, 5+ unit buildings, and commercial properties. Rehabilitated properties within a floodplain will require raising foundations above the base flood elevation
2. **Reimbursement** (incorporated as part of the Rehabilitation program). Qualifying participants may get reimbursed for expenses associated with disaster recovery, which were incurred before the CDBG-DR program funds were ready.
3. **Buy-out** of storm-damaged properties. The State will buy eligible properties and will result in demolition and return to green space for perpetuity.

38-40 State Street, Albany, NY 12207

[nyshcr.org](http://nyshcr.org)

4. Acquisition of damaged properties. The State will buy eligible properties and result in demolition and options for future land use.
5. Economic Development- Eligible entities may receive funding for general economic recovery and improvement of the local economy.

NYSHCR is anticipating it will be responsible for preparing approximately 133 Environmental Review Records (ERRs), covering the various actions within the various counties.

### **Compliance**

Because of the large extent of the Program, it is appropriate to coordinate with DEC, so NYSHCR, as the Responsible Entity (RE), can accurately document compliance.

NYSHCR anticipates the actions of the Program will conform to the State Implementation Plan because they are not anticipated to:

1. Cause or contribute to a new violation of any existing standard in any area
2. Increase the frequency or severity of any existing violation of any standard in any area, or
3. Delay timely attainment of any standard or any required interim emission reduction or other milestones in any area.

Mitigation measures such as dust suppression, covering haul loads, street sweeping, vehicle idling reduction, and spill mitigation measures, among others, are examples of Best Management Practices that may be implemented during the Program actions. NYSHCR anticipates a Negative Declaration and Finding of No Significant Impact (FONSI) for these actions.

NYSHCR is requesting a program comprehensive response letter from DEC, covering all actions, that can be included in all Tier 1 ERRs to document that coordination with DEC is being completed, and that compliance with Federal and State air quality standards will be met.

If you have question or require additional information regarding this request, please contact me at (518) 486-3379 or [hspitzberg@nyshcr.org](mailto:hspitzberg@nyshcr.org). Thank you for your time and consideration.

Sincerely,



Heather M. Spitzberg, Esq.  
NEPA Certifying Officer  
NYS Homes and Community Renewal  
38-40 State Street  
Hampton Plaza  
Albany, NY 12207

cc. Robin Keegan, NYSHCR  
Chris Leo, NYSHCR

Attachment A - Program Descriptions  
Attachment B- List of Affected Counties Included in the CDBG-DR Program

## **Attachment A- Program Descriptions**

The *State of New York Action Plan for Community Development Block Grant Program Disaster Recovery* (Action Plan), issued April 25, 2013, is used as the overall reference for these programs and is incorporated by reference into these project descriptions. The *State of New York Action Plan for Community Development Block Grant Program Disaster Recovery*, dated April 2013 (Federal Register Docket # FR-5696-N-01) may be referenced at: <http://www.nyshcr.org/Publications/CDBGActionPlan.pdf>.

### **Buyout/Acquisition**

An overview of each activity under the program covered by this document is provided below. This program applies to 1- and 2-unit residential properties.

#### **Voluntary Buyouts and Acquisitions of One- and Two-unit Homes**

The Recreate NY Home Buyout Program will include the purchase of eligible substantially damaged properties (>50% of the pre-storm value of the property) inside the floodplain in storm-impacted areas.

Certain highest risk areas in the floodplains, determined to be among the most susceptible to future disasters and that therefore present a greater risk to people and property, will be identified by the State and its local partners for the purposes of this program as enhanced buyout areas (see below). The State will conduct purchases inside of the enhanced buyout areas as “buyouts,” as defined by HUD, whereby they will be eligible for purchase starting at 100% of the property’s pre-storm fair market value (FMV), plus available incentive(s) as outlined below.

The State intends to conduct most purchases outside of the enhanced buyout areas as “acquisitions,” as defined by HUD, whereby purchase offers must begin with the post-storm FMV of the property.

In accordance with the notice governing the use of these funds, properties purchased as a “buyout” will be maintained in perpetuity as coastal buffer zones, while properties purchased as “acquisitions” will be eligible for redevelopment in the future in a resilient manner to protect future occupants of this property. The post-purchase fate of most acquired properties will be determined by the State in consultation with local officials to ensure that the properties best serve the future goals of the community. In some cases, the properties will remain undeveloped and be transformed into parks or other non-residential uses, while in most cases they will be redeveloped in a resilient manner.

#### **Enhanced Buyout Areas**

Enhanced buyouts in select pre-defined targeted buyout areas, which will be determined in consultation with county and local governments, will include an incentive(s) ranging from 5%-15% on top of the pre-storm FMV of property acquired through the buyout program. Reconstruction may not occur on lots in these areas. Lots will be maintained as coastal buffer

zones or other non-residential/commercial uses; there may also be acquisition of vacant or undeveloped land in these targeted areas.

### **Program Activities**

Summarized in the sections below are the physical program activities:

#### Buyout

Following purchase of the property, the land would remain open space in perpetuity. As applicable, structures on the properties would be removed. The Housing Trust Fund Corporation would hold title to the property until the property is transferred to another owner, but will retain restrictions on use.

#### Acquisition

Following purchase of the property, the land may be developed in a resilient manner. The Housing Trust Fund Corporation would hold title to the property until the property is transferred to another owner for development.

### **Rehabilitation 1-4 Units and 5+ Units**

In response to the damage caused by Hurricane Sandy and other natural disasters that occurred across the nation in 2011, 2012, and 2013, homeowners of disaster-declared counties who sustained damage will be invited to submit an application for assistance. The Recreate New York Smart Homes Project activities to be funded by CDBG-DR have been designed to provide assistance for repairing damaged property, reconstructing damaged homes, and mitigating damaged properties for future resilience.

The specific actions include rehabilitation and reconstruction of moderate, major, and substantial storm-damaged structures and elevation to the required advisory base flood elevation plus freeboard as required by each community's floodplain ordinance as further described in the Floodplain Management Document. It is anticipated that the renovations and elevations will take place within the existing footprint of the structure (unless elevation is not technically feasible without alteration of the footprint), and no additional structures will be built upon each approved project parcel. Under this program, the expansion of the structure may not exceed 20% of the original pre storm footprint. The structure must remain 1-4 units in size after rehabilitation or reconstruction.

Wherever allowable by local building codes and any other law and/or regulation, homeowners will be allowed to choose whether to repair the original home, or rebuild (reconstruct) a new home in its place. However, only funding for the more cost-effective option will be provided.

#### Reimbursement

The program may also provide reimbursements for homeowners of one- to four-unit buildings that have started or completed Hurricane Sandy-related rehabilitation work with personal resources, subject to restrictions in line with applicable laws, regulations, and the program requirements (e.g., eligibility criteria, grant restrictions). Reimbursement is contingent on compliance with Recreate NY 1-4 Unit Rehabilitation requirements discussed above

### **Economic Development Program Description**

The applicable programs from the Action Plan are:

- Small Business Grant Program
- Small Business Loan Program
- Coastal Fishing Industry Program
- Seasonal Tourism Industry Program

An overview of each program covered by this document is provided below.

#### **Small Business Grant Program**

This program will provide funding grants to eligible businesses for purchase or repair of equipment, renovation of damaged or destroyed facilities, mitigation actions to protect businesses from future storms, and the following activities identified in Section 4 of the Action Plan:

- Purchase of equipment, materials, inventory, furniture, fixtures
- Employee training
- Acquisition of real property
- Working capital
- Construction, rehabilitation, reconstruction of buildings)
- Engineering, architectural, and/or design costs
- Infrastructure directly associated with economic development activities
- Technical assistance
- Any other eligible business related activity (requires State consultation and approval)
- Marketing and outreach to solicit applications from businesses eligible for any of the State's proposed programs

#### **Small Business Loan Program**

This program will provide loans to eligible businesses for purchase or repair of equipment, renovation of damaged or destroyed facilities, mitigation actions to protect businesses from future storms, and other activities identified in Section 4 of the Action Plan.

#### **Coastal Fishing Industry Program**

This program will provide funding to businesses and individuals qualified as a Coastal Fishing Industry. Details of this program are included on page 50 of the Action Plan.

#### **Seasonal Tourism Industry Program**

This program will provide funding to eligible seasonal tourism businesses. Details of this program are also included on page 50 of the Action Plan.

County	Impacted by:			Potential Programs					Total	total	Overall
	Irene	Lee	Sandy	BO/Acq	Rehab 1 - 4	Rehab 5+	Economic	Reimburse	Documents	started	total
Albany	x				x	x	x	x	4	0	4
Bronx	x		x	x					1	0	1
Broome		x			x	x	x	x	4	0	4
Chemung		x			x	x	x	x	4	0	4
Chenango		x			x	x	x	x	4	0	4
Clinton	x				x	x	x	x	4	0	4
Columbia	x				x	x	x	x	4	0	4
Delaware	x	x			x	x	x	x	4	0	4
Dutchess	x				x	x	x	x	4	0	4
Essex	x				x	x	x	x	4	0	4
Greene	x				x	x	x	x	4	0	4
Fulton		x			x	x	x	x	4	0	4
Herkimer	x	x			x	x	x	x	4	0	4
Kings	x		x	x					1	0	1
Montgomery	x				x	x	x	x	4	0	4
Nassau	x		x	<b>X</b>	<b>X</b>	x	<b>X</b>	x	5	3	2
New York			x	x					1	0	1
Oneida		x			x	x	x	x	4	0	4
Orange	x	x	x	x	x	x	x	x	5	0	5
Otsego	x	x			x	x	x	x	4	0	4
Putnam	x		x	x	x	x	x	x	5	0	5
Queens	x		x	x					1	0	1
Rensselaer	x				x	x	x	x	4	0	4
Richmond	x		x	x					1	0	1
Rockland	x		x	x	<b>X</b>	x	<b>X</b>	x	5	3	2
Saratoga	x				x	x	x	x	4	0	4
Schenectady	x	x			x	x	x	x	4	0	4
Schoharie	x	x			x	x	x	x	4	0	4
Suffolk	x		x	<b>X</b>	<b>X</b>	x	<b>X</b>	x	5	3	2
Sullivan	x		x	x	x	x	x	x	5	0	5
Tioga		x			x	x	x	x	4	0	4
Ulster	x	x	x	x	x	x	x	x	5	0	5
Warren	x				x	x	x	x	4	0	4
Washington	x				x	x	x	x	4	0	4
Westchester	x		x	x	x	x	<b>X</b>	x	5	1	4
<b>TOTALS</b>									<b>133</b>	<b>10</b>	<b>123</b>

## Air Quality—Conformity with State Implementation Plans

---

The conformity requirements of the Clean Air Act (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 State Implementation Plan (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 relevant to the project are presented in **Table 1**.

**Table 1**  
**General Conformity Threshold Levels**

Non-Attainment Area and Pollutants	Threshold (tons/year)
Ozone (other non-attainment areas inside an ozone transport region):	
VOC	50
NO <sub>x</sub>	100
CO (maintenance areas):	
Direct emissions	100
PM <sub>2.5</sub> (maintenance areas):	
Direct emissions	100
SO <sub>2</sub>	100
<b>Source:</b> 40 CFR § 93.153(b)	
<b>Notes:</b> NO <sub>x</sub> and VOCs also limited at 100 tpy in PM <sub>2.5</sub> maintenance areas, but ozone requirements are stricter.	

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.

## NY Rising Bulkhead Repair Initiative

---

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.

The proposed action's effect on emissions within the relevant nonattainment areas and applicability of the conformity regulations for operational emissions has been evaluated. As a conservative estimate, the calculation 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 is a conservative assumption because the county-wide intensity includes emissions from infrastructure and larger construction projects. Such projects typically involve more extensive use of heavier equipment, intensive excavation/foundation work, and/or other high emitting activities such as large paving works. In contrast, the proposed action would involve only repairing and/or replacing or reconstructing residential bulkheads, which would be less intensive. Furthermore, the funding would also provide reimbursement for completed repairs or replacement of residential bulkheads. Given the very low emissions as compared to the thresholds, this level of analysis is sufficient to demonstrate that emissions would be de minimis.

Nassau County-wide construction expenditure in 2007 was \$9.075 billion.<sup>1</sup> The total funding under the proposed action for construction is expected to be \$26.082 million, representing approximately 0.29% of the 2007 county-wide construction expenditure. Projected emission for the proposed action, assuming the proposed action represents a similar portion of the county-wide construction emissions, are presented in **Table 2**.

**Table 2**  
**Construction Emissions (tons per year)**

Pollutant	County-Wide <sup>1</sup>	Proposed Action <sup>2</sup>	de minimis
VOC	131.2	0.4	50
NOx	893.0	2.6	100
CO	956.5	2.7	100
PM <sub>2.5</sub>	78.9	0.2	100
SO <sub>2</sub>	68.4	0.2	100

**Sources:**  
1. NYSDEC. 2007 SIP. Files provided by NYSDEC to AKRF.  
2. Estimated assuming 0.44% of county-wide emissions.

Note that this analysis does not determine that the projected emissions would actually increase emissions as compared to what was assumed in the SIP (since SIP emissions assume growth in the construction sector, but do not specify specific projects, and therefore the proposed action's emissions may not actually be considered incremental). Regardless of the incremental emissions question, the analysis demonstrates that the emissions would be less than the general conformity thresholds described above. Therefore, the proposed action's emissions would be de minimis and would not require a conformity analysis or determination. \*

---

<sup>1</sup> U.S. Census. *Statistics for All U.S. Firms by Industry, Gender, Ethnicity, and Race for the U.S., States, Metro Areas, Counties, and Places: 2007*, SB0700CSA01, 2007 Survey of Business Owners.

**Appendix N:**  
**NYSDOS Coastal Consistency Consultation  
and NYS Coastal Assessment Form**



STATE OF NEW YORK  
**DEPARTMENT OF STATE**  
ONE COMMERCE PLAZA  
99 WASHINGTON AVENUE  
ALBANY, NY 12231-0001

ANDREW M. CUOMO  
GOVERNOR

CESAR A. PERALES  
SECRETARY OF STATE

May 23, 2014

NYS Homes and Community Renewal  
Heather M. Spitzberg, Esq.  
38-40 State Street  
4th Floor, Hampton Plaza  
Albany, New York 12207

Re: F-2013-0533  
United States Department of Housing and Urban  
Development (NYS Homes & Community Renewal)  
NY Rising - Sandy / Irene Recovery Projects  
**General Concurrence No objection to funding-  
Modification To Previously Reviewed Activity**

Dear Attorney Spitzberg:

The Department of State received your proposed modification of the above-referenced activity on February 3, 2014. The Department previously reviewed the original proposal and concurred with a consistency certification for it, or otherwise indicated it had no objection to the proposed funding action.

The proposed modification involves addition of the Bulkhead Repair Program. Under this program, applicants will receive funding to repair or replace storm-damaged bulkheads on residential properties. This program includes reimbursement for work that has been completed, subject to the eligibility requirements of the program.

The Department of State has determined that this modification of the activity previously reviewed by this Department, with the following modifying conditions included and which have been agreed upon by the applicant, would not result in coastal zone effects that would be substantially different than those originally reviewed by the Department, and that the modified proposal meets the Department's general consistency concurrence criteria.

*Condition No. 1:* Installation of temporary structures, meaning these structure are to be removed at the conclusion of their limited purpose, to facilitate the installation of the aforementioned permanent infrastructure and/or retain fill repairs is allowed.

*Condition No. 2:* Installation of new fill comprised entirely of material substantially equivalent to adjacent native material within the footprint of pre-storm conditions is allowed.

*Condition No. 3:* Projects for the restoration of damaged facilities may include a change in materials or minor change in height of approximately 12-18 inches.

Therefore, the Department of State has no objection to the use of HUD funds for this financial assistance activity. This concurrence pertains to the financial assistance activity for this project only. If federal permits or other form

of federal agency authorization (but not including pre-construction notices) is required for this activity, the Department of State will conduct a separate review for those permit activities. In such a case, please forward a copy of the federal application for authorization, a completed Federal Consistency Assessment Form, and all supporting information to the Department at the same time it is submitted to the federal agency from which the necessary authorization is requested.

This General Concurrence is without prejudice to and does not obviate the need to obtain all other applicable licenses, permits, or other forms of authorization or approval that may be required pursuant to existing State statutes.

When communicating with us regarding this matter, please contact Jeffrey Zappieri at (518) 474-6000 (e-mail: [Jeffrey.Zappieri@dos.state.ny.us](mailto:Jeffrey.Zappieri@dos.state.ny.us)) and refer to our file #F-2013-0533.

Sincerely,



Jeffrey Zappieri  
Supervisor, Consistency Review Unit  
Office of Planning and Development

JZ/de



STATE OF NEW YORK  
**DEPARTMENT OF STATE**  
ONE COMMERCE PLAZA  
99 WASHINGTON AVENUE  
ALBANY, NY 12231-0001

ANDREW M. CUOMO  
GOVERNOR

CESAR A. PERALES  
SECRETARY OF STATE

February 07, 2013

Ms. Heather M. Spitzberg, Esq.  
NEPA Certifying Officer  
NYS Homes and Community Renewal  
38-40 State Street  
Hampton Plaza  
Albany, NY 12207

**Re: U.S. Department of Housing and Urban Development  
Community Development Block Grant - Disaster Recovery  
(CDBG-DR) Housing Assistance Program, administered by  
New York State Homes and Community Renewal (NYSHCR) –  
New York Rising Bulkhead Repair Program**

**Letter of Program Coordination**

Dear Ms. Spitzberg:

The Department of State (DOS) received your letter (February 03, 2014) requesting our agency's response affirming that ongoing programmatic coordination, with respect to the above program and, specifically, a recently added program component – the New York Rising Bulkhead Repair Program - is taking place.

The Department of State had determined (DOS letter of October 18, 2013) that the overall program as presented to DOS via communications and material submissions from NYSHCR (June 26, 2013) and via a program update letter (August 29, 2013) is generally consistent with the policies and purposes of the New York State Coastal Management Program (NYSCMP). DOS indicated as part of its determination that any substantial modifications or additions to the program will require further coordination on an ongoing basis with the Department of State.

By means of this letter, DOS acknowledges receipt of the program description for the New York Rising Bulkhead Repair Program and affirms that it is continuing to coordinate with NYSHCR in developing this program component to be consistent with the state coastal policies.

When communicating with us regarding this matter, please contact me at (518) 474-6000.

Sincerely,

Jeff Zappieri  
Manager of Consistency Review  
Office of Planning & Development

*JZ/ts*

*cc: Jennifer Wolff, ProSource Technologies, LLC  
Chris Leo, NYSHCR*



ANDREW M. CUOMO  
GOVERNOR

DARRYL C. TOWNS  
COMMISSIONER/CEO

NEW YORK STATE  
DIVISION OF HOUSING  
& COMMUNITY  
RENEWAL

February 3, 2014

HOUSING  
TRUST FUND  
CORPORATION

Jeffrey Zappieri  
Supervisor, Consistency Review Unit  
Division of Coastal Resources  
New York State Department of State  
One Commerce Plaza  
99 Washington Avenue  
Albany, New York 12231-0001

STATE OF  
NEW YORK MORTGAGE  
AGENCY

NEW YORK STATE  
HOUSING FINANCE  
AGENCY

NEW YORK STATE  
AFFORDABLE HOUSING  
CORPORATION

STATE OF  
NEW YORK MUNICIPAL  
BOND BANK AGENCY

TOBACCO SETTLEMENT  
FINANCING  
CORPORATION

**Re: Introduction of CDBG-DR NY Rising Bulkhead Repair Program and Request for General Consistency Concurrence**

Dear Mr. Zappieri,

On June 26, 2013, New York State (NYS) Homes and Community Renewal (HCR) submitted a letter (via email) to the NYS Department of State (DOS) requesting concurrence that the proposed activities for the 1-4 unit rehabilitation action are covered by the DOS general consistency concurrence criteria. On July 3, DOS provided a response letter (project # F-2013-0533 FA) stating that the proposed activities in the June 26 letter meet the general consistency concurrence criteria, and that the DOS has no objection to funding. On August 29, 2013, NYSHCR provided a Program update letter, which provided information on expanded activities within the program (Economic Development, Reimbursement, etc). The purpose of this letter is to introduce the NY Rising Bulkhead Repair Program and to obtain written confirmation from DOS that the proposed activities will be in compliance with general consistency concurrence criteria.

HCR has been authorized to implement the U.S. Department of Housing and Urban Development (HUD) Community Development Block Grant – Disaster Recovery (CDBG-DR) NY Rising Recovery Program (Program) (referred to as the Housing Assistance Program in previous coordination) in accordance with the *State of New York Action Plan for Community Development Block Grant Program Disaster Recovery* (April 2013, Federal Register Docket # FR-5696-N-01). This document is available for review at:

<http://www.nyshcr.org/Publications/CDBGActionPlan.pdf>.

### **Program Overview**

A detailed description of the activities to be funded under the Bulkhead Repair Program has been included in **Attachment A**. A map of affected counties included in the Bulkhead Repair program, is included in **Attachment B**. As noted in previous consultation letters, the Program includes the following recovery activities:

1. **Housing Recovery**: This program provides funding for the repair and reconstruction of residential properties, along with funding appropriate storm mitigation measures. Rehabilitated properties within a floodplain will require raising foundations above the base flood elevation.
2. **Reimbursement**: As part of Housing Recover, qualifying applicants will be reimbursed for costs associated with repair of storm damaged homes that were completed before the CDBG-DR program funds were available.
3. **Buyouts**: Under the Buyout Program, NYS will purchase 1-2 unit storm-damaged homes, demolish existing structures on the properties, and return the properties to a natural state. These properties will remain as open space in perpetuity.
4. **Acquisitions**: Under the Acquisition Program, NYS will purchase 1-2 unit storm-damaged homes, leaving open the potential for future development.
5. **Economic Development**: Eligible businesses may receive funding for structural repairs, equipment replacement, and general economic recovery, contributing to improvement of the local economy.
6. **Bulkhead Repair**: **Applicants will receive funding to repair or replace storm-damaged bulkheads on residential properties. This program includes reimbursement for work that has been completed, subject to the eligibility requirements of the program.**

### **Compliance**

NYSHCR is requesting a response letter from DOS, regarding the Bulkhead Repair Program that can be included in all Tier 1 ERRs to document that coordination with DOS is underway.

If you have any questions or require additional information regarding this request, please contact me at (518) 486-3379 or [hspitzberg@nyshcr.org](mailto:hspitzberg@nyshcr.org). Thank you for your time and consideration.

Sincerely,



Heather M. Spitzberg, Esq.  
NEPA Certifying Officer  
NYS Homes and Community Renewal  
38-40 State Street  
Hampton Plaza  
Albany, NY 12207

cc. Jennifer Wolff, ProSource Technologies, LLC

Attachment A – Bulkhead Repair Program Description

Attachment B- Map of affected counties included in the Bulkhead Repair program



STATE OF NEW YORK  
**DEPARTMENT OF STATE**  
ONE COMMERCE PLAZA  
99 WASHINGTON AVENUE  
ALBANY, NY 12231-0001

ANDREW M. CUOMO  
GOVERNOR

CESAR A. PERALES  
SECRETARY OF STATE

October 18, 2013

Ms. Heather M. Spitzberg, Esq.  
NEPA Certifying Officer  
NYS Homes and Community Renewal  
38-40 State Street  
Hampton Plaza  
Albany, NY 12207

**Re: U.S. Department of Housing and Urban Development  
Community Development Block Grant - Disaster Recovery  
(CDBG-DR) Housing Assistance Program, administered by  
New York State Homes and Community Renewal (NYSHCR)**

**General Concurrence with Program; No Objection to Funding**

Dear Ms. Spitzberg:

The Department of State received your letter request (dated August 29, 2013) for our agency's review and comprehensive program response. This submission included the program overview, descriptions of program components and objectives, current updates, and reference to additional supporting materials.

The Department of State has determined that this program is generally consistent with the policies and purposes of the New York State Coastal Management Program (NYSCMP). We anticipate that any substantial modifications or additions to the CDBG-DR program will be further coordinated on an ongoing basis with the Department of State.

This General Concurrence is without prejudice to and does not obviate the need to obtain all other applicable licenses, permits, and other forms of authorization or approval that may be required pursuant to existing State statutes.

When communicating with us regarding this matter, please contact me at (518) 474-6000.

Sincerely,

Jeff Zappieri  
Manager of Consistency Review  
Office of Planning & Development

*JZ/ts*

*cc: Robin Keegan, NYSHCR  
Chris Leo, NYSHCR*



ANDREW M. CUOMO  
GOVERNOR

DARRYL C. TOWNS  
COMMISSIONER/CEO

NEW YORK STATE  
DIVISION OF HOUSING  
& COMMUNITY  
RENEWAL

August 29, 2013

HOUSING  
TRUST FUND  
CORPORATION

STATE OF  
NEW YORK MORTGAGE  
AGENCY

NEW YORK STATE  
HOUSING FINANCE  
AGENCY

NEW YORK STATE  
AFFORDABLE HOUSING  
CORPORATION

STATE OF  
NEW YORK MUNICIPAL  
BOND BANK AGENCY

TOBACCO SETTLEMENT  
FINANCING  
CORPORATION

Jeffrey Zappieri  
Supervisor, Consistency Review Unit  
Division of Coastal Resources  
State of New York  
Department of State  
One Commerce Plaza  
99 Washington Avenue  
Albany, New York 12231-0001

**Re: Program Update/Introduction of all Programs, and Request for General Consistency Concurrence for U.S. Department of Housing and Urban Development (HUD) Community Development Block Grant-Disaster Recovery (CDBG-DR) Housing Assistance Program, administered by New York State Homes and Community Renewal (NYSHCR)**

Dear Mr. Zappieri:

On June 26, 2013, New York State Homes and Community Renewal (NYSHCR) submitted a letter (via email) to the State of New York Department of State (DOS) requesting concurrence that the proposed activities for the 1-4 unit rehabilitation action are covered by the DOS general consistency concurrence criteria. On July 3, DOS provided a response letter (project # F-2013-0533 FA) stating that the proposed activities in the June 26 letter meet the general consistency concurrence criteria, and the DOS has no objection to funding.

As you may recall, NYSHCR has been authorized to implement the U.S. Department of Housing and Urban Development (HUD) Community Development Block Grant – Disaster Recovery (CDBG-DR) Housing Assistance Program (Program) in accordance with the *State of New York Action Plan for Community Development Block Grant Program Disaster Recovery*, dated April 2013 (Federal Register Docket # FR-5696-N-01). This document is available for review at <http://www.nyshcr.org/Publications/CDBGActionPlan.pdf>.

Recently, NYSHCR has been directed to proceed with completing all Environmental Review Records (ERRs) for the entire Program. Therefore, the purpose of this letter is to provide DOS notice of the Program actions updates and to obtain written confirmation from DOS that the proposed activities will be in compliance with general consistency concurrence criteria. Actions in the Program that were not described in the June 26 letter include Rehabilitation, Buy out, Acquisition, and Economic Development, as described below.

### **Program Overview**

The Implementation of the Program will be large-scale and will encompass several Counties throughout New York (refer to Action Plan). Program descriptions are included in **Attachment A**, and a brief overview is included below. A list of affected counties included in the CDBG-DR program is included in **Attachment B**. Specific Federal Actions related to the program include:

1. Rehabilitation and repair of 1-4 unit homes, 5+ unit buildings, and commercial properties. Rehabilitated properties within a floodplain will require raising foundations above the base flood elevation.
2. Reimbursement (incorporated as part of the Rehabilitation program). Qualifying participants may get reimbursed for expenses associated with disaster recovery, which were incurred before the CDBG-DR program funds were ready.
3. Buy-out of storm-damaged properties. The State will buy eligible properties and will result in demolition and return to green space for perpetuity.
4. Acquisition of damaged properties. The State will buy eligible properties and result in demolition and options for future land use.
5. Economic Development- Eligible entities may receive funding for general economic recovery and improvement of the local economy.

### **Compliance**

NYSHCR is anticipating it will be responsible for preparing approximately 133 Environmental Review Records (ERRs), covering the various actions within the various counties. Because of the large extent of the Program, it is appropriate to coordinate with DOS, so NYSHCR, as the Responsible Entity (RE), can accurately document compliance.

NYSHCR is requesting a program comprehensive response letter from DOS, covering all actions (in addition to the July 3 letter), that can be included in all Tier 1 ERRs to document that coordination with DOS is being completed, and general consistency concurrence criteria will be met. The prior correspondence between NYSHCR and DOS is included in **Attachment C** for reference.

If you have question or require additional information regarding this request, please contact me at (518) 486-3379 or [hspitzberg@nyshcr.org](mailto:hspitzberg@nyshcr.org). Thank you for your time and consideration.

Sincerely,



Heather M. Spitzberg, Esq.  
NEPA Certifying Officer  
NYS Homes and Community Renewal  
38-40 State Street  
Hampton Plaza  
Albany, NY 12207

cc. Robin Keegan, NYSHCR  
Chris Leo, NYSHCR

Attachment A - Program Descriptions  
Attachment B- List of Affected Counties Included in the CDBG-DR Program  
Attachment C- Prior Correspondence

## **Attachment A- Program Descriptions**

The *State of New York Action Plan for Community Development Block Grant Program Disaster Recovery* (Action Plan), issued April 25, 2013, is used as the overall reference for these programs and is incorporated by reference into these project descriptions. The *State of New York Action Plan for Community Development Block Grant Program Disaster Recovery*, dated April 2013 (Federal Register Docket # FR-5696-N-01) may be referenced at: <http://www.nyshcr.org/Publications/CDBGActionPlan.pdf>.

### **Buyout/Acquisition**

An overview of each activity under the program covered by this document is provided below. This program applies to 1- and 2-unit residential properties.

#### **Voluntary Buyouts and Acquisitions of One- and Two-unit Homes**

The Recreate NY Home Buyout Program will include the purchase of eligible substantially damaged properties (>50% of the pre-storm value of the property) inside the floodplain in storm-impacted areas.

Certain highest risk areas in the floodplains, determined to be among the most susceptible to future disasters and that therefore present a greater risk to people and property, will be identified by the State and its local partners for the purposes of this program as enhanced buyout areas (see below). The State will conduct purchases inside of the enhanced buyout areas as “buyouts,” as defined by HUD, whereby they will be eligible for purchase starting at 100% of the property’s pre-storm fair market value (FMV), plus available incentive(s) as outlined below.

The State intends to conduct most purchases outside of the enhanced buyout areas as “acquisitions,” as defined by HUD, whereby purchase offers must begin with the post-storm FMV of the property.

In accordance with the notice governing the use of these funds, properties purchased as a “buyout” will be maintained in perpetuity as coastal buffer zones, while properties purchased as “acquisitions” will be eligible for redevelopment in the future in a resilient manner to protect future occupants of this property. The post-purchase fate of most acquired properties will be determined by the State in consultation with local officials to ensure that the properties best serve the future goals of the community. In some cases, the properties will remain undeveloped and be transformed into parks or other non-residential uses, while in most cases they will be redeveloped in a resilient manner.

#### **Enhanced Buyout Areas**

Enhanced buyouts in select pre-defined targeted buyout areas, which will be determined in consultation with county and local governments, will include an incentive(s) ranging from 5%-15% on top of the pre-storm FMV of property acquired through the buyout program. Reconstruction may not occur on lots in these areas. Lots will be maintained as coastal buffer

zones or other non-residential/commercial uses; there may also be acquisition of vacant or undeveloped land in these targeted areas.

### **Program Activities**

Summarized in the sections below are the physical program activities:

#### Buyout

Following purchase of the property, the land would remain open space in perpetuity. As applicable, structures on the properties would be removed. The Housing Trust Fund Corporation would hold title to the property until the property is transferred to another owner, but will retain restrictions on use.

#### Acquisition

Following purchase of the property, the land may be developed in a resilient manner. The Housing Trust Fund Corporation would hold title to the property until the property is transferred to another owner for development.

### **Rehabilitation 1-4 Units and 5+ Units**

In response to the damage caused by Hurricane Sandy and other natural disasters that occurred across the nation in 2011, 2012, and 2013, homeowners of disaster-declared counties who sustained damage will be invited to submit an application for assistance. The Recreate New York Smart Homes Project activities to be funded by CDBG-DR have been designed to provide assistance for repairing damaged property, reconstructing damaged homes, and mitigating damaged properties for future resilience.

The specific actions include rehabilitation and reconstruction of moderate, major, and substantial storm-damaged structures and elevation to the required advisory base flood elevation plus freeboard as required by each community's floodplain ordinance as further described in the Floodplain Management Document. It is anticipated that the renovations and elevations will take place within the existing footprint of the structure (unless elevation is not technically feasible without alteration of the footprint), and no additional structures will be built upon each approved project parcel. Under this program, the expansion of the structure may not exceed 20% of the original pre storm footprint. The structure must remain 1-4 units in size after rehabilitation or reconstruction.

Wherever allowable by local building codes and any other law and/or regulation, homeowners will be allowed to choose whether to repair the original home, or rebuild (reconstruct) a new home in its place. However, only funding for the more cost-effective option will be provided.

#### Reimbursement

The program may also provide reimbursements for homeowners of one- to four-unit buildings that have started or completed Hurricane Sandy-related rehabilitation work with personal resources, subject to restrictions in line with applicable laws, regulations, and the program requirements (e.g., eligibility criteria, grant restrictions). Reimbursement is contingent on compliance with Recreate NY 1-4 Unit Rehabilitation requirements discussed above

### **Economic Development Program Description**

The applicable programs from the Action Plan are:

- Small Business Grant Program
- Small Business Loan Program
- Coastal Fishing Industry Program
- Seasonal Tourism Industry Program

An overview of each program covered by this document is provided below.

#### **Small Business Grant Program**

This program will provide funding grants to eligible businesses for purchase or repair of equipment, renovation of damaged or destroyed facilities, mitigation actions to protect businesses from future storms, and the following activities identified in Section 4 of the Action Plan:

- Purchase of equipment, materials, inventory, furniture, fixtures
- Employee training
- Acquisition of real property
- Working capital
- Construction, rehabilitation, reconstruction of buildings)
- Engineering, architectural, and/or design costs
- Infrastructure directly associated with economic development activities
- Technical assistance
- Any other eligible business related activity (requires State consultation and approval)
- Marketing and outreach to solicit applications from businesses eligible for any of the State's proposed programs

#### **Small Business Loan Program**

This program will provide loans to eligible businesses for purchase or repair of equipment, renovation of damaged or destroyed facilities, mitigation actions to protect businesses from future storms, and other activities identified in Section 4 of the Action Plan.

#### **Coastal Fishing Industry Program**

This program will provide funding to businesses and individuals qualified as a Coastal Fishing Industry. Details of this program are included on page 50 of the Action Plan.

#### **Seasonal Tourism Industry Program**

This program will provide funding to eligible seasonal tourism businesses. Details of this program are also included on page 50 of the Action Plan.

County	Impacted by:			Potential Programs					Total	total	Overall
	Irene	Lee	Sandy	BO/Acq	Rehab 1 - 4	Rehab 5+	Economic	Reimburse	Documents	started	total
Albany	x				x	x	x	x	4	0	4
Bronx	x		x	x					1	0	1
Broome		x			x	x	x	x	4	0	4
Chemung		x			x	x	x	x	4	0	4
Chenango		x			x	x	x	x	4	0	4
Clinton	x				x	x	x	x	4	0	4
Columbia	x				x	x	x	x	4	0	4
Delaware	x	x			x	x	x	x	4	0	4
Dutchess	x				x	x	x	x	4	0	4
Essex	x				x	x	x	x	4	0	4
Greene	x				x	x	x	x	4	0	4
Fulton		x			x	x	x	x	4	0	4
Herkimer	x	x			x	x	x	x	4	0	4
Kings	x		x	x					1	0	1
Montgomery	x				x	x	x	x	4	0	4
Nassau	x		x	<b>X</b>	<b>X</b>	x	<b>X</b>	x	5	3	2
New York			x	x					1	0	1
Oneida		x			x	x	x	x	4	0	4
Orange	x	x	x	x	x	x	x	x	5	0	5
Otsego	x	x			x	x	x	x	4	0	4
Putnam	x		x	x	x	x	x	x	5	0	5
Queens	x		x	x					1	0	1
Rensselaer	x				x	x	x	x	4	0	4
Richmond	x		x	x					1	0	1
Rockland	x		x	x	<b>X</b>	x	<b>X</b>	x	5	3	2
Saratoga	x				x	x	x	x	4	0	4
Schenectady	x	x			x	x	x	x	4	0	4
Schoharie	x	x			x	x	x	x	4	0	4
Suffolk	x		x	<b>X</b>	<b>X</b>	x	<b>X</b>	x	5	3	2
Sullivan	x		x	x	x	x	x	x	5	0	5
Tioga		x			x	x	x	x	4	0	4
Ulster	x	x	x	x	x	x	x	x	5	0	5
Warren	x				x	x	x	x	4	0	4
Washington	x				x	x	x	x	4	0	4
Westchester	x		x	x	x	x	<b>X</b>	x	5	1	4
<b>TOTALS</b>									<b>133</b>	<b>10</b>	<b>123</b>



STATE OF NEW YORK  
**DEPARTMENT OF STATE**  
ONE COMMERCE PLAZA  
99 WASHINGTON AVENUE  
ALBANY, NY 12231-0001

ANDREW M. CUOMO  
GOVERNOR

CESAR A. PERALES  
SECRETARY OF STATE

July 3, 2013

Ms. Heather M. Spitzberg, Esq.  
NYS Homes and Community Renewal  
38-40 State Street  
4th Floor, Hampton Plaza  
Albany, New York 12207

**Re: F-2013-0533(FA)**  
NYS Homes and Community Renewal  
Replacement, rehabilitation or reconstruction of a  
structure or facility, in kind, on the same site,  
including upgrading buildings to meet building or fire  
codes (including flood-proofing and mitigation). The  
program activities may also include necessary utility  
connection replacements and repair or replacement of  
minor accessory/appurtenant residential structures.  
**General Concurrence - No Objection To Funding**

Dear Ms. Spitzberg:

The Department of State received the information you submitted regarding the above matter on June 26, 2013.

The Department of State has determined that this proposal meets the Department's general consistency concurrence criteria. Therefore, the Department of State has no objection to the use of HUD funds for this financial assistance activity. This concurrence pertains to the financial assistance activity for this project only. If federal permits or other form of federal agency authorization is required for this activity, the Department of State will conduct a separate review for those permit activities. In such a case, please forward a copy of the federal application for authorization, a completed Federal Consistency Assessment Form, and all supporting information to the Department at the same time it is submitted to the federal agency from which the necessary authorization is requested.

When communicating with us regarding this matter, please contact Jeffrey Zappieri at (518) 474-6000 and refer to our file #F-2013-0533(FA).

Sincerely,

Jeffrey Zappieri  
Supervisor, Consistency Review Unit  
Division of Coastal Resources

JZ/dc

## Heather Spitzberg

---

**From:** Heather Spitzberg  
**Sent:** Friday, April 26, 2013 12:43 PM  
**To:** jeffrey.zappieri@dos.ny.gov; denise.caldwell@dos.ny.gov  
**Subject:** Consistency Determinations For Disaster Recovery Projects

Hi,

I'm an Environmental Analyst with NYS HCR. I believe that I've worked with both of you in the past.

HCR's Office of Community Renewal (OCR) is going to be administering millions of dollars to rehabilitate homes that have been damaged by Hurricanes Sandy, Lee & Irene. It is CDBG-DR (Disaster Recovery) funding from HUD and will be directly administered by OCR through local non-profits and municipalities. The potential project descriptions are below. We anticipate that most of the properties will be in a Coastal Zone.

Specific sites have not yet been chosen. We are currently drafting our NEPA review, which will be a Programmatic Review, with preparation of individual site specific checklists as sites are chosen.

As this will be entirely rehabilitation of existing structures in their existing footprints, do we need to undertake a Federal Consistency Review for each project, or can we do this on the Programmatic level? If we can do a Programmatic response from DOS, what do you need from OCR? If we need to submit individual consistency reviews, can we discuss how to expedite that process with your office?

If you think we need to discuss further by phone, please let me know.

Thanks so much for your help.

Heather

### Program Description:

#### Scattered Sites

The Following NY Counties: Albany, Broome, Chemung, Clinton, Columbia, Delaware, Dutchess, Essex, Fulton, Greene, Herkimer, Montgomery, Nassau, Oneida, Orange, Otsego, Putnam, Rensselaer, Rockland, Saratoga, Schenectady, Schoharie, Suffolk, Sullivan, Tioga, Ulster, Warren, Washington and Westchester

The New York State Homes & Community Renewal (HCR) Office of Community Renewal (OCR) intends to enter into subrecipient agreements with non-profit and municipal entities to fund activities eligible under the **Housing Assistance Program** section of the State of New York Action Plan for Community Development Block Grant Program - Disaster Recovery (CDBG-DR). The CDBG-DR was approved under the Department of Housing and Urban Development Appropriations Act of 2013 (Public Law 113-2).

A site specific environmental checklist will be completed for each individual site that is chosen to receive an award and be kept on file at the offices of each subrecipient.

The program activities include replacement, rehabilitation or reconstruction of a structure or facility, in kind, on the same site, including upgrading buildings to meet building or fire codes (including flood-proofing and mitigation). The program activities may also include necessary utility connection replacements and repair or replacement of minor accessory/appurtenant residential structures. The following five programs will be undertaken:

1. Recreate NY Smart Home Repair and Reconstruction

- Available to owners of one- and two-unit homes located outside of New York City whether owner occupied or income generating, including Condominiums, Co-Ops and Garden Apartments.
- Will cover costs for the repair/replacement of damage to real property (including mold remediation); replacement of disaster-impacted non-luxury residential appliances; and environmental health hazard mitigation costs related to the repair or rehabilitation of disaster-impacted property.

2. Recreate NY Smart Home Resilience

- Available to owners of one- and two-unit homes located outside of New York City whether owner occupied or income generating, including: Condominiums, Co-Ops and Garden Apartments.
- Property is located within a 100-year floodplain and damaged, or property was substantially damaged (i.e., lost more than 50% of pre-storm FMV), and still needs additional rehabilitation.
- Will cover costs to mitigate future damage.

3. Small Multi-Family Repair and Reconstruction

- Available to owners of multi-unit (3-7 units) residential buildings located outside of New York City including: Rental properties, including owner-occupied rental properties, non-owner-occupied properties that may be attached, semi-attached, detached/scattered site, which in the aggregate does not exceed a total of seven (7) units.
- Will cover costs for the repair/replacement of damage to real property (including mold remediation); replacement of disaster-impacted non-luxury residential appliances; and environmental health hazard mitigation costs related to the repair or rehabilitation of disaster-impacted property.

4. Small Multi-Family Mitigation

- Available to owners of multi-unit (3-7) residential buildings located outside of New York City, including owner-occupied rental properties, as well as non-owner-occupied properties that may be attached, semi-attached, detached/scattered site, which in the aggregate do not exceed a total of seven (7) units. New York City will administer its own CDBG-DR programs directly.
- Will cover costs to mitigate future damage.

5. Large Multi-Family Mitigation

- Available to owners of multi-unit properties with eight or more units located outside of New York City including owner-occupied rental properties, as well as non-owner-occupied properties that may be attached, semi-attached, or detached/scattered site. New York City will administer its own CDBG-DR programs directly.
- Property is located within a 100-year floodplain and sustained damage as a result of the disaster.
- Will cover costs to mitigate future damage.

*Heather M. Spitzberg, Esq.*  
*Environmental Analyst*  
*NYS Homes and Community Renewal*  
*38-40 State Street*  
*4th Floor, Hampton Plaza*  
*Albany, NY 12207*

*(518) 486-3379 (phone)*  
*(518) 402-7376 (fax)*  
[\*hspitzberg@nyshcr.org\*](mailto:hspitzberg@nyshcr.org)

NEW YORK STATE DEPARTMENT OF STATE  
COASTAL MANAGEMENT PROGRAM

Coastal Assessment Form

A. INSTRUCTIONS (Please print or type all answers)

1. State agencies shall complete this CAF for proposed actions which are subject to Part 600 of Title 19 of the NYCRR. This assessment is intended to supplement other information used by a state agency in making a determination of significance pursuant to the State Environmental Quality Review Act (see 6 NYCRR, Part 617). If it is determined that a proposed action will not have a significant effect on the environment, this assessment is intended to assist a state agency in complying with the certification requirements of 19 NYCRR Section 600.4.
2. If any question in Section C on this form is answered "yes," then the proposed action may affect the achievement of the coastal policies contained in Article 42 of the Executive Law. Thus, the action should be analyzed in more detail and, if necessary, modified prior to either (a) making a certification of consistency pursuant to 19 NYCRR Part 600 or, (b) making the findings required under SEQR, 6 NYCRR, Section 617.11, if the action is one for which an environmental impact statement is being prepared. If an action cannot be certified as consistent with the coastal policies, it shall not be undertaken.
3. Before answering the questions in Section C, the preparer of this form should review the coastal policies contained in 19 NYCRR Section 600.5. A proposed action should be evaluated as to its significant beneficial and adverse effects upon the coastal area.

B. DESCRIPTION OF PROPOSED ACTION

1. Type of state agency action (check appropriate response):

- (a) Directly undertaken (e.g. capital construction, planning activity, agency regulation, land transaction)
- (b) Financial assistance (e.g. grant, loan, subsidy)
- (c) Permit, license, certification

2. Describe nature and extent of action:

**The NY Rising Bulkhead Repair Initiative for Residential Properties is designed to provide assistance for repairing and/or replacing or reconstructing damaged bulkheads on both owner-occupied and rental residential properties whose bulkheads were damaged during Superstorm Sandy, Hurricane Irene, and Tropical Storm Lee. All bulkhead replacements would be in the existing footprint. Material upgrades would be permitted when deemed advisable by a professional engineer licensed in the State of New York (licensed engineer). In some cases, alternatives to in-kind and in-place repair would be considered when recommended by a licensed engineer. To bolster resiliency, some bulkheads may be up to 18 inches higher than the currently existing bulkhead.**

3. Location of action:

**Delaware, Greene, Nassau, Orange,  
Rockland, Schenectady, Schoharie, Suffolk,  
Tioga, Ulster, Warren, and Westchester**

County

**NA**

City, Town or Village

**NA**

Street or Site Description

4. If an application for the proposed action has been filed with the state agency, the following information shall be provided:

- (a) Name of applicant: NA
- (b) Mailing address: NA
- (c) Telephone Number: Area Code NA
- (d) State agency application number: NA

5. Will the action be directly undertaken, require funding, or approval by a federal agency?

Yes **X** No

If yes, which federal agency?

**Housing and Urban Development  
(HUD)**

C. COASTAL ASSESSMENT (Check either "YES" or "NO" for each of the following questions)

	<u>YES</u>	<u>NO</u>
1. Will the proposed activity be <u>located</u> in, or contiguous to, or have a <u>significant effect</u> upon any of the resource areas identified on the coastal area map:		
(a) Significant fish or wildlife habitats?	<u>X</u>	_____
(b) Scenic resources of statewide significance?	<u>X</u>	_____
(c) Important agricultural lands?	<u>X</u>	_____
2. Will the proposed activity have a <u>significant effect</u> upon:		
(a) Commercial or recreational use of fish and wildlife resources?	_____	<u>X</u>
(b) Scenic quality of the coastal environment?	_____	<u>X</u>
(c) Development of future, or existing water dependent uses?	_____	<u>X</u>
(d) Operation of the State's major ports?	_____	<u>X</u>
(e) Land and water uses within the State's small harbors?	_____	<u>X</u>
(f) Existing or potential public recreation opportunities?	_____	<u>X</u>
(g) Structures, sites or districts of historic, archeological or cultural significance to the State or nation?	_____	<u>X</u>
3. Will the proposed activity <u>involve</u> or <u>result in</u> any of the following:		
(a) Physical alteration of two (2) acres or more of land along the shoreline, land under water or coastal waters?	<u>X</u>	_____
(b) Physical alteration of five (5) acres or more of land located elsewhere in the coastal area?	_____	<u>X</u>
(c) Expansion of existing public services of infrastructure in undeveloped or low density areas of the coastal area?	_____	<u>X</u>
(d) Energy facility not subject to Article VII or VIII of the Public Service Law?	_____	<u>X</u>
(e) Mining, excavation, filling or dredging in coastal waters?	_____	<u>X</u>
(f) Reduction of existing or potential public access to or along the shore?	_____	<u>X</u>
(g) Sale or change in use of state-owned lands located on the shoreline or under water?	_____	<u>X</u>
(h) Development within a designated flood or erosion hazard area?	_____	<u>X</u>
(i) Development on a beach, dune, barrier island or other natural feature that provides protection against flooding or erosion?	_____	_____
4. Will the proposed action be <u>located</u> in or have a <u>significant effect</u> upon an area included in an approved Local Waterfront Revitalization Program?	<u>X</u>	_____

D. SUBMISSION REQUIREMENTS

If any question in Section C is answered "Yes", AND either of the following two conditions is met:

Section B.1(a) or B.1(b) is checked; or  
 Section B.1(c) is checked AND B.5 is answered "Yes",

THEN one copy of the Completed Coastal Assessment Form shall be submitted to:

New York State Department of State  
 Office of Coastal, Local Government and Community Sustainability  
 One Commerce Plaza  
 99 Washington Avenue, Suite 1010  
 Albany, New York 12231-0001

If assistance of further information is needed to complete this form, please call the Department of State at (518) 474-6000.

E. REMARKS OR ADDITIONAL INFORMATION

This Coastal Assessment Form is being prepared as part of a Tier 1 Programmatic Environmental Review (PEA) to evaluate the potential environmental impacts of the NY Rising Bulkhead Repair Initiative. The NY Rising Bulkhead Repair Initiative was established by NYS Homes and Community Renewal (HCR), through its Office of Community Renewal (OCR) and the Housing Trust Fund Corporation (HTFC), for the distribution of U.S. Department of Housing and Urban Development (HUD) Community Development Block Grant—Disaster Recovery (CDBG-DR) funding. This program is exclusively for the repair and/or replacement or reconstruction of residential bulkheads damaged by Superstorm Sandy, Hurricane Irene, and/or Tropical Storm Lee.

The geographic scope for the NY Rising Bulkhead Repair Initiative for Residential Properties is the jurisdictional area of Delaware, Greene, Nassau, Orange, Rockland, Schenectady, Schoharie, Suffolk, Tioga, Ulster, Warren, and Westchester Counties. Some municipalities within these counties have Local Waterfront Revitalization Plans (LWRPs). An individual project’s compliance with a municipality’s LWRP will be evaluated during the Tier 2 review process. No new bulkheads would be created by this program. The proposed action includes conditions for approval and mitigation, as discussed in the Tier 1 PEA, to avoid and minimize environmental impacts. Compliance with these conditions for approval will be evaluated for each applicant site during the Tier 2 review process.

Construction activities are expected to take place on the waterfront of residential properties scattered throughout the above counties. Residential property owners of any location within these counties that sustained damage from Superstorm Sandy, Hurricane Irene, and/or Tropical Storm Lee are able to apply for bulkhead repair. The actual property addresses will not be verified until applications for assistance are reviewed and determined eligible for the program.

Without the NY Rising Bulkhead Initiative, residents of storm-damaged communities would be unable to rehabilitate the bulkheads on their residential properties. If damaged bulkheads are not addressed, residential properties would remain vulnerable to future storm damage and the bulkheads would remain vulnerable to structural deterioration and weathering.

Please refer to Attachment A for an analysis of the NY Rising Bulkhead Repair Initiative for Residential Properties consistency with the NY State Coastal Policies.

Preparer's Name: Thomas J. King (Please print)

Title: Certifying Officer Agency: NYS Homes and Community Renewal, Governor’s Office of Storm Recovery

Telephone Number: (518) 486-7512 Date: June 6, 2014

## Attachment A

### New York State Coastal Policy Consistency Analysis

New York State Coastal Policies	NY Rising Bulkhead Repair Initiative for Residential Properties Consistency
<b>DEVELOPMENT POLICIES</b>	
<b>Policy 1</b>	
Restore, revitalize, and redevelop deteriorated and underutilized waterfront areas for commercial, industrial, cultural, recreational, and other compatible uses.	The Bulkhead Repair Initiative would repair or replace existing bulkheads to protect existing residential properties. No new residential development or any commercial development is proposed. To the extent that the Bulkhead Repair Initiative would prevent deterioration of existing residential waterfront properties and therefore restore and revitalize said properties, the Bulkhead Repair Initiative would be consistent with this policy.
<b>Policy 2</b>	
Facilitate the siting of water-dependent uses and facilities on or adjacent to coastal waters.	The Bulkhead Repair Initiative would repair or replace existing bulkheads to protect existing residential properties. No new residential development or any commercial development is proposed, and therefore this policy is not applicable.
<b>Policy 3</b>	
Further develop the state's major ports of Albany, Buffalo, New York, Ogdensburg, and Oswego as centers of commerce and industry, and encourage the siting, in these port areas, including those under the jurisdiction of state public authorities, of land use and development which is essential to, or in support of, the waterborne transportation of cargo and people.	The Bulkhead Repair Initiative would repair or replace existing bulkheads to protect existing residential properties. No new residential development or any commercial development is proposed in the specified locations, and therefore this policy is not applicable.
<b>Policy 4</b>	
Strengthen the economic base of smaller harbor areas by encouraging the development and enhancement of those traditional uses and activities which have provided such areas with their unique maritime identity.	The Bulkhead Repair Initiative would repair or replace existing bulkheads to protect existing residential properties and would positively affect the economic base of smaller harbor areas by enhancing property values through such protection activities. Therefore the Bulkhead Repair Initiative would be consistent with this policy.
<b>Policy 5</b>	
Encourage the location of development in areas where public services and facilities essential to such development are adequate.	The Bulkhead Repair Initiative would repair or replace existing bulkheads to protect existing residential properties. No new residential development or any commercial development is proposed. To the extent that the Bulkhead Repair Initiative would retain existing development where public services and facilities are adequate, the Bulkhead Repair Initiative would be consistent with this policy.
<b>Policy 6</b>	
Expedite permit procedures in order to facilitate the siting of development activities at suitable locations.	The Bulkhead Repair Initiative would repair or replace existing bulkheads to protect existing residential properties. No new residential development or any commercial development is proposed. To the extent that the Bulkhead Repair Initiative would facilitate the acquisition of the appropriate permits for bulkhead replacement or repair, the Bulkhead Repair Initiative would be consistent with this policy.
<b>FISH AND WILDLIFE POLICIES</b>	
<b>Policy 7</b>	
Significant coastal fish and wildlife habitats will be protected, preserved, and where practical, restored so as to maintain their viability as habitats.	The Bulkhead Repair Initiative would repair or replace existing bulkheads to protect existing residential properties. As such, the proposed action is not likely to alter any of the biological, physical or chemical parameters beyond the tolerance range of the organisms occupying the habitat, or otherwise significantly impair or destroy the viability of the habitat. Therefore, the Bulkhead Repair Initiative is consistent with Policy 7.

<b>Policy 8</b>	
Protect fish and wildlife resources in the coastal area from the introduction of hazardous wastes and other pollutants which bio-accumulate in the food chain or which cause significant sublethal or lethal effect on those resources.	The Bulkhead Repair Initiative would repair or replace existing bulkheads to protect existing residential properties. The proposed action would not generate any hazardous materials; however there is the possibility that existing hazardous materials could be encountered. New York State Homes and Community Renewal ("HCR") is charged with the overall inspection for hazardous materials (with the exception of commonly found household hazardous materials such as automotive batteries or used motor oil) for the Bulkhead Repair Initiative. HCR in conjunction with designated agencies or consultants under HCR's direction would provide qualified environmental professionals (QEP) to perform on-site visits as necessary; QEP are experienced persons with the skills to look for and recognize hazardous materials and their conditions generally as well as the most common types of residential contamination found within this geographic area. The reports generated by the QEPs with environmental assessment experience would be reviewed by HCR or consultant under HCR direction to confirm that all items on the checklist are appropriately addressed. Depending on the site-specific environmental assessment of the degree and extent of any hazards identified, the applicant may be responsible for the removal of such items before the repair work can proceed. Therefore, the proposed action is consistent with Policy 8 in that it would protect fish and wildlife resources in the coastal area from the introduction of hazardous wastes and other pollutants which bio-accumulate in the food chain or which cause significant sublethal or lethal effect on those resources.
<b>Policy 9</b>	
Expand recreational use of fish and wildlife resources in coastal areas by increasing access to existing resources, supplementing existing stocks, and developing new resources.	The Bulkhead Repair Initiative would repair or replace existing bulkheads to protect existing residential properties. No new residential development or any commercial development is proposed. As such, the policy is not applicable.
<b>Policy 10</b>	
Further develop commercial finfish, shellfish, and crustacean resources in the coastal area by encouraging the construction of new, or improvement of existing on-shore commercial fishing facilities, increasing marketing of the state's seafood products, maintaining adequate stocks, and expanding aquaculture facilities.	The Bulkhead Repair Initiative would repair or replace existing bulkheads to protect existing residential properties. No new residential development or any commercial development is proposed. As such, the policy is not applicable.
<b>FLOODING AND EROSION HAZARDS POLICIES</b>	
<b>Policy 11</b>	
Buildings and other structures will be sited in the coastal area so as to minimize damage to property and the endangering of human lives caused by flooding and erosion.	The Bulkhead Repair Initiative would repair or replace existing bulkheads to protect existing residential properties. All bulkhead replacements would be in the existing footprint. Bulkheads may be constructed to be up to 18 inches higher than the currently existing bulkhead. Material upgrades would be permitted when deemed advisable by a licensed engineer. Alternatives to in-kind and in-place repair would be considered only when recommended by a licensed engineer. Consistent with Policy 11, the repair or reconstruction of these bulkheads would minimize damage to property and risk to human lives caused by flooding and erosion.
<b>Policy 12</b>	
Activities or development in the coastal area will be undertaken so as to minimize damage to natural resources and property from flooding and erosion by protecting natural protective features including beaches, dunes, barrier islands and bluffs.	The Bulkhead Repair Initiative would repair or replace existing bulkheads to protect existing residential properties. No new bulkheads are proposed and no natural areas would be disturbed.

<p><b>Policy 13</b></p> <p>The construction or reconstruction of erosion protection structures shall be undertaken only if they have a reasonable probability of controlling erosion for at least thirty years as demonstrated in design and construction standards and/or assured maintenance or replacement programs.</p>	<p>Bulkhead repair and/or replacement or reconstruction activities would be conducted in accordance with the federally issued design criteria documents. All bulkhead replacements would be in the existing footprint. Bulkheads may be constructed to be up to 18 inches higher than the currently existing bulkhead, to further protect existing residential properties. Material upgrades would be permitted when deemed advisable by a licensed engineer. Alternatives to in-kind and in-place repair would be considered only when recommended by a licensed engineer. The Bulkhead Repair Initiative would repair or replace existing bulkheads, and would protect existing development that is sited in areas that would otherwise be subject to damage or loss due to erosion. As such, the proposed action is consistent with this policy in that it will help ensure the reduction of such damage or loss.</p>
<p><b>Policy 14</b></p> <p>Activities and development, including the construction or reconstruction of erosion protection structures, shall be undertaken so that there will be no measurable increase in erosion or flooding at the site of such activities or development, or at other locations.</p>	<p>The Bulkhead Repair Initiative would repair or replace existing bulkheads to protect existing residential properties. No new bulkheads are proposed. Bulkhead repair and/or replacement or reconstruction activities would be conducted in accordance with the federally issued design criteria documents. All bulkhead replacements would be in the existing footprint. Bulkheads may be constructed to be up to 18 inches higher than the currently existing bulkhead, to further protect existing residential properties. Material upgrades would be permitted when deemed advisable by a licensed engineer. Alternatives to in-kind and in-place repair would be considered only when recommended by a licensed engineer. As such, consistent with this policy, the proposed action would not measurably increase erosion or flooding at the site of such activities or development, or at other locations.</p>
<p><b>Policy 15</b></p> <p>Mining, excavation or dredging in coastal waters shall not significantly interfere with the natural coastal processes which supply beach materials to land adjacent to such waters and shall be undertaken in a manner which will not cause an increase in erosion of such land.</p>	<p>The Bulkhead Repair Initiative may include the removal of accumulated sediments and debris in the vicinity of existing structures, associated with replacement of a bulkhead. These limited activities are not anticipated to significantly interfere with the natural coastal processes. As such, the proposed action is consistent with Policy 15.</p>
<p><b>Policy 16</b></p> <p>Public funds shall only be used for erosion protective structures where necessary to protect human life, and new development which requires a location within or adjacent to an erosion hazard area to be able to function, or existing development; and only where the public benefits outweigh the long term monetary and other costs including the potential for increasing erosion and adverse effects on natural protective features.</p>	<p>The Bulkhead Repair Initiative would repair or replace existing bulkheads to protect existing residential properties. All bulkhead replacements would be in the existing footprint. Bulkheads may be constructed to be up to 18 inches higher than the currently existing bulkhead. Material upgrades would be permitted when deemed advisable by a licensed engineer. Alternatives to in-kind and in-place repair would be considered only when recommended by a licensed engineer. Consistent with Policy 16, the repair or reconstruction of these bulkheads is necessary to protect human life and existing development from increased erosion.</p>

<b>Policy 17</b>	
Non-structural measures to minimize damage to natural resources and property from flooding and erosion shall be used whenever possible.	The Bulkhead Repair Initiative would repair or replace existing bulkheads to protect existing residential properties. All bulkhead replacements would be in the existing footprint, and are designed to protect existing residential structures. Alternatives to in-kind and in-place repair, such as non-structural measures, would be considered only when recommended by a licensed engineer. As such, the proposed action is consistent with Policy 17.
<b>GENERAL POLICY</b>	
<b>Policy 18</b>	
To safeguard the vital economic, social and environmental interests of the state and of its citizens, proposed major actions in the coastal area must give full consideration to those interests, and to the safeguards which the state has established to protect valuable coastal resource areas.	The proposed action would not significantly impair valuable coastal waters or resources, or otherwise frustrate the achievement of the purposes of the safeguards the State has established to protect those waters and resources. By protecting existing residential structures, the proposed action would protect the character of established residential neighborhoods. As such, the proposed action is consistent with Policy 18.
<b>PUBLIC ACCESS POLICIES</b>	
<b>Policy 19</b>	
Protect, maintain, and increase the level and types of access to public water-related recreation resources and facilities.	The Bulkhead Repair Initiative would repair or replace existing bulkheads to protect existing residential properties. No new residential development or any commercial development is proposed. As such, the policy is not applicable.
<b>Policy 20</b>	
Access to the publicly-owned foreshore and to lands immediately adjacent to the foreshore or the water's edge that are publicly-owned shall be provided and it shall be provided in a manner compatible with adjoining uses.	The Bulkhead Repair Initiative would repair or replace existing bulkheads to protect existing residential properties. No new residential development or any commercial development is proposed. As such, the policy is not applicable.
<b>RECREATION POLICIES</b>	
<b>Policy 21</b>	
Water-dependent and water-enhanced recreation will be encouraged and facilitated, and will be given priority over non-water-related used along the coast.	The Bulkhead Repair Initiative would repair or replace existing bulkheads to protect existing residential properties. No new residential development or any commercial development is proposed. As such, the policy is not applicable.
<b>Policy 22</b>	
Development, when located adjacent to the shore, will provide for water-related recreation, whenever such use is compatible with reasonably anticipated demand for such activities, and is compatible with the primary purpose of the development.	The Bulkhead Repair Initiative would repair or replace existing bulkheads to protect existing residential properties. No new residential development or any commercial development is proposed. As such, the policy is not applicable.

<b>HISTORIC AND SCENIC RESOURCES POLICIES</b>	
<b>Policy 23</b>	
Protect, enhance and restore structures, districts, areas or sites that are of significance in the history, architecture, archaeology or culture of the state, its communities, or the nation.	The Bulkhead Repair Initiative would repair or replace existing bulkheads to protect existing residential properties. It is possible that some of these bulkheads protect historic structures, or that sensitive archaeological resources may be located in the vicinity of existing bulkheads. As such, the Bulkhead Repair Initiative requires all activities to comply with Section 106 of the National Historic Preservation Act (NHPA) per the implementing regulations at 36 Code of Federal Regulations (CFR) Part 800. Compliance with Section 106 is achieved through the procedures in the Programmatic Agreement among FEMA, the NYS Historic Preservation Officer, the NYS Office of Emergency Management, the Delaware Nation, the Delaware Tribe of Indians, the Shinnecock Nation, the Stockbridge-Munsee Community Band of Mohicans, the NYC Landmarks Preservation Commission, and the Advisory Council On Historic Preservation. In the event that archeological deposits, including any Native American pottery, stone tools, bones, or human remains are uncovered on a specific site, the work on that site must be halted, and the applicant would take reasonable measures to avoid or minimize harm to the finds. All archeological findings would be secured and access to the sensitive area restricted. HCR would consult with the State Historic Preservation Officer (SHPO), Tribal Historic Preservation Officer (THPO), and Tribes, and work in sensitive areas cannot resume until consultation is completed and appropriate measures have been taken to ensure that the initiative is in compliance with the NHPA. Therefore, the proposed action is consistent with Policy 23.
<b>Policy 24</b>	
Prevent impairment of scenic resources of statewide significance.	The Bulkhead Repair Initiative would repair or replace existing bulkheads to protect existing residential properties. No new residential development or any commercial development is proposed. As such, the policy is not applicable.
<b>Policy 25</b>	
Protect, restore or enhance natural and man-made resources which are not identified as being of statewide significance, but which contribute to the overall scenic quality of the coastal area.	The Bulkhead Repair Initiative would repair or replace existing bulkheads to protect existing residential properties. Bulkheads are man-made structures which are not identified as being of statewide significance, but can contribute to the overall scenic quality of the coastal area.
<b>AGRICULTURAL LANDS POLICY</b>	
<b>Policy 26</b>	
Conserve and protect agricultural lands in the state's coastal area.	The Bulkhead Repair Initiative would repair or replace existing bulkheads to protect existing residential properties. No new residential development or any commercial development is proposed on agricultural lands.
<b>ENERGY AND ICE MANAGEMENT POLICIES</b>	
<b>Policy 27</b>	
Decisions on the siting and construction of major energy facilities in the coastal area will be based on public energy needs, compatibility of such facilities with the environment, and the facility's need for a shorefront location.	The Bulkhead Repair Initiative would repair or replace existing bulkheads to protect existing residential properties. No energy facilities are proposed. As such, the policy is not applicable.

<b>Policy 28</b>	
Ice management practices shall not interfere with the production of hydroelectric power, damage significant fish and wildlife and their habitats, or increase shoreline erosion or flooding.	The Bulkhead Repair Initiative would repair or replace existing bulkheads to protect existing residential properties. The Bulkhead Repair Initiative does not involve any change to ice management practices. As such, the policy is not applicable.
<b>Policy 29</b>	
Encourage the development of energy resources on the outer continental shelf, in Lake Erie and in other water bodies, and ensure the environmental safety of such activities.	The Bulkhead Repair Initiative would repair or replace existing bulkheads to protect existing residential properties. The Bulkhead Repair Initiative does not involve any energy resources on the outer continental shelf, in Lake Erie and in other water bodies. As such, the policy is not applicable.
<b>WATER AND AIR RESOURCES POLICIES</b>	
<b>Policy 30</b>	
Municipal, industrial, and commercial discharge of pollutants, including but not limited to, toxic and hazardous substances, into coastal waters will conform to state and national water quality standards.	The Bulkhead Repair Initiative would repair or replace existing bulkheads to protect existing residential properties. The Bulkhead Repair Initiative does not involve any municipal, industrial, and commercial discharge of pollutants. As such, the policy is not applicable.
<b>Policy 31</b>	
State coastal area policies and management objectives of approved local waterfront revitalization programs will be considered while reviewing coastal water classifications and while modifying water quality standards; however, those waters already overburdened with contaminants will be recognized as being a development constraint.	The Bulkhead Repair Initiative would repair or replace existing bulkheads to protect existing residential properties. The Bulkhead Repair Initiative does not involve any changes to coastal water classifications or water quality standards. As such, the policy is not applicable.
<b>Policy 32</b>	
Encourage the use of alternative or innovative sanitary waste systems in small communities where the costs of conventional facilities are unreasonably high, given the size of the existing tax base of these communities.	The Bulkhead Repair Initiative would repair or replace existing bulkheads to protect existing residential properties. The Bulkhead Repair Initiative does not involve any changes to sanitary waste systems. As such, the policy is not applicable.
<b>Policy 33</b>	
Best management practices will be used to ensure the control of stormwater runoff and combined sewer overflows draining into coastal waters.	Under the Bulkhead Repair Initiative, all sites would be evaluated for the need to comply with stormwater permitting requirements, including NYSDEC general permits or local Municipal Separate Storm Sewer Systems (MS4) permits. If multiple adjacent sites are involved, the sites would be aggregated for construction stormwater compliance. As such, the proposed action is consistent with Policy 33.
<b>Policy 34</b>	
Discharge of waste materials into coastal waters from vessels subject to state jurisdiction will be limited so as to protect significant fish and wildlife habitats, recreational areas and water supply areas.	The Bulkhead Repair Initiative would repair or replace existing bulkheads to protect existing residential properties. The Bulkhead Repair Initiative does not involve any discharge of waste materials into coastal waters from vessels. As such, the policy is not applicable.

<p><b>Policy 35</b></p> <p>Dredging and filling in coastal waters and disposal of dredged material will be undertaken in a manner that meets existing State permit requirements, and protects significant fish and wildlife habitats, scenic resources, natural protective features, important agricultural lands, and wetlands.</p>	<p>The Bulkhead Repair Initiative may include the removal of accumulated sediments and debris in the vicinity of existing structures, associated with replacement of a bulkhead. These activities would be done in accordance with Section 404 of the Clean Water Act (CWA) and NYSDEC permit requirements. These limited activities are not anticipated to impact significant fish or wildlife habitats, scenic resources, natural protective features, important agricultural lands, or wetlands. Under the Bulkhead Repair Initiative, all solid waste must be properly segregated and disposed of at any of NYS's 80 registered and regulated (permitted) construction and demolition (C&amp;D) debris processing facilities and 280 registered C&amp;D debris processing facilities and in accordance with applicable regulations. All hazardous waste must be segregated and disposed of at an appropriately licensed facility. Materials would be separated from C&amp;D waste to be recycled or to be reused for a specific use. Material that is not recovered would be sent to a municipal solid waste landfill or to a C&amp;D debris landfill.</p>
<p><b>Policy 36</b></p> <p>Activities related to the shipment and storage of petroleum and other hazardous materials will be conducted in a manner that will prevent or at least minimize spills into coastal waters; all practicable efforts will be undertaken to expedite the cleanup of such discharges; and restitution for damages will be required when these spills occur.</p>	<p>The Bulkhead Repair Initiative would repair or replace existing bulkheads to protect existing residential properties. The Bulkhead Repair Initiative does not involve activities related to the shipment and storage of petroleum and other hazardous materials. As such, the policy is not applicable.</p>
<p><b>Policy 37</b></p> <p>Best management practices will be utilized to minimize the non-point discharge of excess nutrients, organics and eroded soils into coastal waters.</p>	<p>Best management practices (BMPs), such as silt fence and erosion prevention, may be implemented, if required by permits or agency discretion. All synthetic erosion control features, 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 may be abandoned in place. As such, the proposed action is consistent with Policy 37.</p>
<p><b>Policy 38</b></p> <p>The quality and quantity of surface water and groundwater supplies will be conserved and protected, particularly where such waters constitute the primary or sole source of water supply.</p>	<p>Under the Bulkhead Repair Initiative, all sites would be evaluated for the need to comply with stormwater permitting requirements, including NYSDEC general permits or local Municipal Separate Storm Sewer Systems (MS4) permits. If multiple adjacent sites are involved, the sites would be aggregated for construction stormwater compliance. As such, the proposed action is consistent with Policy 38.</p>
<p><b>Policy 39</b></p> <p>The transport, storage, treatment and disposal of solid wastes, particularly hazardous wastes, within coastal areas will be conducted in such a manner so as to protect groundwater and surface water supplies, significant fish and wildlife habitats, recreation areas, important agricultural land, and scenic resources.</p>	<p>The Bulkhead Repair Initiative would repair or replace existing bulkheads to protect existing residential properties. The Bulkhead Repair Initiative does not involve the transport, storage, treatment and disposal of solid wastes, particularly hazardous wastes, within coastal areas. As such, the policy is not applicable.</p>
<p><b>Policy 40</b></p> <p>Effluent discharged from major steam electric generating and industrial facilities into coastal waters will not be unduly injurious to fish and wildlife and shall conform to state water quality standards.</p>	<p>The Bulkhead Repair Initiative would repair or replace existing bulkheads to protect existing residential properties. The Bulkhead Repair Initiative does not involve effluent discharged from major steam electric generating and industrial facilities into coastal waters. As such, the policy is not applicable.</p>

<b>Policy 41</b>	
Land use or development in the coastal area will not cause national or state air quality standards to be violated.	The Bulkhead Repair Initiative would repair or replace existing bulkheads to protect existing residential properties. The Bulkhead Repair Initiative will not cause national or state air quality standards to be violated. As such, the proposed action is consistent with this policy.
<b>Policy 42</b>	
Coastal management policies will be considered if the state reclassifies land areas pursuant to the prevention of significant deterioration regulations of the federal clean air act.	The Bulkhead Repair Initiative would repair or replace existing bulkheads to protect existing residential properties. The Bulkhead Repair Initiative does not involve the reclassification of land area. As such, the policy is not applicable.
<b>Policy 43</b>	
Land use or development in the coastal area must not cause the generation of significant amounts of acid rain precursors: nitrates and sulfates.	The Bulkhead Repair Initiative would repair or replace existing bulkheads to protect existing residential properties. The Bulkhead Repair Initiative will not cause the generation of significant amounts of acid rain precursors. As such, the policy is not applicable.
<b>WETLANDS POLICY</b>	
<b>Policy 44</b>	
Preserve and protect tidal and freshwater wetlands and preserve the benefits derived from these areas.	The Bulkhead Repair Initiative would repair or replace existing bulkheads to protect existing residential properties. The Bulkhead Repair Initiative would not alter tidal or freshwater wetlands. All activities funded under this program will be consistent with state environmental laws concerning tidal and freshwater wetlands and as such will be protective of the benefits derived from these areas. As such, the proposed action is consistent with this policy.
<b>Sources:</b> State Coastal Policies, New York State Department of State Coastal Management Program. <a href="http://www.dos.ny.gov/opd/programs/pdfs/CoastalPolicies.pdf">http://www.dos.ny.gov/opd/programs/pdfs/CoastalPolicies.pdf</a>	

**Appendix O:**  
**NY Natural Heritage Program Consultation**

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



**Joe Martens**  
Commissioner

February 6, 2014

Shawn Williams  
Permitting Specialist  
ProSource Technologies, LLC  
9219 East River Road NW  
Minneapolis, MN 55433

Dear Mr. Williams:

We have received your request of February 3, 2014, regarding the NY Rising Bulkhead Repair Program for Residential Properties, designed to provide assistance for repairing damaged bulkheads on residential properties with any number of housing units in 12 counties in New York State, administered by New York State Homes and Community Renewal (NYS HCR) as part of the U.S. Department of Housing and Urban Development Community Development Block Grant – Disaster Recovery Housing Assistance Program.

While the New York Natural Heritage database is not expected to have any records of state or federal endangered, threatened, or rare species at the great majority of the properties in the Bulkhead Repair Program, we cannot provide a comprehensive determination of no impacts for all sites without conducting a screening of the specific project sites.

We will explore with you and with NYS HCR the most efficient means to conduct the site-specific project screenings.

Sincerely,

Nicholas B. Conrad  
Information Resources Coordinator  
NY Natural Heritage Program

February 3, 2014

Nicholas Conrad  
New York State Department of Environmental Conservation  
Division of Fish, Wildlife & Marine Resources  
New York Natural Heritage Program- Information Services  
625 Broadway, 5<sup>th</sup> Floor  
Albany, New York 12233-4757

**RE: Introduction of CDBG-DR NY Rising Bulkhead Repair Program**

Dear Mr. Conrad,

At the request of New York State (NYS) Homes and Community Renewal (HCR) we are providing this letter to the New York Department of Environmental Conservation (DEC) Natural Heritage Program (NYNHP) to introduce the NY Rising Bulkhead Repair Program and engage agency coordination. HCR is proceeding with preparation of the Tier 1 Programmatic Environmental Assessments (PEAs) for the Bulkhead Repair Program. The current detailed program description is included in **Attachment A**. A map showing counties included in the Bulkhead Repair Program is included in **Attachment B**.

We would like to work with the NYNHP to develop a compliance process so that HCR, as the Responsible Entity (RE), can accurately determine compliance with NEPA and SEQR at the Tier 2 site-specific level. HCR is requesting information regarding whether a standardized species habitat matrix table (sorted by county) maps, or GIS data, may be adopted as the compliance tool for environmental review. Each parcel incorporated into the CDBG-DR Program will be subject to a site-specific Natural Heritage Resource review.

NYSHCR is requesting a response letter from the NYNHP, covering the Bulkhead Repair actions, which can be included in all Tier 1 ERRs to document that coordination with NYNHP is being completed, and that program compliance will be completed during Tier 2 site-specific review. We would like to work with NYNHP to develop a suitable tool for Tier 2 compliance, as soon as reasonably possible.

If you have any questions or require additional information regarding this request, please contact me at (763) 786-1445 or [swilliams@prosourcetech.com](mailto:swilliams@prosourcetech.com).

Sincerely,



Shawn Williams, Permitting Specialist  
ProSource Technologies, LLC

cc. Jennifer Wolff, ProSource Technologies, LLC

Attachment A Bulkhead Program Description

Attachment B Map of Affected Counties Included in the Bulkhead Program

The NY Rising Bulkhead Repair Program for Residential Properties is designed to provide assistance for repairing damaged bulkheads on residential properties with any number of housing units, including reimbursing homeowners who have already begun repairing or have completed repairs to bulkheads.

### **Bulkhead Definitions:**

Bulkheads are defined as vertical structures constructed parallel to the shoreline or banks of a waterway, with retaining walls for the purpose preventing overtopping and flooding of the adjacent properties. Bulkheads are usually placed along an eroding bank or escapement to hold back the land and prevent erosion. Sometimes referred to as seawalls, gravity walls, quay walls, or riprap revetments, bulkheads are a long-lasting hardy structure that can stand up to moderate to high wave energy.

Residential bulkheads protect the banks and bluffs on a residential property by completely separating land from water. These bulkheads act as retaining walls, keeping the earth or sand behind them from crumbling or slumping. They also are used to resist wave action and protect property.

Bulkheads can be built in three basic types of design. They may consist of:

- 1) Thin, interlocking sheet piles driven deeply into the ground;
- 2) Individual piles used to support an aboveground structure; or
- 3) Massive gravity construction resting on the shore bottom or embedded slightly into it, supported by its own weight rather than by piling.

From these three basic design types, a wide variety of bulkhead designs have been developed. Common and uncommon types of bulkheads include:

- Common bulkheads:
  - Cantilever wall – typically used where there is no room for the installation of an anchor wall
  - Anchored wall with single layer of anchorage – most commonly used
    - Relieving platforms may be added to reduce lateral pressure
    - Batter piles may be driven to use as anchors behind the wall, but should only be considered if there is insufficient room for an anchor and the height of the walls exceeds the design parameters for a cantilever wall.
  - Soldier pile wall, also known as a “King” pile wall, consisting of piles added to the front of an anchored wall to help prevent deflection
  - Soldier beams and lagging
  - Close pile wall
  - Double wall
  - Various combinations can be used of the above general designs to meet the conditions of the site
- Some uncommon bulkhead types are listed below. They are unlikely to be encountered, but are listed for reference.
  - Railroad ties and steel H-piles
  - Treated timber
  - Untreated log

- Hogwire fencing and sandbags – this type would not meet the criteria provided in the general permit
- Used rubber tire and timber post
- Timber cribbing
- Stacked rubber tires
- Used concrete pipes
- Longard tubes
- Stacked bags
- Gabbions

#### Damage to Bulkheads

Bulkheads are susceptible to various forms of damage due to their presence in the interface between land and water. The action of water, both in front of the wall and behind it, can cause bulkhead damage. Waves that lap over the top can erode the land behind the structure as if the wall were not there, so the structure must be built high enough to prevent such overtopping. Groundwater and rain percolating through the soil may build up pressure behind the wall, eventually pushing it over. Scour at the toe of the bulkhead can undermine the structure and tip it over. Water flowing around the sides of the bulkhead can also cause severe erosion damage, so the structure should cover the entire surface that could be eroded.

Typical storm damage that has been seen from Hurricane Sandy and other similar events has included erosion of the toe of the bulkhead, washout of fill behind the bulkheads, impact damage to sheet piling or other sheeting, and the loss of decking and sheeting from flooding. Most references to historical storm events indicate that the damage incurred was an acceleration of typical wear to bulkheads.

#### **Program description:**

Residential property owners in disaster-declared counties who sustained damage to bulkheads have been invited to submit an application for assistance to repair damage caused by any of the storms identified in the Action Plan. Funding for repair and mitigation will include costs for the repair/replacement of damaged bulkheads, seawalls, quay wall, and coastal revetments. It will cover costs for unmet repair or replacement needs after accounting for all federal, state, local and/or private sources of disaster-related assistance. Assistance for repair, rehabilitation, replacement, and reimbursement funding will be capped at the lesser of a specified dollar amount to be determined by NYS, or the unmet repair, rehabilitation, replacement, and reimbursement need as described above. To direct sufficient levels of assistance to those most in need, especially low- or moderate-income and minority households, a higher overall dollar cap amount may be applied to those households of low- or moderate-income, where the need is justified.

The discussion below outlines the activities that would be carried out under the NY Rising Bulkhead Repair Program to address storm-related damage to bulkheads. The following steps will be implemented:

#### Inspection and Reporting

The condition of the existing bulkhead will be identified, and qualified personnel will determine whether to repair or replace the damaged structure. The inspector will provide photographs,

sketches, and a detailed narrative of the existing site conditions and proposed method of repair or replacement, including a cost estimate.

### Documentation

Documentation will be prepared to satisfy General Permit GP-0-13-006, which includes plans and sections. These documents may require the signature and seal of a civil and/or structural engineer.

### Activity Summary

Bulkhead repair activities will be conducted in accordance with the federally issued design criteria documents.

As project activity begins, certain portions of the existing wall that could not previously be inspected will be exposed and/or accessible, and should be assessed for additional damage. While most of these materials are unlikely to have been damaged during a storm event, depending on the age of the wall, there is the potential for wear. These previously inaccessible features include:

- Tiebacks
- Anchor walls
- Batter piles
- Relieving platforms
- Backfill
- Scour protection materials

The applicability of the existing bulkhead design to the local conditions will be reviewed. For replacement walls, the following design issues will be considered:

- Exposure to wave attack
- Foundation condition
- Scour, in particular wave reflection from vertical walls for bulkheads
- Overtopping by wave action (in particular during storm events)

During storm events, excessive waves may cause increased scour and overtopping, while debris carried in the storm event may damage walls and piles. To ensure protection during storm events, the review of existing walls and the design or replacements or repairs will include assessment of:

- **Compartmentation:** The design of the wall should be such to allow for repair only of the area damaged rather than the entire wall
- The potential for inundation of the backfill of the wall, which could cause wash out or subsidence, should be reviewed, and if necessary adequate drainage should be provided
- Impact to the wall, including storm debris

Methods for construction or repairs of the walls will vary based on site conditions. An example of construction methods for a sheet pile wall is provided below:

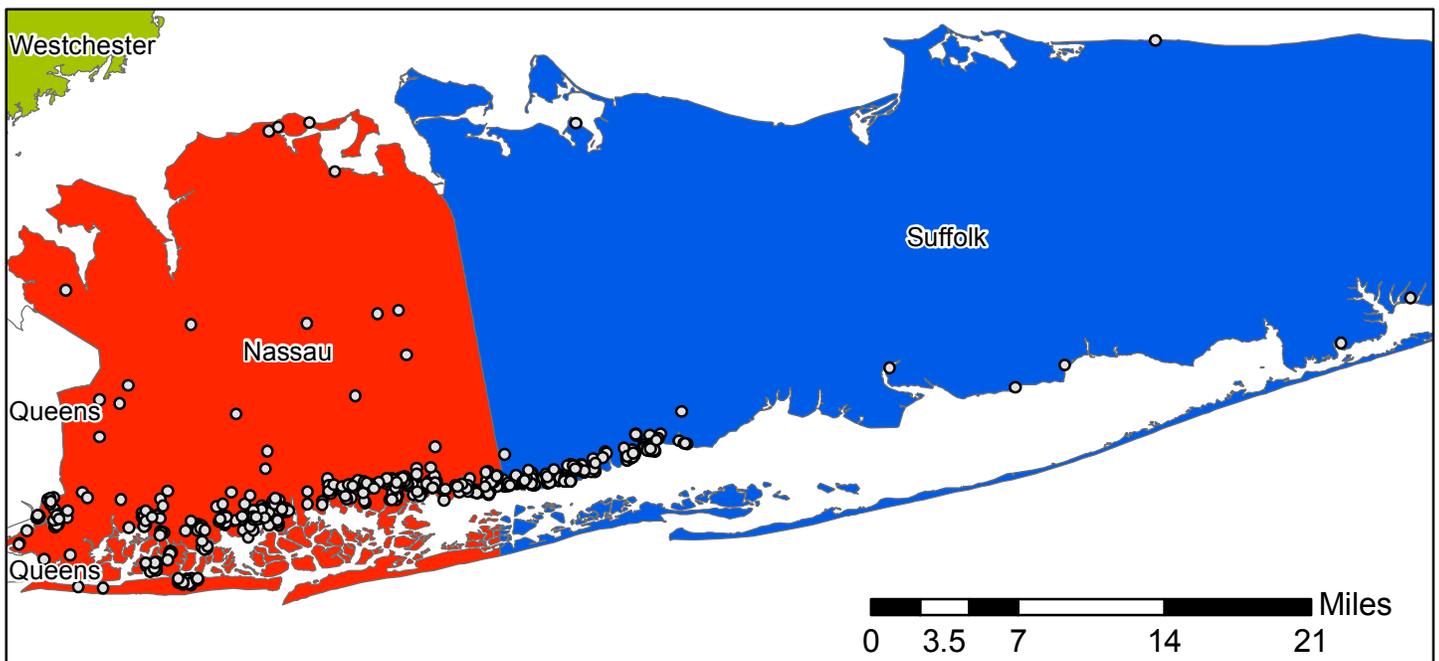
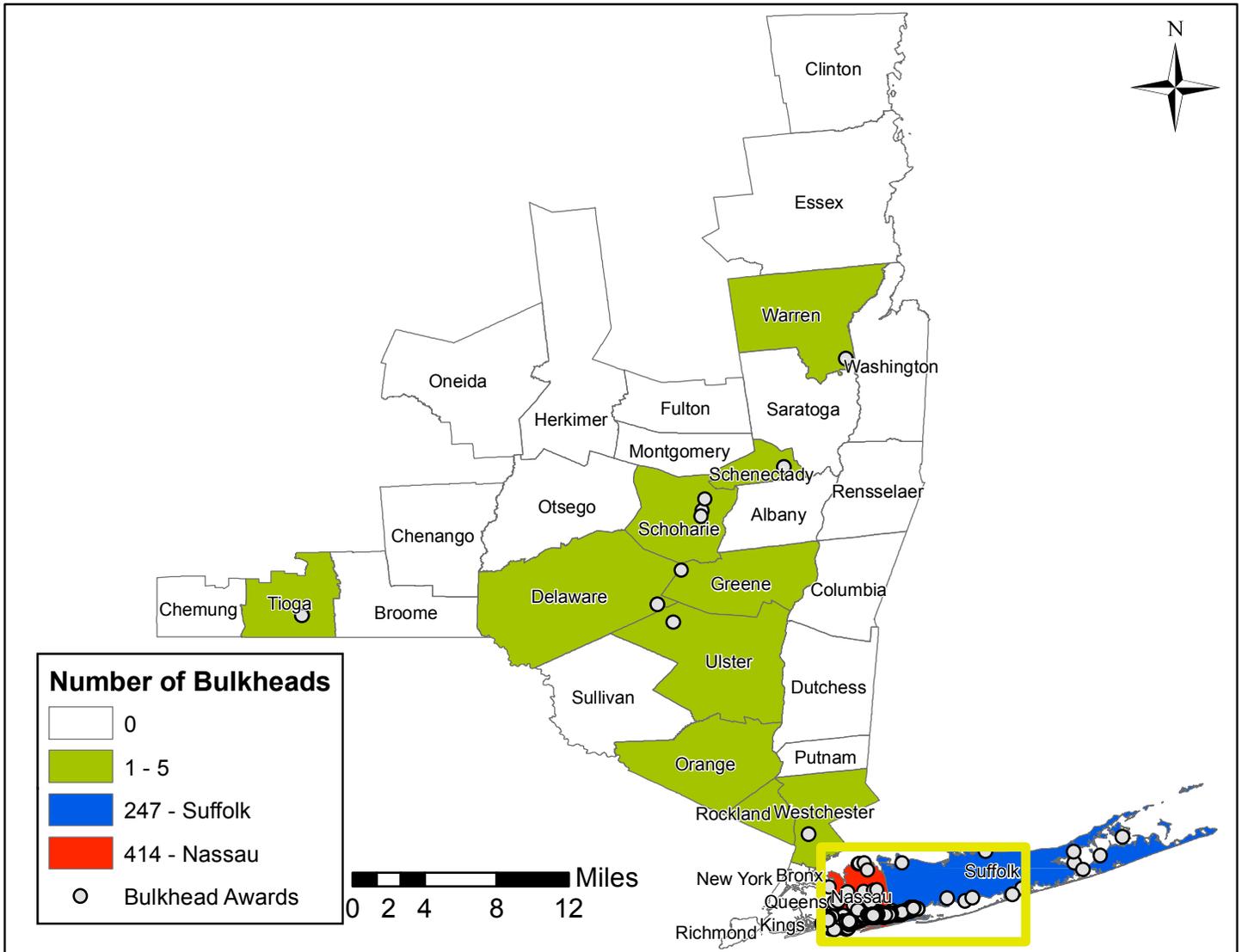
- Where removal of soft material is contemplated, dredging should precede the driving of sheet piling.

- Where existing material behind the bulkhead is to remain in place, it is advisable to dredge in front of the bulkhead after completion of the structure. This emphasizes arching in the material behind the wall and reduces bending stresses. Dredging adjacent to sheet piling after completion should be done in two or three vertical stages to avoid rapid changes and load differentials.
  - Add fill behind the wall in areas of broad extent so that the concentration of lateral pressure does not cause differential alignment along the length of the wall.
  - Consider compaction pressure due to the driving of support piles (relieving platform or track supports) behind the front wall. If dredging in front of the wall is done after the piles are driven, deflection of the wall will tend to relieve these pressures. Specify the driving sequence for such piles to avoid a progressive increase of the wedging effect.
  - Tie rods would be pre-tensioned as uniformly as is practicable. It is emphasized, however, that uniform load in the tie rods is an unlikely occurrence. The provisions relating to allowable stresses in the anchor system are intended to provide for this situation. The implications are more general, however. The anchor system must be able to deform inelastically.
  - Concrete walls and anchor walls should be reinforced on both faces and not simply in accordance with the theoretical moment diagram. The use of high steel in tie rods should be approached with caution to assure that the steel is capable of several percent elongation without fracture.
  - Where the anchorage depends on passive earth pressure, place and compact backfill around the anchorage before filling against the bulkhead.
- 
- In the filling of a relieving platform-type structure, the area at the back end of the platform should be filled to deck level, the deck placed over the batter piles, and filling continued to grade. This will provide load on the batter piles to assist in resisting the tension which will be caused by the tension in the tie rod. The deck area adjacent to the sheets may then be placed and fill completed.
  - When placing hydraulic fill, the discharge line should be located on or in front of the anchorage line. Drainage openings should be provided in sheet piles at about 100 foot (30.5 meter) intervals.
    - Depending on the wall type, a coffer dam may be necessary to perform repairs or construction.
    - For the installation of sheet piles, it is important to ensure that the base of the pile has been adequately seated to prevent deflection of the wall.
  - In a soft bottom, it should be possible to develop adequate toe resistance while driving the pile to adequately seat the pile. If adequate toe resistance cannot be obtained, excavating and replacing of the bottom should be considered
  - In a hard bottom with shallow impenetrable material, consider using soldier piles for support or trenching for the base of the wall.
  - Various materials are available for construction of the front wall. For the majority of the materials, such as steel, timber, and concrete, standard pile and sheet piling techniques, as well as the manufacturer's recommendation, will insure proper

installation. More recently, newer materials, including galvanized corrugated sheet metal, corrugated fiberglass, and corrugated aluminum have become available on the market. The use of these materials at existing locations should be reviewed based on:

- Freeze thaw cycles
  - Corrosion
  - Marine borers
  - Ultraviolet light reactions
  - Abrasion
  - Wave and ice forces
- It is recommended that regardless of the materials selected, the manufacturer should be consulted for proper installation techniques.
  - For the construction of the anchorage, a simple concrete wall or sheet pile deadman should be used. If there is limited area, pile-supported anchorage (batter piles) may be used, but this should be a last resort.

# Number of Bulkhead Awards by County



## **Attachment A- Program Descriptions**

The *State of New York Action Plan for Community Development Block Grant Program Disaster Recovery* (Action Plan), issued April 25, 2013, is used as the overall reference for these programs and is incorporated by reference into these project descriptions. The *State of New York Action Plan for Community Development Block Grant Program Disaster Recovery*, dated April 2013 (Federal Register Docket # FR-5696-N-01) may be referenced at: <http://www.nyshcr.org/Publications/CDBGActionPlan.pdf>.

### **Buyout/Acquisition**

An overview of each activity under the program covered by this document is provided below. This program applies to 1- and 2-unit residential properties.

#### **Voluntary Buyouts and Acquisitions of One- and Two-unit Homes**

The Recreate NY Home Buyout Program will include the purchase of eligible substantially damaged properties (>50% of the pre-storm value of the property) inside the floodplain in storm-impacted areas.

Certain highest risk areas in the floodplains, determined to be among the most susceptible to future disasters and that therefore present a greater risk to people and property, will be identified by the State and its local partners for the purposes of this program as enhanced buyout areas (see below). The State will conduct purchases inside of the enhanced buyout areas as “buyouts,” as defined by HUD, whereby they will be eligible for purchase starting at 100% of the property’s pre-storm fair market value (FMV), plus available incentive(s) as outlined below.

The State intends to conduct most purchases outside of the enhanced buyout areas as “acquisitions,” as defined by HUD, whereby purchase offers must begin with the post-storm FMV of the property.

In accordance with the notice governing the use of these funds, properties purchased as a “buyout” will be maintained in perpetuity as coastal buffer zones, while properties purchased as “acquisitions” will be eligible for redevelopment in the future in a resilient manner to protect future occupants of this property. The post-purchase fate of most acquired properties will be determined by the State in consultation with local officials to ensure that the properties best serve the future goals of the community. In some cases, the properties will remain undeveloped and be transformed into parks or other non-residential uses, while in most cases they will be redeveloped in a resilient manner.

#### **Enhanced Buyout Areas**

Enhanced buyouts in select pre-defined targeted buyout areas, which will be determined in consultation with county and local governments, will include an incentive(s) ranging from 5%-15% on top of the pre-storm FMV of property acquired through the buyout program. Reconstruction may not occur on lots in these areas. Lots will be maintained as coastal buffer

zones or other non-residential/commercial uses; there may also be acquisition of vacant or undeveloped land in these targeted areas.

### **Program Activities**

Summarized in the sections below are the physical program activities:

#### Buyout

Following purchase of the property, the land would remain open space in perpetuity. As applicable, structures on the properties would be removed. The Housing Trust Fund Corporation would hold title to the property until the property is transferred to another owner, but will retain restrictions on use.

#### Acquisition

Following purchase of the property, the land may be developed in a resilient manner. The Housing Trust Fund Corporation would hold title to the property until the property is transferred to another owner for development.

### **Rehabilitation 1-4 Units and 5+ Units**

In response to the damage caused by Hurricane Sandy and other natural disasters that occurred across the nation in 2011, 2012, and 2013, homeowners of disaster-declared counties who sustained damage will be invited to submit an application for assistance. The Recreate New York Smart Homes Project activities to be funded by CDBG-DR have been designed to provide assistance for repairing damaged property, reconstructing damaged homes, and mitigating damaged properties for future resilience.

The specific actions include rehabilitation and reconstruction of moderate, major, and substantial storm-damaged structures and elevation to the required advisory base flood elevation plus freeboard as required by each community's floodplain ordinance as further described in the Floodplain Management Document. It is anticipated that the renovations and elevations will take place within the existing footprint of the structure (unless elevation is not technically feasible without alteration of the footprint), and no additional structures will be built upon each approved project parcel. Under this program, the expansion of the structure may not exceed 20% of the original pre storm footprint. The structure must remain 1-4 units in size after rehabilitation or reconstruction.

Wherever allowable by local building codes and any other law and/or regulation, homeowners will be allowed to choose whether to repair the original home, or rebuild (reconstruct) a new home in its place. However, only funding for the more cost-effective option will be provided.

#### Reimbursement

The program may also provide reimbursements for homeowners of one- to four-unit buildings that have started or completed Hurricane Sandy-related rehabilitation work with personal resources, subject to restrictions in line with applicable laws, regulations, and the program requirements (e.g., eligibility criteria, grant restrictions). Reimbursement is contingent on compliance with Recreate NY 1-4 Unit Rehabilitation requirements discussed above

### **Economic Development Program Description**

The applicable programs from the Action Plan are:

- Small Business Grant Program
- Small Business Loan Program
- Coastal Fishing Industry Program
- Seasonal Tourism Industry Program

An overview of each program covered by this document is provided below.

#### **Small Business Grant Program**

This program will provide funding grants to eligible businesses for purchase or repair of equipment, renovation of damaged or destroyed facilities, mitigation actions to protect businesses from future storms, and the following activities identified in Section 4 of the Action Plan:

- Purchase of equipment, materials, inventory, furniture, fixtures
- Employee training
- Acquisition of real property
- Working capital
- Construction, rehabilitation, reconstruction of buildings)
- Engineering, architectural, and/or design costs
- Infrastructure directly associated with economic development activities
- Technical assistance
- Any other eligible business related activity (requires State consultation and approval)
- Marketing and outreach to solicit applications from businesses eligible for any of the State's proposed programs

#### **Small Business Loan Program**

This program will provide loans to eligible businesses for purchase or repair of equipment, renovation of damaged or destroyed facilities, mitigation actions to protect businesses from future storms, and other activities identified in Section 4 of the Action Plan.

#### **Coastal Fishing Industry Program**

This program will provide funding to businesses and individuals qualified as a Coastal Fishing Industry. Details of this program are included on page 50 of the Action Plan.

#### **Seasonal Tourism Industry Program**

This program will provide funding to eligible seasonal tourism businesses. Details of this program are also included on page 50 of the Action Plan.



## **Appendix P:**

### **NY Historic Preservation Programmatic Agreement**

**PROGRAMMATIC AGREEMENT AMONG  
THE FEDERAL EMERGENCY MANAGEMENT AGENCY,  
THE NEW YORK STATE HISTORIC PRESERVATION OFFICE,  
THE NEW YORK STATE OFFICE OF EMERGENCY MANAGEMENT,  
THE DELAWARE NATION,  
THE DELAWARE TRIBE OF INDIANS,  
THE SHINNECOCK NATION,  
THE STOCKBRIDGE-MUNSEE COMMUNITY BAND OF MOHICANS,  
THE NEW YORK CITY LANDMARKS PRESERVATION COMMISSION,  
AND THE  
ADVISORY COUNCIL ON HISTORIC PRESERVATION,  
AS A RESULT OF HURRICANE SANDY**

**WHEREAS**, the mission of the Federal Emergency Management Agency (FEMA) of the Department of Homeland Security is to support our citizens and first responders to ensure that as a nation we work together to build, sustain, and improve our capability to prepare for, protect against, respond to, recover from, and mitigate all hazards; and

**WHEREAS**, as a result of Hurricane Sandy (DR-4085-NY) (Disaster Declaration), FEMA proposes to administer Federal disaster assistance programs set forth in Appendix A (Programs), pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act, Pub. L. No. 93-288 (1974) (codified as amended at 42 U.S.C. § 5121 *et seq.*) (Stafford Act); the National Flood Insurance Act of 1968, Pub. L. No. 90-448 (1968) (as amended); the Flood Disaster Protection Act of 1973, Pub. L. No. 93-234 (1973) (as amended); the National Flood Insurance Reform Act of 1994, Pub. L. No. 103-325 (1994) (as amended); and implementing regulations contained in Title 44 of the Code of Federal Regulations (CFR).

**WHEREAS**, FEMA has determined that implementation of its Programs may result in Undertakings (as defined by 16 U.S.C. § 470w and 36 CFR § 800.16(y)) that may affect properties listed in or eligible for listing in the National Register of Historic Places (National Register) pursuant to 36 CFR Part 60 (historic properties), and FEMA has consulted with the New York State Historic Preservation Officer (SHPO), the New York State Office of Emergency Management (OEM), the New York City Landmarks Preservation Commission (LPC), the Delaware Nation, the Delaware Tribe of Indians, the Shinnecock Nation, the Stockbridge-Munsee Community Band of Mohicans (Participating Tribe[s]) and the Advisory Council on Historic Preservation (ACHP) pursuant to Section 106 of the National Historic Preservation Act (NHPA), Pub. L. No. 89-665 (1966) (codified as amended at 16 U.S.C. § 470f) and Section 110 of NHPA (codified as amended at 16 U.S.C. §470h-2), and the Section 106 implementing regulations at 36 CFR Part 800; and

**WHEREAS**, FEMA, ACHP, and SHPO have determined that FEMA's Section 106 requirements can be more effectively and efficiently implemented and delays to the delivery of FEMA

assistance minimized if a programmatic approach is used to stipulate roles and responsibilities, exempt certain Undertakings from Section 106 review, establish protocols for consultation, facilitate identification and evaluation of historic properties, and streamline the assessment and resolution of adverse effects; and

**WHEREAS**, in order to implement its Programs, FEMA will provide assistance to the State of New York that may provide monies and other assistance to eligible subgrantees, and as such, the New York Office of Emergency Management (OEM) that is typically responsible for administering funds provided under these Programs, has participated in this consultation, and has been invited to enter into this Agreement as an invited signatory party; and

**WHEREAS**, LPC is the agency responsible for identifying and designating New York City's landmarks and historic districts, regulates changes to designated buildings, and by law, issues permits under the LPC law (Charter of the City of New York §§ 3020 et seq. and the Administrative Code of the City of New York §§25-301 et seq.) for LPC designated properties in the City of New York, and therefore any FEMA Undertaking affecting such a property shall require an LPC permit prior to commencement of work or demolitions, LPC has participated in this consultation and has been invited to enter into this Agreement as a concurring party; and

**WHEREAS**, FEMA has determined that its Programs may result in Undertakings with the potential to affect historic properties having religious and cultural significance to Indian Tribes, including sites that may contain human remains and/or associated cultural items; and

**WHEREAS**, FEMA recognizes that the Participating Tribe(s) may have sites of religious and cultural significance on or off Tribal lands, and in meeting its Federal trust responsibility, FEMA has engaged in government-to-government consultation with the Participating Tribe(s), and pursuant to 36 CFR § 800.2 (c)(2)(ii)(E) has invited the Participating Tribe(s) to enter into an agreement that specifies how FEMA and the Participating Tribe(s) will carry out Section 106 responsibilities, including the confidentiality of information. The agreement may grant the Participating Tribe(s) additional rights to participate or concur in FEMA decisions in the Section 106 review process beyond the ones outlined in 36 CFR Part 800; and

**WHEREAS**, notwithstanding the aforementioned invitation to enter into an agreement, FEMA has invited the Participating Tribe(s) to enter into this Agreement each as an invited signatory party to fulfill the requirements of Section 106; and

**WHEREAS**, FEMA may invite additional Tribes that may have sites of religious and cultural significance to enter into the terms of this Agreement; and

**WHEREAS**, FEMA may perform direct Undertakings in order to implement its Programs; and

**WHEREAS**, in anticipation or in the immediate aftermath of the Disaster Declaration, impacted communities in the State of New York and/or affected Tribe(s) may conduct critical preparedness and response and recovery activities to safeguard public health and safety and to restore vital community services and functions. Some of these activities may become Undertakings requiring

Section 106 review subject to the terms of this Agreement, and FEMA shall coordinate the appropriate review as warranted; and

**NOW, THEREFORE**, FEMA, ACHP, SHPO, (as the signatories) OEM, Participating Tribe(s) (invited signatories), and LPC(concurring party) agree that the Programs in the State of New York shall be administered in accordance with the following Stipulations to satisfy FEMA's Section 106 responsibilities for all resulting Undertakings and effectively integrate historic preservation compliance considerations into the delivery of FEMA assistance. FEMA will not authorize implementation of an individual Undertaking until Section 106 review of the project is completed pursuant to this Agreement.

## **STIPULATIONS**

To the extent of its legal authority, and in coordination with the other signatories, FEMA will require that the following measures be implemented:

### **I. GENERAL**

#### **A. Applicability**

1. This Agreement applies immediately for this Disaster Declaration after execution by all signatory parties and will remain in effect for the duration of the period that the Disaster Declaration remains open for FEMA funding.
2. For FEMA undertakings that also are within the jurisdiction of the Federal Communications Commission's (FCC) and within the scope of its Section 106 Programmatic Agreements for communication facilities, FEMA defers Section 106 review in accordance with the ACHP Program Comment of October 23, 2009. The approval of funding for the FEMA Undertaking will be conditioned on the compliance of the subgrantee with FCC's applicable Section 106 review, including any required consultation with affected Tribe(s). FEMA will notify the SHPO when it applies the ACHP Program Comment to an Undertaking.
3. Other Federal agencies providing financial assistance for the type of Program activities covered under the terms of this Agreement may, with the concurrence of ACHP, FEMA, SHPO satisfy their Section 106 responsibilities by accepting and complying with the terms of this Agreement. "Other Federal Agencies" may include municipalities providing funds and acting as the Responsible Entity pursuant to 24 CFR Part 58. In such situations, the Federal Agency shall notify FEMA, SHPO and ACHP and other consulting parties to the PA, including participating tribes in writing of their intent to use this Agreement to achieve compliance with Section 106 requirements, and consult with those agencies regarding its section 106 compliance. Resumes of staff that meet the Secretary's Professional Qualifications and will review Tier II projects will be included with the notification. The Federal agency may utilize this Agreement to satisfying its Section 106 responsibilities by executing the

Addendum included in Appendix D. The Agreement will be effective for the Federal agency on the date the Addendum is executed by SHPO, FEMA and ACHP.

4. This Agreement may apply to Undertakings involving multiple Federal agencies and where some or all of the Federal agencies involved in the Undertaking may designate FEMA as the lead Federal agency pursuant to 36 CFR § 800.2(a)(2) with appropriate notification to the ACHP. FEMA will act on the collective behalf of the agencies to fulfill all Section 106 responsibilities. Federal agencies that do not designate FEMA as the lead Federal agency will be responsible for doing a separate consultation pursuant to Section 106 and 36 CFR Part 800.
5. As a result of the Disaster Declaration, State, Tribal and local governments may lack the capability to perform or to contract for emergency work, and instead request that the work be accomplished by a Federal agency. Through a mission assignment (MA), FEMA may direct appropriate Federal agencies to perform the work. This Agreement will apply to such Federal assistance undertaken by or funded by FEMA pursuant to Titles IV and V of the Stafford Act and 44 CFR Part 206.
6. If SHPO has reviewed and approved an Undertaking submitted by a subgrantee that was the result of damage from Hurricane Sandy before FEMA has established an Undertaking for that same project, and FEMA confirms that the scope and effect [as defined by 36 CFR § 800.16(i)] of the Undertaking as reviewed by the SHPO has not changed, and SHPO/Tribal concurrence is documented, FEMA shall document these findings to the project files in order to confirm that the requirements of Section 106 have been satisfied.
7. If another Federal program or Federal agency has reviewed and approved an Undertaking under Section 106 of the NHPA within the past five years, FEMA has no further requirement for Section 106 review provided that it confirms that the scope and effect [as defined by 36 CFR § 800.16(i)] of the Undertaking as reviewed by the previous agency has not changed, and SHPO/Tribal concurrence is documented. FEMA shall document these findings to the project files in order to confirm that the requirements of Section 106 have been satisfied.
8. Should FEMA, in consultation with SHPO and Participating Tribe(s), determine that the previous Section 106 review was insufficient or involved interagency disagreements on eligibility, effect, or mitigation, FEMA shall conduct additional Section 106 review in accordance with the terms of this Agreement.
9. Pursuant to 44 CFR § 206.110(m), assistance to individuals and households provided under 44 CFR Part 206, Subpart D and Section 408 of the Stafford Act, including funding for owner occupied home repair and replacement, content replacement, personal property, transportation and healthcare expenses, is exempt from the provisions of Section 106. For ground disturbing activities, and construction related to 44 CFR §§ 206.117(b)(1)(ii) (temporary housing), 206.117(b)(3) (replacement

housing), 206.117(b)(4) (permanent housing construction), and 206.117(c)(1)(vi) (privately owned access routes), FEMA will conduct Section 106 review.

10. FEMA has determined that the following types of activities have limited or no potential to affect historic properties and FEMA has no further Section 106 responsibilities, pursuant to 36 CFR § 800.3(a)(1):
- b. Administrative actions such as personnel actions, travel, procurement of services, supplies (including vehicles and equipment) for the support of day-to-day and emergency operational activities, and the temporary storage of goods provided storage occurs within existing facilities or on previously disturbed soils.
  - c. Preparation, revision, and adoption of regulations, directives, manuals, and other guidance documents.
  - c. Granting of variances, and actions to enforce Federal, State, or local codes, standards or regulations.
  - d. Monitoring, data gathering, and reporting in support of emergency and disaster planning, response and recovery, and hazard activities.
  - e. Research and development of hazard warning systems, hazard mitigation plans, codes and standards, and education/public awareness programs.
  - f. Assistance provided for planning, studies, design and engineering costs that involve no commitment of resources other than staffing and associated funding.
  - g. Assistance provided for training, management and administration, exercises, and mobile/portable equipment purchases; with the exception of potential ground-disturbing activities and modification of existing structures.
  - h. Community Disaster Loans for funding to perform governmental functions for any eligible jurisdiction in a designated disaster area that has suffered a substantial loss of tax and other revenue.
  - i. Acquisition or lease of existing facilities where planned uses conform to past use or local land use requirements.
  - j. Funding the administrative action of acquiring properties in buyout projects e.g., surveys, legal fees, non-destructive abatement activities), excluding the real estate transaction and demolition. Per Item III.D, OEM shall advise its subgrantees that they may jeopardize Federal funding if work is performed without all required local, State and Federal licenses, permits or approvals, including the completion of the Section 106 process.

- k. Reimbursement of a subgrantee's insurance deductible, when the deductible is the total FEMA eligible cost for the project.
  - l. Labor, equipment and materials used to provide security in the Disaster Declaration area, including lease, rental, purchase or repair of equipment or vehicles and payment for staff and contract labor.
  - m. Application of pesticides to reduce adverse public health effects, including aerial and truck-mounted spraying.
  - n. Unemployment assistance.
  - o. Distribution of food coupons.
  - p. Legal services.
  - q. Crisis counseling.
11. The terms of this Agreement will not apply to Undertakings on Tribal (reservation lands) unless the affected Tribe(s) have concurred in writing.
12. Any FEMA Programs authorized by the United States Congress in the future may be included in this Agreement in accordance with Stipulation IV.A, Amendments. Any change in the FEMA name, Programs, or organizational structure will not affect this Agreement.

## B. Roles and Responsibilities of FEMA, SHPO, OEM, and LPC

### 1. FEMA:

- a. FEMA will use Federal, Tribal, State, subgrantee, or contractor staff whose qualifications meet the Secretary of the Interior's (Secretary's) Professional Qualifications Standards (Professional Qualifications) set forth in the Federal Register at 48 Fed. Reg. 44716-01 (September 29, 1983), as amended (Qualified), in completing identification and evaluation of historic properties and in making determinations of effects. FEMA will review any National Register eligibility determination and make its own findings of effect resulting from the performance of these activities prior to submitting such determinations to the SHPO and Participating Tribe(s).
- i. FEMA acknowledges that Tribe(s) possess special expertise in assessing the National Register eligibility of properties with religious and/or cultural significance to them. Tribal leaders and, as appropriate, their representatives shall decide who meets qualifications/standards as defined by their Tribe(s) for review of undertakings affecting properties with religious and/or cultural significance to Tribe(s).

- b. FEMA will coordinate with the LPC to help LPC ensure that subgrantees apply for permits.
  - i. If an Undertaking as defined by 36 CFR § 800.5 has the potential to adversely affect an LPC designated property or one calendared for designation, then FEMA will provide LPC with the same documentation that is provided to SHPO and Participating Tribe(s).
  - ii. When LPC notifies FEMA that an Undertaking is subject to further LPC review and permitting, FEMA EHP may approve the project and will notify the Grantee that the subgrantee is responsible for obtaining a permit from LPC.
  - iii. FEMA will request LPC to be a consulting party on any Memorandum of Agreement (MOA) that is written to resolve adverse effects to buildings that are LPC designated or proposed landmarks.
- c. FEMA alone shall conduct all project consultation with participating Tribes. In accordance with 36 CFR § 800.2(c)(4), FEMA may authorize the Grantee, or a subgrantee through the Grantee, to initiate the Section 106 process with the SHPO and other consulting parties, assist in identifying other consulting parties with a demonstrated interest in the Undertaking, and prepare any necessary analyses and documentation, but FEMA will remain legally responsible for determinations of National Register eligibility and findings of effect recommended by the authorized party. FEMA shall follow the process set forth in Stipulation I.B.1.a, FEMA Roles and Responsibilities, above and notify the SHPO in writing when a Grantee or subgrantee has been authorized to initiate consultation on FEMA's behalf.
- d. Prior to authorizing the release of funds for individual undertakings requiring grant conditions pursuant to this Agreement, FEMA will inform OEM of all stipulations and conditions and ensure that they are understood so they can be adequately conveyed to subgrantees. FEMA will work in partnership with OEM to provide subgrantees with guidance on in-kind repair pursuant to The Secretary of the Interior's Standards for the Treatment of Historic Properties 1995 (Standards), 36 CFR Part 68, or the most updated version, and techniques to avoid or minimize adverse effects to historic properties.
- e. FEMA shall provide the signatories and invited signatories with bi-annual reports for the previous six months by July 1st and December 31st of each year that this Agreement is in effect. This annual report will summarize the actions taken to implement the terms of this Agreement, statistics on Undertakings reviewed, and recommend any actions or revisions to be considered, including updates to the appendices.
- f. FEMA will confer bi-annually and as necessary with signatories and invited signatories to this Agreement within 30 days after issuance of the annual report, to review the report and/or discuss issues and concerns in greater detail.

- g. FEMA shall convene the an initial scoping meeting with the signatories and invited signatories as soon as practicable following the Disaster Declaration and provide specific points of contact and other pertinent information about the Disaster Declaration.
- h. FEMA shall ensure that all documentation resulting from Undertakings reviewed pursuant to this Agreement shall be consistent with applicable SHPO and Tribal guidelines and the confidentiality provisions of 36 CFR § 800.11(c).

2. SHPO:

- a. SHPO shall review FEMA's determination of the Areas of Potential Effect (APE), National Register eligibility determinations, and FEMA's effect findings and provide comments within timeframes required by this Agreement.
- b. Upon request, the SHPO will provide FEMA/and or its designee(s) with available information about historic properties (such as access to online systems or site files, GIS data, survey information, geographic areas of concern). Such data sharing may be memorialized in an agreement. Only Qualified FEMA staff and/or its designee(s) shall be afforded access to protected cultural resources information.
- c. The SHPO will identify staff or consultants to assist FEMA staff with its Section 106 responsibilities, and identify, in coordination with FEMA, specific activities that SHPO may perform for specific undertakings as agreed in writing with FEMA.
- d. As requested, SHPO staff will be available as a resource and for consultation through site visits, written requests, telephone conversations or electronic media. In those instances where consultation with SHPO has occurred, a written notice (via e-mail or regular mail) will be sent to SHPO to confirm any decisions that were reached.
- e. FEMA and the SHPO may agree to delegate some or all of the SHPO's responsibilities under this Agreement to supplementary SHPO staff assigned to FEMA-DR-4085-NY that are physically located in FEMA's Joint Field Office or SHPO offices in order to help expedite project review or other responsibilities under this Agreement. FEMA, SHPO and OEM will consult about the selection of the supplementary SHPO staff, the scope of responsibilities delegated, and the implementing procedures related to the actions and decisions delegated. FEMA and SHPO shall formally document their agreement regarding the supplementary SHPO staff.
- f. The SHPO shall participate in an initial scoping meeting for the Disaster Declaration.

- g. The SHPO may assist local jurisdictions or OEM with advance planning efforts to consider historic properties related to their preparedness, homeland security, response, recovery, and mitigation programs, for which FEMA funding may be requested.
- h. The SHPO will coordinate with FEMA, to identify consulting parties, including any communities, organizations, or individuals that may have an interest in a specific Undertaking and its effects on historic properties.

3. LPC

- a. LPC will review FEMA Undertakings that have the potential to adversely affect an LPC designated property or one calendared for designation using FEMA consultation documents that are provided to SHPO and Participating Tribe(s) so that LPC may notify FEMA whether or not an LPC property may be affected by the Undertaking and will require a LPC permit.
- b. LPC understands that if it does not respond to FEMA's submittal of Undertakings to them within the timeframes outlined in Stipulation I.E, i.e. within 4 days under emergency conditions, 15 days for IA and PA Undertakings and 30 days for HMGP Undertakings, FEMA will assume that none of the Undertakings are subject to LPC review and permitting and will proceed with the Undertaking.

4. OEM:

- a. OEM shall ensure that its subgrantees understand and acknowledge conditions and potential requirements that may be placed upon Undertakings as a result of Section 106 consultation and the provisions of this Agreement.
- b. Subgrantee government and private non-profit agencies are advised in OEM applicant briefings and program materials that FEMA funding may be jeopardized unless all local, State and Federal permits, licenses and approvals are received. NYC LPC reviews and permits were discussed in briefings held for NYC agencies and private non-profits. The official notice to a subgrantee that an Undertaking is subject to further LPC review will be the project approval document specifying the project scope and limits, and containing all conditions and caveats, including an approved Project Worksheet (PW) for a Public Assistance project, and an approved Application for an HMGP project.
- c. OEM will participate in an initial scoping meeting for the Disaster Declaration.
- d. OEM shall ensure that subgrantees understand that failure to comply with the terms of this Agreement and any project-specific conditions could jeopardize FEMA funding.

- e. OEM will notify FEMA as soon as possible of any proposed change to the approved scope of work and direct the subgrantee not to implement the changes to the proposed scope of work until any additional review required by this Agreement is complete.
- f. OEM shall ensure that its subgrantees are made aware that in the event of an unexpected discovery involving an Undertaking that has affected a previously unidentified historic property, human remains, or affected a known historic property in an unanticipated manner, the subgrantee will comply with Stipulation III.B, Unexpected Discoveries.
- g. When issued as a FEMA condition, OEM shall ensure that in its subgrant agreements, any scope of work involving ground disturbance, and resultant contracts to execute said work, provide for the protection of and notification protocols for unexpected discoveries of cultural material and human remains.
- h. If the Tribe assumes the role of Grantee for projects on Tribal lands, it will assume the same responsibilities as outlined in Stipulation I.B.3 of this Agreement, Roles and Responsibilities of the Signatories.

### C. Tribal Consultation

1. For Tribes that have assumed the responsibilities of the SHPO through appointment of a Tribal Historic Preservation Officer (THPO) per Section 101 of the NHPA, FEMA shall consult with the THPO in lieu of the SHPO for undertakings occurring on or affecting tribal lands.
2. Where no Tribal-specific consultation agreements or protocols are in place, FEMA shall consult with affected Tribe(s) in accordance with 36 CFR Part 800. In determining who the affected Tribe(s) may be, FEMA will first establish that an Undertaking has the potential to affect historic properties with religious or cultural importance. FEMA may consult with the SHPO, affected Tribe(s), any State Tribal Agency, and access the National Park Service (NPS) Native American Consultation Database to identify Tribal geographic interests.
3. FEMA shall ensure that its consultations with other consulting parties shall not include the dissemination of information, when advised of data sensitivity by the affected Tribe(s), that might risk harm to an American Indian site or property of religious or cultural significance or that might impede the use of such a site by the affected Tribe(s) in accordance with Section 304 of the NHPA and other applicable laws. Information provided is exempt from public knowledge and disclosure under the Freedom of Information Act (FOIA) by both Section 304 of the NHPA and Section 9 of the Archaeological Resources Protection Act (ARPA) (16 U.S.C. §470aa - 470mm).

#### D. Public Participation

1. FEMA recognizes that the views of the public are essential to informed decision making throughout the Section 106 review process. FEMA will notify the public of proposed Undertakings in a manner that reflects the nature, complexity, and effect(s) of the Undertaking, the likely public interest given FEMA's specific involvement, and any confidentiality concerns of affected Tribe(s), and private individuals and businesses.
2. FEMA will consult with OEM, the subgrantee, SHPO, and Participating Tribe(s), to determine if there are individuals or organizations with a demonstrated interest in historic properties that should be made aware of an Undertaking. If such parties are identified or identify themselves to FEMA, FEMA will provide them with information regarding the Undertaking and its effect on historic properties, consistent with the confidentiality provisions of 36 CFR § 800.11(c).
3. In accordance with the outreach strategy developed for an Undertaking in consultation with the SHPO and Participating Tribe(s), for involving the public, FEMA will identify the appropriate stages for seeking public input during the Section 106 process.
4. FEMA will consider all views provided by the public regarding an Undertaking and will consider all written requests of individuals and organizations to participate as consulting parties, and in consultation with the SHPO and Participating Tribe(s), determine which should be consulting parties. FEMA will invite any individual or organization that will assume a specific role or responsibility outlined in a Section 106 agreement document to participate as an invited signatory party in that agreement document.
5. FEMA also may provide public notices and the opportunity for public comment or participation in an Undertaking through the public participation process of the National Environmental Policy Act (NEPA) and its implementing regulations set out at 44 CFR Part 10, and/or Executive Orders 11988 and 11990 relating to floodplains and wetlands as set out in 44 CFR Part 9, and Executive Order 12898, Environmental Justice, provided such notices specifically reference Section 106 as a basis for public involvement.

#### E. Timeframes

All time designations will be in calendar days unless otherwise stipulated. If any signatory or invited signatory does not object to FEMA's determination related to a proposed action within an agreed upon timeframe, FEMA may proceed to the next step in the review process as described in Stipulation II, Project Review. Due to the varied nature of Undertakings, the individual response times to FEMA's requests for comment/concurrence will vary.

1. Under emergency conditions, the SHPO and Participating Tribe(s) will respond to any FEMA request for comments within three (3) days after receipt, unless FEMA determines the nature of the emergency action warrants a shorter time period.
2. For Undertakings associated with the Individual Assistance (IA) and Public Assistance (PA) programs, the review time shall be a maximum of fifteen (15) days for delineation of the Area of Potential Effect (APE), determinations of National Register eligibility and findings of effect.
3. For the Hazard Mitigation Grant Program (HMGP), the response time for each request for concurrence shall be a maximum of thirty (30) days.

## **II. PROJECT REVIEW**

### **A. Programmatic Allowances**

1. If FEMA determines an Undertaking conforms to one or more of the allowances in Appendix B of this Agreement, FEMA will complete the Section 106 review process by documenting this determination in the project file, without SHPO and Tribal review or notification.
2. If the Undertaking involves a National Historic Landmark (NHL), FEMA shall notify the SHPO and Participating Tribe(s) and the NHL Program Manager in the NPS Northeast Regional Office that the Undertaking conforms to one or more allowances. FEMA will provide information about the proposed scope of work for the Undertaking and the allowance(s) enabling FEMA's determination.
3. If an Undertaking is not composed entirely of an allowance listed in Appendix B, FEMA will conduct Section 106 review for the entire Undertaking.
4. For an Undertaking that FEMA determines does not meet the allowance criteria, FEMA shall complete the Section 106 review process in accordance with Stipulation II.C, Standard Project Review, as applicable.
5. Allowances may be revised and new allowances may be added to this Agreement in accordance with Stipulation IV.A.3, Amendments.

## B. Expedited Review for Emergency Undertakings

1. As part of the Disaster Declaration process, FEMA will define the time interval during which the disaster causing incident occurs (the incident period, as defined in 44 CFR § 206.32(f)). FEMA may approve Federal assistance and/or funding for emergency work (as defined in 44 CFR § 206.201(b)) that occurs during the incident period, including work already completed, in response to an immediate threat to human health and safety or improved property. FEMA will conduct expedited review of emergency Undertakings from October 27, 2012, the beginning of the incident period, until January 27, 2013.
2. Should FEMA determine that it is necessary to extend the expedited review period beyond January 27, 2012, FEMA will request in writing, prior to the expiration of the expedited review period, an extension of the period of applicability in 30-day increments in accordance with 36 CFR § 800.12(d).
3. For all emergency Undertakings, FEMA will determine the following:
  - a. If the Undertaking is an immediate rescue and salvage operations conducted in response to an event to preserve life and property, FEMA has no Section 106 review responsibilities in accordance with 36 CFR § 800.12(d); or
  - b. If the Undertaking meets one or more of the Allowances in Appendix B of this Agreement, FEMA will complete the Section 106 review process pursuant to Stipulation II.A.1, Programmatic Allowances.
  - c. If FEMA determines that the emergency Undertaking will adversely affect a historic property during this expedited review period, to the extent practicable FEMA may propose treatment measures that would address adverse effects during implementation, and request the comments of the SHPO and/or the affected Tribe(s) within 3 days of receipt of this information unless FEMA determines the nature of the emergency warrants a shorter time period. FEMA may elect to consult with the SHPO and/or the affected Tribe(s) regarding the emergency Undertaking at any point before or during the implementation of an emergency Undertaking if FEMA determines circumstances are appropriate for expedited consultation.
  - d. FEMA may provide this information through written requests, telephone conversations, meetings, or electronic media. In all cases, FEMA will clarify that an "expedited Undertaking review" is being requested.
  - e. FEMA will take into account any timely comments provided by SHPO and/or the affected Tribe(s) and notify the parties of how their comments were taken into consideration by FEMA, OEM, and subgrantee.

- f. Should the SHPO and/or Participating Tribes not comment within 7 days, FEMA may fund the emergency Undertaking based on the available information. This will complete the Section 106 review for the Undertaking.

C. Emergency Demolition and Debris Removal of Privately-Owned Properties

FEMA may need to carry out debris removal activities involving the demolition and removal of buildings and structures that are damaged beyond repair or that are completely collapsed and/or disassembled by the actions of the declared event and therefore must be removed for health and safety reasons. Damage to historic properties by the effects of natural disasters to such a degree that demolition is required for health and safety reasons is not an adverse effect as defined under Section 106 of NHPA. However, FEMA is required by the NHPA to determine if its specific actions in response to disasters will cause adverse effects to any historic properties. After FEMA Public Assistance Program (PA) determines a property initially eligible for demolition, FEMA EHP will review these projects using the following expedited emergency process outlined below.

1. FEMA EHP will evaluate all properties proposed for demolition to determine if they are listed in the National Register or have previously been determined to be eligible for the National Register. If a property has not been previously evaluated for National Register eligibility, FEMA will make a determination whether or not the property is eligible for the National Register. Historic properties include both those above the ground (buildings and structures) and below the ground (archaeological sites and artifacts).
2. FEMA's evaluation will include a data base/GIS review of SHPO information to identify previously-identified historic properties, field review and photography, and additional research of properties that are more than 45 years of age, including archaeological analysis if necessary.
3. FEMA EHP will evaluate all properties proposed for demolition to determine if they are LPC designated or calendared for designation. This will include a database review at [http://geo.nycenet/doitt/nycgovmap/](http://geo.nycenet.doitt/nycgovmap/) for designated properties and <http://a810-bisweb.nyc.gov/bisweb/bsqpm01.jsp> (New York City Buildings Department) for calendared properties.
4. FEMA will conduct an analysis of effects for any historic property identified for demolition or for any demolition that will affect other historic properties within an Area of Potential Effects (APE) and will determine if the project will result in adverse effects. The APE shall include properties within the view shed of the Undertaking that are LPC designated or calendared. The APE for historic properties that are not located within a designated National Register or LPC historic district, or within a geographic area that is eligible as a National Register district, will be the building footprint. For all others, FEMA will determine a project-specific APE. FEMA will also provide information to the SHPO for these properties that describes the specific nature of the damage to each property

5. FEMA will document its findings concerning each property that is proposed for demolition and will submit a report to the SHPO and other consulting parties, as appropriate that includes two (2) photographs of each property (more if associated resources are present) and text that briefly but adequately explains FEMA's determination of National Register eligibility and effects. These reports will be submitted via the SHPO's dedicated electronic mail account at [femarecovery@parks.ny.gov](mailto:femarecovery@parks.ny.gov).
6. SHPO will review the reports, provide its concurrence or ask for more information via electronic mail within three (3) business days. If SHPO does not concur with FEMA's finding for any property, both agencies will conduct further consultation as soon as possible to clarify FEMA's determinations or to resolve any disagreements.
7. To the extent practicable, demolition of every structure will be carried out following low impact protocols – limiting disturbance to the footprint of the existing structure, limiting the use of heavy equipment on the property, pushing all foundation materials into the building basement and emphasizing that the contractors make reasonable efforts to avoid or minimize harm to any archaeological deposits. In addition, FEMA's PA Program does not fund the removal of slabs, further ensuring that these undertakings will likely have minimal impact on archaeological resources. In most instances FEMA will make the determination that no historic properties will be affected by the demolition.
8. In cases where a demolition site is considered to be archaeologically sensitive monitoring will be required by an archaeologist who meets the Secretary's Professional Qualifications Standards. This determination will be made on a case-by case-basis by FEMA in consultation with the SHPO and other consulting parties. Eligibility determinations, assessment of effects and resolution of adverse effects will be made subsequent to identification of an archeological property. Uprooted trees and exposed stumps will be removed in accordance with the Stump Removal Policy in Appendix E.
9. Demolition of eligible historic buildings/structures may be adverse and may require development of a Memorandum of Agreement (MOA) to mitigate any adverse effects. If FEMA determines that any property demolition is an Undertaking that will result in adverse effects, it will enter into consultation with the SHPO and other appropriate consulting parties to develop an MOA to mitigate the adverse effects as required under Section 106. FEMA may choose to identify, in consultation with the SHPO, standard treatment measures to mitigate adverse effects to multiple properties.

10. This agreement only pertains to the residential structure itself and does not include the demolition or removal of any other infrastructure on these properties, including sidewalks, driveways, pools, retaining walls or similar structures that would not be eligible for FEMA Public Assistance funding.

#### D. Standard Project Review

For Undertakings not exempt from further Section 106 review, FEMA will ensure that the following standard project review steps are implemented. In the interest of streamlining, FEMA may combine some of these steps during consultation.

1. Consulting Parties: FEMA will consult as appropriate with the SHPO and affected Tribe(s) to identify any other parties that meet the criteria to be consulting parties and invite them to participate in the Section 106 review process. FEMA may invite others to participate as consulting parties as the Section 106 review proceeds.
2. Area of Potential Effects: For standing structures, qualified staff shall define the APE as the individual structure when the proposed Undertaking is limited to the repair or rehabilitation (as defined in 36 CFR § 68.3(b)(6) and 36 CFR § 68.2(b)) of a structure located outside of a National Register listed or eligible historic district. For all other undertakings, qualified staff will determine the APE in consultation with the SHPO and Participating Tribes. FEMA may also consider information provided by other parties, such as local governments, LPC, local preservation advocacy organizations, and the public, when establishing the APE.
3. Identification and Evaluation: Qualified staff shall determine, in consultation with the SHPO and Participating Tribes if the APE contains historic properties, including archaeological sites or properties of religious or cultural significance, that are listed in or potentially eligible for the National Register, or LPC designated and calendared properties. This may include the review of preliminary documentation collected by OEM or the subgrantee in coordination with the SHPO.
  - a. Archaeological Properties, FEMA may consult with the SHPO to determine the level of effort and methodology necessary to identify and define the limits of archaeological properties. For historic properties of religious and cultural significance to Participating Tribe(s), FEMA shall consult with the Tribe(s) to identify geographic areas where properties may be affected by an Undertaking in order so that FEMA may determine the necessary level of effort required to avoid or protect any such properties. FEMA may also consult with LPC regarding identification and treatment of archaeological properties.
  - b. National Historic Landmarks: When FEMA determines an Undertaking has the potential to affect an NHL, FEMA shall notify the Secretary through the NHL Program Manager in the NPS Northeast Regional Office in addition to the SHPO and Participating Tribe(s).

- c. Determinations of Eligibility: FEMA shall review or determine National Register eligibility based on identification and evaluation efforts, and consult with SHPO and Participating Tribe(s) regarding these determinations. Should the SHPO or Participating Tribe(s) disagree with the determination of eligibility, FEMA may elect to either continue consultation, treat the property as eligible for the National Register, or to obtain a determination of eligibility from the Keeper of the National Register in accordance with 36 CFR § 63.2(d)-(e) and 36 CFR § 800.4(c)(2).
- d. Findings of No Historic Properties Affected: FEMA shall make a finding of “no historic properties affected” if no historic properties are present in the APE; the Undertaking is designed to avoid historic properties, including archaeological sites or properties of religious or cultural significance to Participating Tribe(s); or the Undertaking does not affect the character defining features of a historic property.
  - i. FEMA shall notify the SHPO, Participating Tribes(s), and any other consulting parties of this finding and provide supporting documentation in accordance with 36 CFR § 800.11(d) and applicable documentation standards. Unless the SHPO or Participating Tribe(s) objects to the finding pursuant to the appropriate timeframe outlined in Stipulation I.E.2 or I.E.3, Timeframes, FEMA shall complete the Section 106 review.
  - ii. If the SHPO or Participating Tribe(s) objects to a finding of “no historic properties affected”, FEMA may elect to consult with the objecting party to resolve the disagreement. If the objection is resolved, FEMA may proceed with the action in accordance with the resolution. FEMA also may elect to reconsider effects on the historic property by applying the criteria of adverse effect pursuant to Stipulation II.D.4, Application of the Criteria of Adverse Effect. If FEMA is unable to resolve the disagreement, it will forward the finding and supporting documentation to the ACHP and request that the ACHP review FEMA’s finding in accordance with 36 CFR § 800.4(d)(1)(iv)(A) through 36 CFR § 800.4(d)(1)(iv)(C). FEMA will consider the ACHP’s recommendation in making its final determination.
- 4. Application of the Criteria of Adverse Effect: If FEMA finds an Undertaking may affect identified historic properties in the APE, including properties of religious or cultural significance to Participating Tribe(s), or if a consulting party objects to the finding of “no historic properties affected,” FEMA will apply the criteria of adverse effect to historic properties within the APE(s), taking into account the views of the consulting parties and public concerning effects in accordance with 36 CFR § 800.5(a).
  - a. If FEMA determines that an Undertaking does not meet the adverse effect criteria or, for a standing structure, that the Undertaking meets the *Standards*, FEMA shall propose a finding of “no adverse effect” in accordance with 36 CFR § 800.5(b).

- b. FEMA shall notify the SHPO, Participating Tribe(s), and all other consulting parties of its finding and provide supporting documentation pursuant to 36 CFR §800.11(e) and applicable documentation standards. Unless a consulting party objects within the appropriate timeframe, FEMA will proceed with its “no adverse effect” determination and complete the Section 106 review.
  - c. If FEMA finds the Undertaking may have an adverse effect, FEMA shall request through OEM that the subgrantee revise the scope of work to substantially conform to the Standards for standing structures, or avoid or minimize adverse effects for archaeological properties, in consultation with the SHPO, Participating Tribe(s), and any other consulting parties. If the subgrantee modifies the scope of work to address the adverse effect, FEMA shall notify the consulting parties, and provide supporting documentation. Unless a consulting party makes a timely objection, FEMA shall proceed with its “no adverse effect” determination and complete the Section 106 review.
  - d. If a consulting party objects to a finding of “no adverse effect,” FEMA will elect to consult with the objecting party to resolve the disagreement. If the objection is resolved, FEMA will proceed with the undertaking in accordance with the resolution, or;
  - e. If the objection cannot be resolved, FEMA will forward its findings and supporting documentation to the ACHP and request that the ACHP review the findings in accordance with 36 CFR. § 800.5(c)(3)(i-ii). FEMA will consider the ACHP’s comments in making its final determination, or;
  - f. If an Undertaking cannot be modified to avoid adverse effects FEMA will initiate consultation to resolve the adverse effect(s) in accordance with Stipulation II.D.5, Resolution of Adverse Effects.
5. Resolution of Adverse Effects: If FEMA determines that an Undertaking will adversely affect a historic property, it shall resolve the effects of the Undertaking in consultation with the SHPO, OEM, participating Tribes, subgrantee, ACHP, if participating, and any other consulting parties, by one of the following methods depending upon the nature and scale of the adverse effect as well as the determination of the historic property’s significance on a local, state or national level:
- a. Abbreviated Consultation Process: After taking into consideration the nature of the historic properties affected and the severity of the adverse effect(s), FEMA may propose to resolve the adverse effect(s) of the Undertaking through the application of Treatment Measures outlined in Appendix C as negotiated with the SHPO, OEM, and Participating Tribe(s). FEMA will not propose use the Abbreviated Consultation Process if the Undertaking may affect an NHL. The application of these Treatment Measures will not require the execution of a Memorandum of Agreement (MOA) or Programmatic Agreement.

1. FEMA will notify the consulting parties in writing of its proposed use of a specific Treatment Measure, or combination of Treatment Measures with the intent of expediting the resolution of adverse effects and provide documentation as required by 36 CFR §800.11(e) and subject to the confidentiality provisions of 36 CFR §800.11(c), as well as provide the ACHP with an adverse effect notice in accordance with 36 CFR §800.6(a)(1) and notify them of FEMA's intent to apply the Treatment Measure(s). Unless a consulting party or the ACHP objects within fifteen (15) days of receipt of FEMA's proposal, FEMA will proceed with the use of Treatment Measure(s) and will complete Section 106 review.
  2. If any of the consulting parties or the ACHP objects within the 15 day review and comment period to the resolution of adverse effects through the application of the Abbreviated Consultation Process, FEMA shall consult further with the consulting parties to explore options for resolution of the adverse effect(s). If consultation is not successful after an additional 15 day period, FEMA shall request that the ACHP arbitrate the consultation and help identify a final resolution of the adverse effect(s). If no consensus is reached, FEMA shall resolve the adverse effect(s) using procedures outlined below in Stipulation II.E.5.b, Memorandum of Agreement.
  3. Because funding and implementation details of Treatment Measure(s) for specific Undertakings may vary by program, FEMA will provide written notice to the consulting parties within sixty (60) days of the completion of the Treatment Measure(s). This written notice will serve as confirmation that the Treatment Measure(s) for a specific Undertaking have been implemented. FEMA will also include information pertaining to the completion of Treatment Measures in the annual report pursuant to Stipulation I.B.1,d, FEMA Roles and Responsibilities.
- b. Memorandum of Agreement (MOA): If the Abbreviated Consultation Process is determined infeasible or is objected to by any of the consulting parties, FEMA, in consultation with the other consulting parties, will develop an MOA in accordance with 36 CFR § 800.6(c) to stipulate treatment measures to avoid, minimize, and/or mitigate adverse effects on historic properties. If the ACHP was not previously notified of the adverse effect, FEMA will provide the documentation outlined in 36 CFR §800.11(e), and the ACHP will have 15 days to review the undertaking and determine if its participation is necessary to complete the consultation process. The MOA may also include feasible treatment measures that serve an equal or greater public benefit in promoting the preservation of historic properties in lieu of more traditional treatment measures. Should the execution of an MOA not be appropriate given the nature and significance of historic properties, scale of adverse effects, or include one or more complex Undertakings, FEMA shall resolve the adverse effects using the procedures outlined below in Stipulation II.E.5.c, Programmatic Agreement.

- c. **Programmatic Agreement:** FEMA, the SHPO, OEM, Participating Tribe(s), the ACHP, as appropriate, and any other consulting party may consult to develop a Programmatic Agreement in accordance with 36 CFR § 800.14(b) to identify programmatic conditions or treatment measures to govern the resolution of potential or anticipated adverse effects from certain complex project situations for an Undertaking or for multiple but similar Undertakings by a single subgrantee.
- d. **Objections:** Should any signatory, invited signatory, consulting party, or member of the public object within the timeframes established by this Agreement to any plans, specifications, or actions pursuant to resolving an adverse effect, FEMA shall consult further with the objecting party to seek resolution. If FEMA determines the objection cannot be resolved, FEMA shall address in accordance with Stipulation IV.B, Dispute Resolution.
- e. **National Historic Landmarks:** When FEMA determines an Undertaking will adversely affect an NHL, FEMA also will notify and invite the Secretary and ACHP to participate in consultation, pursuant to 36 CFR § 800.10. When the ACHP participates in consultation related to an NHL, the ACHP will report the outcome of the consultation to the Secretary and the FEMA Administrator.

### **III. OTHER CONSIDERATIONS**

- A. **Changes to an Approved Scope of Work:** OEM is required to notify FEMA and will require its subgrantees to notify it immediately when there are proposed changes to an approved scope of work for an Undertaking. When notified by OEM of any proposed substantive change to the approved scope of work for an Undertaking, FEMA may authorize the OEM or subgrantee to proceed with the change once the required review is completed.
- B. **Unexpected Discoveries:** Upon notification by a subgrantee of an unexpected discovery in accordance with Stipulation I.B.3.d, OEM Roles and Responsibilities, OEM will immediately notify FEMA and require the subgrantee to:
  - 1. Stop construction activities in the vicinity of the discovery; and,
  - 2. Notify the local law enforcement office and coroner/medical examiner if human remains are discovered, in accordance with applicable New York State statute(s);
  - 3. Take all reasonable measures to avoid or minimize harm to the property until FEMA has completed consultation with the SHPO, Participating Tribe(s), and any other consulting parties. Upon notification by OEM of a discovery, FEMA will immediately notify the SHPO, Participating Tribe(s), and any other consulting parties that may have an interest in the discovery, and consult to evaluate the discovery for National Register eligibility.
  - 4. FEMA will consult with the consulting parties in accordance with the review process outlined in Stipulation II, Project Review, to develop a mutually agreeable action plan

with timeframes to identify the discovery, take into account the effects of the Undertaking, resolve adverse effects if necessary, and ensure compliance with applicable Federal and State statutes.

5. In cases where discovered human remains are determined to be American Indian, FEMA shall consult with the appropriate Tribal representatives and SHPO. In addition, FEMA shall follow the guidelines outlined in the ACHP's *Policy Statement Regarding the Treatment of Burial Sites, Human Remains, and Funerary Objects* (2007).
6. FEMA will coordinate with OEM and the subgrantee regarding any needed modification to the scope of work for the Undertaking necessary to implement recommendations of the consultation and facilitate proceeding with the Undertaking.

#### C. Curation

1. FEMA and OEM shall ensure that all records and materials (collections) produced during the course of an archaeological survey, testing, and any data recovery operations for the implementation of its Undertakings are curated at a facility, preferably in-state, that meets the standards of, and in accordance with the applicable provisions of 36 CFR Part 79, "Curation of Federally Owned and Administered Archaeological Collections," and applicable State law and guidelines.
2. In cases where the survey, testing, or data recovery are conducted on private land, any recovered collections remain the property of the land owner and FEMA will return the collections to them with the assistance of the SHPO. In such instances, FEMA and OEM, in coordination with the SHPO or Participating Tribe(s), shall encourage land owners to donate the collection(s) to an appropriate public or Tribal entity. In cases where the property owner declines to accept responsibility for the collection(s) and wishes to transfer ownership of the collection(s) to a public or Tribal entity, FEMA and OEM will ensure curation of the collection(s) in accordance with Stipulation III.C.1 above.

#### D. Anticipatory Actions and After the Fact Review

1. OEM shall advise its subgrantees that they may jeopardize Federal funding if work is performed without all required local, State and Federal licenses, permits or approvals, including the completion of the Section 106 process. FEMA also shall document this requirement in its Record of Environmental Consideration, as applicable, as well as all project approval documents specifying the project scope and limits, and containing all conditions and caveats, including an approved Project Worksheet (PW) for a Public Assistance project, and an approved Application for an HMGP project.
2. In accordance with Section 110(k) of the NHPA, FEMA shall not grant assistance to a subgrantee who, with intent to avoid the requirements of this Agreement or Section 106 of the NHPA, has intentionally significantly and adversely affected a historic

property to which the assistance would relate, or having legal power to prevent it, allowed an adverse effect to occur. However, if after consultation with the SHPO, Participating Tribes(s), and ACHP, FEMA determines that extraordinary circumstances justify granting assistance despite the adverse effect created or permitted by the subgrantee, FEMA shall complete consultation for the Undertaking pursuant to the terms of this Agreement.

3. In circumstances where FEMA determines a subgrantee has initiated an Undertaking without willful intent to avoid the requirements of this Agreement or Section 106 of NHPA, FEMA will determine if the Undertaking would have required Section 106 review in accordance with Stipulation II.D, Standard Project Review.
4. If FEMA determines no Section 106 review or consultation with SHPO and Participating Tribe(s) would have been required pursuant to Stipulation II.D, Standard Project Review, FEMA will document this determination to the project files and consider the project Section 106 compliant.
5. If FEMA determines the Undertaking would have required Section 106 review, FEMA will coordinate with SHPO and Participating Tribe(s) to determine if consultation is feasible.
  - a. If after coordination with the SHPO and affected Tribes, FEMA determines that consultation is feasible, FEMA will review the Undertaking in accordance with Stipulation II.D, Standard Project Review.
  - b. If after coordination with the SHPO and Participating Tribe(s), FEMA determines that review is infeasible, FEMA will document that the project is noncompliant with Section 106, and the FEMA program then will make a funding eligibility decision.
6. FEMA will ensure that all Undertakings considered for after the fact review in accordance with this stipulation are included in the bi-annual reports.

#### **IV. IMPLEMENTATION OF AGREEMENT**

##### **A. Amendments**

1. If any signatory or invited signatory to the terms of the Agreement determines that the Agreement cannot be fulfilled, or that an amendment to the terms of this agreement must be made, the signatories and the invited signatories will consult for no more than 30 days to seek amendment of the Agreement.
2. This Agreement may be amended only upon the written consensus of the signatories. This Stipulation does not apply to amendments made to Appendices A, B, and C pursuant to Stipulation IV.A.3, Amendments, below.

3. Appendix A (FEMA Programs), Appendix B (Programmatic Allowances) and Appendix C (Treatment Measures) may be amended at the request of FEMA, a signatory party, or an invited signatory party in the following manner:
  - a. FEMA, on its own behalf or on behalf of another signatory or invited signatory, shall notify all signatory and invited signatory parties to this Agreement of the intent to add to or modify the current Appendix or Appendices and shall provide a draft of the updated Appendix or Appendices to all signatory and invited signatory parties.
  - b. If no signatory or invited signatory object in writing within 15 days of receipt of FEMA's proposed addition or modification, FEMA will date and sign the amended Appendix and provide a copy of the amended Appendix to all signatory and invited signatory parties.

#### B. Dispute Resolution

1. Should any signatory or invited signatory to this Agreement object in writing within 30 days to the terms of this Agreement, FEMA will consult with the objecting party for not more than 30 days to resolve the objection.
2. If the objection is resolved within 30 days, FEMA shall proceed in accordance with the resolution.
3. If FEMA determines within 30 days that the objection cannot be resolved, FEMA will forward to ACHP all documentation relevant to the objection, including FEMA's proposed resolution. Within 30 days of receipt, ACHP will:
  - a. Concur in FEMA's proposed resolution; or
  - b. Provide FEMA with recommendations, which FEMA will take into account in reaching a final decision regarding the objection; or
  - c. Notify FEMA that the objection will be referred for comment in accordance with 36 CFR § 800.7(a)(4), and proceed to do so. FEMA will take the resulting comment into account.
4. FEMA will take into account any ACHP recommendations or comments, and any comments from the other signatories and invited signatories, in reaching a final decision regarding the objection in accordance with 36 CFR § 800.7(c)(4). The signatories will continue to implement all other terms of this Agreement that are not subject to objection.
5. Should ACHP not respond within 30 days, FEMA may assume ACHP has no comment and proceed with its proposed resolution to the objection.

6. FEMA will provide the signatories and invited signatories with its final written decision regarding any objection brought forth pursuant to this Stipulation.
7. FEMA may authorize any disputed action to proceed, after making its final decision.
8. At any time while this Agreement is in effect, should a member of the public object in writing to implementation of its terms, FEMA will notify the other signatories and invited signatories in writing and take the objection into consideration. FEMA will consult with the objecting party and, if that party so requests, the other signatories and invited signatories, for not more than 21 days. In reaching its decision regarding the objection, FEMA will take into consideration all comments from these parties. Within 15 days after closure of this consultation period, FEMA will provide the other parties with its final decision in writing. FEMA's decision will be final.
9. Any dispute regarding National Register eligibility that is not resolved pursuant to this Stipulation will be resolved in accordance with Stipulation II.D.3.c, Determinations of Eligibility.

#### C. Severability and Termination

1. In the event any provision of this Agreement shall be deemed contrary to, or in violation of, any applicable existing law or regulation of the United States of America and/or the State New York, only the conflicting provision(s) shall be deemed null and void, and the remaining provisions of the Agreement shall remain in effect.
2. FEMA, the SHPO, OEM, or Participating Tribe(s) may terminate this Agreement by providing 30 days' written notice to the other signatory and invited signatory parties, provided that the parties consult during this period to seek amendments or other actions that would prevent termination. If this Agreement is terminated, FEMA will comply with 36 CFR Part 800. Upon such determination, FEMA will provide all other signatories and invited signatories with written notice of the termination of this Agreement.
3. A Participating Tribe may notify the other signatories and invited signatories that it is fully withdrawing from participation in the Agreement. Following such a withdrawal, FEMA will review undertakings that may affect historic properties of religious and cultural significance to the Tribe in accordance with 36 CFR §§ 800.3 through 800.7 or an applicable alternative under 36 CFR § 800.14. Withdrawal from this Agreement by a Participating Tribe does not terminate the Agreement. A Tribe that has withdrawn from the Agreement may at any time that this Agreement remains in effect notify FEMA, OEM, and SHPO in writing that it has rescinded its notice withdrawing from participation in the Agreement.
4. This Agreement may be terminated by the implementation of a subsequent Agreement that explicitly terminates or supersedes this Agreement, or by FEMA's implementation of Alternate Procedures, pursuant to 36 CFR § 800.14(a).

#### D. Duration and Extension

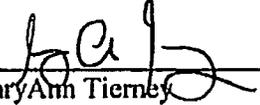
1. Unless terminated in accordance with Stipulation IV.C.2 or IV.C.4, Severability and Termination, this Agreement shall remain in effect until FEMA, in consultation with all other signatories, determines that all undertakings related to 4085-DR-NY have been completed.
2. If another federally-declared disaster occurs within the State of New York while this PA is effective, the signatories and invited signatories will consult to determine whether it would be appropriate to extend the PA. If the parties agree that the extension of this PA is an acceptable mechanism for reviewing undertakings as a result of the new disaster, its duration shall be extended pursuant to Stipulation IV.A.

#### E. Execution and Implementation

1. This Agreement may be implemented in counterparts, with a separate page for each signatory, invited signatory and concurring party and will become effective on the date of the final signature, and will become effective on the date of signature by FEMA, SHPO, and ACHP. FEMA will ensure that each signatory, invited signatory and concurring party is provided with a complete copy.
2. Execution and implementation of this Agreement evidence that FEMA has afforded ACHP a reasonable opportunity to comment on FEMA's administration of all referenced Programs, and that FEMA has satisfied its Section 106 responsibilities for all individual Undertakings of the Programs.

**PROGRAMMATIC AGREEMENT AMONG  
THE FEDERAL EMERGENCY MANAGEMENT AGENCY,  
THE NEW YORK STATE HISTORIC PRESERVATION OFFICER,  
THE NEW YORK STATE OFFICE OF EMERGENCY MANAGEMENT,  
THE DELAWARE NATION,  
THE DELAWARE TRIBE OF INDIANS,  
THE SHINNECOCK NATION,  
THE STOCKBRIDGE-MUNSEE COMMUNITY BAND OF MOHICANS,  
THE NEW YORK CITY LANDMARKS PRESERVATION COMMISSION,  
AND THE  
ADVISORY COUNCIL ON HISTORIC PRESERVATION,  
AS A RESULT OF HURRICANE SANDY**

Signatory:  
FEDERAL EMERGENCY MANAGEMENT AGENCY

By:  \_\_\_\_\_ Date: 5/6/13  
By: MaryAnn Tierney  
Acting Regional Administrator, Region II

**PROGRAMMATIC AGREEMENT AMONG  
THE FEDERAL EMERGENCY MANAGEMENT AGENCY,  
THE NEW YORK STATE HISTORIC PRESERVATION OFFICER,  
THE NEW YORK STATE OFFICE OF EMERGENCY MANAGEMENT,  
THE DELAWARE NATION,  
THE DELAWARE TRIBE OF INDIANS,  
THE SHINNECOCK NATION,  
THE STOCKBRIDGE-MUNSEE COMMUNITY BAND OF MOHICANS,  
THE NEW YORK CITY LANDMARKS PRESERVATION COMMISSION,  
AND THE  
ADVISORY COUNCIL ON HISTORIC PRESERVATION,  
AS A RESULT OF HURRICANE SANDY**

Signatory:

**NEW YORK STATE HISTORIC PRESERVATION OFFICER**

By: Ruth Pierpont Date: 5/3/13

By: Ruth Pierpont

New York Deputy Commissioner/New York Deputy State Historic Preservation Officer

PROGRAMMATIC AGREEMENT AMONG  
THE FEDERAL EMERGENCY MANAGEMENT AGENCY,  
THE NEW YORK STATE HISTORIC PRESERVATION OFFICER,  
THE NEW YORK STATE OFFICE OF EMERGENCY MANAGEMENT,  
THE DELAWARE NATION,  
THE DELAWARE TRIBE OF INDIANS,  
THE SHINNECOCK NATION,  
THE STOCKBRIDGE-MUNSEE COMMUNITY BAND OF MOHICANS,  
THE NEW YORK CITY LANDMARKS PRESERVATION COMMISSION,  
AND THE  
ADVISORY COUNCIL ON HISTORIC PRESERVATION,  
AS A RESULT OF HURRICANE SANDY

Signatory:  
ADVISORY COUNCIL ON HISTORIC PRESERVATION

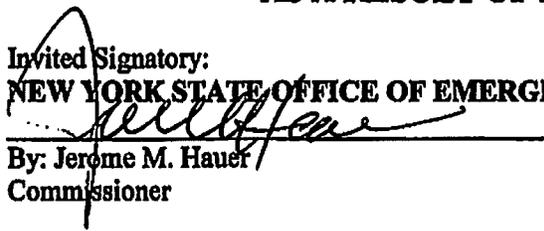
By: John M. Fowler  
John M. Fowler  
Executive Director

Date: 5/10/13

**PROGRAMMATIC AGREEMENT AMONG  
THE FEDERAL EMERGENCY MANAGEMENT AGENCY,  
THE NEW YORK STATE HISTORIC PRESERVATION OFFICER,  
THE NEW YORK STATE OFFICE OF EMERGENCY MANAGEMENT,  
THE DELAWARE NATION,  
THE DELAWARE TRIBE OF INDIANS,  
THE SHINNECOCK NATION,  
THE STOCKBRIDGE-MUNSEE COMMUNITY BAND OF MOHICANS,  
THE NEW YORK CITY LANDMARKS PRESERVATION COMMISSION,  
AND THE  
ADVISORY COUNCIL ON HISTORIC PRESERVATION,  
AS A RESULT OF HURRICANE SANDY**

Invited Signatory:

**NEW YORK STATE OFFICE OF EMERGENCY MANAGEMENT**

  
By: Jerome M. Hauer  
Commissioner

Date: 9/1/13

**PROGRAMMATIC AGREEMENT AMONG  
THE FEDERAL EMERGENCY MANAGEMENT AGENCY,  
THE NEW YORK STATE HISTORIC PRESERVATION OFFICER,  
THE NEW YORK STATE OFFICE OF EMERGENCY MANAGEMENT,  
THE DELAWARE NATION,  
THE DELAWARE TRIBE OF INDIANS,  
THE SHINNECOCK NATION,  
THE STOCKBRIDGE-MUNSEE COMMUNITY BAND OF MOHICANS,  
THE NEW YORK CITY LANDMARKS PRESERVATION COMMISSION,  
AND THE  
ADVISORY COUNCIL ON HISTORIC PRESERVATION,  
AS A RESULT OF HURRICANE SANDY**

Invited Signatory:

**THE DELAWARE NATION**

By: \_\_\_\_\_ Date: \_\_\_\_\_

C. J. Watkins  
Vice President

**PROGRAMMATIC AGREEMENT AMONG  
THE FEDERAL EMERGENCY MANAGEMENT AGENCY,  
THE NEW YORK STATE HISTORIC PRESERVATION OFFICER,  
THE NEW YORK STATE OFFICE OF EMERGENCY MANAGEMENT,  
THE DELAWARE NATION,  
THE DELAWARE TRIBE OF INDIANS,  
THE SHINNECOCK NATION,  
THE STOCKBRIDGE-MUNSEE COMMUNITY BAND OF MOHICANS,  
THE NEW YORK CITY LANDMARKS PRESERVATION COMMISSION,  
AND THE  
ADVISORY COUNCIL ON HISTORIC PRESERVATION,  
AS A RESULT OF HURRICANE SANDY**

Invited Signatory:  
**THE DELAWARE NATION**

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Paula Pechonick  
Chief

**PROGRAMMATIC AGREEMENT AMONG  
THE FEDERAL EMERGENCY MANAGEMENT AGENCY,  
THE NEW YORK STATE HISTORIC PRESERVATION OFFICER,  
THE NEW YORK STATE OFFICE OF EMERGENCY MANAGEMENT,  
THE DELAWARE NATION,  
THE DELAWARE TRIBE OF INDIANS,  
THE SHINNECOCK NATION,  
THE STOCKBRIDGE-MUNSEE COMMUNITY BAND OF MOHICANS,  
THE NEW YORK CITY LANDMARKS PRESERVATION COMMISSION,  
AND THE  
ADVISORY COUNCIL ON HISTORIC PRESERVATION,  
AS A RESULT OF HURRICANE SANDY**

Invited Signatory:  
**THE SHINNECOCK NATION**

\_\_\_\_\_ Date: \_\_\_\_\_  
By: [name]  
[title]

\_\_\_\_\_ Date: \_\_\_\_\_  
By: [name]  
[title]

**PROGRAMMATIC AGREEMENT AMONG  
THE FEDERAL EMERGENCY MANAGEMENT AGENCY,  
THE NEW YORK STATE HISTORIC PRESERVATION OFFICER,  
THE NEW YORK STATE OFFICE OF EMERGENCY MANAGEMENT,  
THE DELAWARE NATION,  
THE DELAWARE TRIBE OF INDIANS,  
THE SHINNECOCK NATION,  
THE STOCKBRIDGE-MUNSEE COMMUNITY BAND OF MOHICANS,  
THE NEW YORK CITY LANDMARKS PRESERVATION COMMISSION,  
AND THE  
ADVISORY COUNCIL ON HISTORIC PRESERVATION,  
AS A RESULT OF HURRICANE SANDY**

Invited Signatory:

**THE STOCKBRIDGE-MUNSEE COMMUNITY BAND OF MOHICANS**

Date: \_\_\_\_\_

\_\_\_\_\_  
By: Robert Chicks  
President of Tribal Council

**PROGRAMMATIC AGREEMENT AMONG  
THE FEDERAL EMERGENCY MANAGEMENT AGENCY,  
THE NEW YORK STATE HISTORIC PRESERVATION OFFICER,  
THE NEW YORK STATE OFFICE OF EMERGENCY MANAGEMENT,  
THE DELAWARE NATION,  
THE DELAWARE TRIBE OF INDIANS,  
THE SHINNECOCK NATION,  
THE STOCKBRIDGE-MUNSEE COMMUNITY BAND OF MOHICANS,  
THE NEW YORK CITY LANDMARKS PRESERVATION COMMISSION,  
AND THE  
ADVISORY COUNCIL ON HISTORIC PRESERVATION,  
AS A RESULT OF HURRICANE SANDY**

Concurring Party:

**NEW YORK CITY LANDMARKS PRESERVATION COMMISSION**

Date: \_\_\_\_\_

By: Robert B. Tierney

Chair, The New York City Landmarks Preservation Commission

## Appendix A

### FEMA Program Summaries

This Appendix may be amended in accordance with Stipulation IV.A, Amendments.

#### **Disaster Response and Recovery Programs**

The following programs are authorized under Titles IV and V of the Stafford Act.

##### *Public Assistance Program (PA)*

This program assists States, Tribal and local governments, and certain types of private nonprofit organizations quickly respond to and recover from major disasters or emergencies declared by the President. Grants are provided for debris removal (Public Assistance Category A), emergency protective measures (Public Assistance Category B), and the repair, replacement, or restoration of disaster-damaged, publicly owned and certain private non-profit facilities (Public Assistance Categories C-G).

##### *Individual Assistance Programs (IA)*

These programs help ensure that individuals and families that have been affected by disasters have access to the full range of FEMA assistance including: crisis counseling (Section 416), disaster legal services (Section 415), essential assistance (Section 403), emergency sheltering assistance (Section 403), transportation (Section 419), funeral services, minor home repairs (Section 408), and temporary housing assistance (Section 408). It should be noted that other Federal agencies provide disaster assistance to individuals as well, such as the US Small Business Administration, Department of Agriculture, and Department of Labor and that this assistance is not subject to the terms of this agreement.

##### *Fire Management Assistance Grant Program (FMAG)*

The FMAG is available to State, Tribal, and local governments for the mitigation, management, and control of fires on publicly or privately owned lands. Eligible costs may include expenses for field camps, equipment use, repair and replacement, materials and supplies, and mobilization and demobilization activities.

##### *Hazard Mitigation Grant Program (HMGP)*

The HMGP provides grants to States, Territories, Tribes, and local governments to implement long-term hazard mitigation measures after a Disaster Declaration. Activities may include buyouts, retrofits, relocations, elevations, and minor flood control projects.

## **Appendix B**

### **Programmatic Allowances**

This list of Allowances enumerates FEMA funded activities that based on FEMA experience have no effect or limited effect on historic properties if implemented as specified in this Appendix and will not require review by the SHPO and Participating Tribe(s) pursuant to Stipulation II.A.1, Programmatic Allowances.

The allowances consist of two tiers – Tier I and Tier II. Staff may apply Tier I allowances without meeting any professional historic preservation qualification standards, while only staff meeting the applicable Secretary's Professional Qualifications Standards in accordance with Stipulation I.B.1.a of this Agreement may apply Tier II allowances.

When referenced in the allowances, "in-kind" shall mean that it is either the same or a similar material, and the result shall match all physical and visual aspects, including form, color, and workmanship. The in-kind repair provided for in both Tiers I and Tier II allowances in Appendix B should be limited to pre-existing architectural features and physical components of buildings and structures and in general should not be utilized when a building or structure has been substantially altered.

When referenced in the allowances, "previously disturbed soils" will refer to soils that are not likely to possess intact and distinct soil horizons and have the reduced likelihood of possessing archaeological artifacts, features, and phenomena within their original depositional contexts.

#### **Tier I Allowances**

- I. GROUND DISTURBING ACTIVITIES AND SITE WORK**, when proposed activities described below substantially conform to the original footprint and/or are performed in previously disturbed soils and the area proposed to be disturbed does not exceed the previous disturbance in depth or footprint, including the area where the activity is staged.

## **A. Debris and Snow Removal**

1. Debris removal and collection, including removal of snow, uprooted trees, limbs and branches from public rights of way, public area and the transport and disposal of such waste to existing licensed waste facilities or landfills. Uprooted trees and exposed stumps must be removed in accordance with the stump removal policy in Appendix E. This includes the temporary establishment and expansion of non-hazardous debris staging, reduction, and disposal areas at licensed transfer stations, or existing hard-topped or graveled surfaces (e.g. parking lots, roads, athletic courts) but not the creation of new or temporary access roads.
2. Removal of debris from private property provided that buildings are not affected, ground disturbance is minimal and in-ground elements, such as driveways, walkways or swimming pools are left in place.
3. Chipping and disposal of woody debris by broadcasting within existing rights-of-way.
4. Sediment removal from man-made drainage facilities, including retention/detention basins, ponds, ditches, and canals, in order to restore the facility to its pre-disaster condition. The sediment may be used to repair eroded banks or disposed of at an existing licensed or permitted spoil site.
5. Dewatering flooded developed areas by pumping.

## **B. Temporary Structures and Housing**

1. Installation of temporary structures for uses such as school classrooms, offices, or shelters for essential public service agencies, such as police, fire, rescue and medical care, as well as temporary housing for disaster personnel and victims, at the following types of locations:
  - a. Single units on private residential sites when all utilities are installed above ground or tie into pre-existing utility lines.
  - b. Existing multi-family units.
  - c. Existing RV/Mobile Home Parks and campgrounds with pre-existing utility hookups.
  - d. Paved areas, such as parking lots and paved areas at such facilities as conference centers, shopping malls, airports, business parks, military bases when all utilities are installed above ground or tie into pre-existing utility lines.
  - e. Sites that have been previously cleared and prepared for planned construction, such as land being developed for public housing, office buildings, city parks, ball fields, military bases, schools, etc. when all utilities are installed above-ground or tie into pre-existing utility lines.

- f. Areas previously filled to depths of at least six feet so that subsurface utilities can be installed.

**C. Recreation and Landscaping**

1. Installation of temporary removable barriers.
2. In-kind repairs or replacement, and minor upgrades/mitigation of bollards and associated protective barriers when in previously disturbed areas.

**II. BUILDINGS**

- A. Repair or retrofit of buildings less than 45 years old.
- B. Removal of water by physical or mechanical means.
- C. Installation of grab bars and other such minor interior modifications required for compliance with the Americans with Disabilities Act (ADA).
- D. Installation of security bars over windows on rear elevations.
- E. Sheltering and Temporary Essential Power (STEP) Pilot Program: The STEP program provides essential power to affected residents and thereby reduces the demand for other shelter options by allowing individuals to return to or remain in their home while awaiting major repairs. STEP accomplishes this by 3 measures:
  1. Residential Meter Repairs: Repairs to exterior weather head, service cable, and meter box.
  2. Temporary Essential Electric Measures: Repairs to restore temporary power to residences where the utility will not turn the power back on due to damages in order to restore a minimal amount of power to allow heat and/or hot water and some power to targeted appliances, including installation of a temporary power supply, outlet panels, and other equipment that will be removed when permanent repairs are made.
  3. Rapid Temporary Exterior Repairs: Securing broken windows, covering damaged exterior walls and patching or otherwise securing damaged exterior doors. These repairs utilize raw, unfinished materials for temporary emergency repairs, such as plywood secured with a padlock.

**III. TRANSPORTATION FACILITIES**, when proposed activities substantially conform to the original footprint and/or performed in previously disturbed soils, including any staging areas.

**A. Roads and Roadways**

1. Repair of roads to pre-disaster geometric design standards and conditions using in-kind materials, shoulders medians, clearances, curbs, and side slopes. This allowance does not include improvement to existing roadways and appurtenances.
2. Construction of temporary emergency access roads in previously disturbed soils to allow for passage of emergency vehicles.
3. Repairs to road slips and landslides that do not require grading of undisturbed soils on the up-hill side of the slip.
4. Re-establishment, armoring and/or upgrading of existing roadway ditches.
5. In-kind repair or replacement of traffic control devices such as traffic signs and signals, delineators, pavement markings, traffic surveillance systems.
6. Installation and removal of temporary traffic control devices, including pre-formed concrete barriers and fencings.
7. In-kind repair or replacement of roadway safety elements such as barriers, guardrails, and impact-attenuation devices. In the case of guardrails, the addition of safety end treatments is allowed.

#### **B. Airports**

1. In-kind repair or replacement of existing runway surfaces and features (e.g. asphalt, concrete, gravel, and dirt) and associated air transportation safety components and systems (e.g. lighting bars, beacons, signage and weather sensors).

#### **C. Rail Systems**

1. In-kind repair or replacement of safety components.
2. In-kind repair or replacement of existing track system and passenger loading areas.

### **Tier II Allowances**

**I. GROUND DISTURBING ACTIVITIES AND SITE WORK**, when proposed activities described below substantially conform to the original footprint and/or are performed in previously disturbed soils, including the area where the activity is staged.

#### **A. Footings, Foundations, Retaining Walls, Slopes, and Slope Stabilization Systems**

1. In-kind repair, replacement, and reinforcement of footings, foundations, retaining walls, slopes, and slope stabilization systems (e.g., gabion baskets, crib walls, soldier pile and lag walls) if related ground disturbing activities are within the boundary of previously disturbed soils.

2. Installation of perimeter drainage (e.g. French drains) when performed in previously disturbed soils.

#### **B. Recreation and Landscaping**

1. In-kind repairs or replacement, and minor upgrades to recreational facilities and features (e.g. playgrounds, campgrounds, fire pits, dump stations and utility hook-ups, swimming pools, athletic fields and signage, batting cages, basketball courts, swing sets, pathways, simple wooden/wire stream crossings).
2. In-kind repair, replacements, and minor upgrades to landscaping elements (e.g., fencing, free standing walls, paving, planters, irrigation systems, lighting elements, signs, flag poles, ramps, steps).

#### **C. Piers, Docks, Boardwalks, Boat Ramps, and Dune Crossovers**

1. In-kind repair and replacement and minor upgrades to existing piers, docks, boardwalks, boat ramps and dune crossovers in areas of previously disturbed soils.

#### **D. Cemeteries**

1. Removal of woody debris such as branches, limbs, and uprooted trees from cemeteries, provided that heavy equipment and other machinery are not operated or staged on areas potentially containing human remains. Uprooted trees and exposed stumps must be removed in accordance with the stump removal policy in Appendix E. If this condition does not adequately protect human remains, then monitoring will be required by an archaeologist who meets the Secretary's Professional Qualifications Standards to oversee stump removal.

## **II. BUILDINGS**

#### **1. Interior Work: Floors, Walls, Stairs, Ceilings and Trim**

1. In-kind repair and replacement of floors, walls, stairs, ceilings, and/or trim. The allowance does not apply to decorative finishes, including murals, glazed paint, gold leaf, or ornamental plaster.
2. Interior cleaning of surfaces using a weak solution of household bleach and water, mold remediation, or mold removal. The allowance applies to interior finishes, including plaster and wallboard, provided the cleaning is restricted to damaged areas and does not affect adjacent materials.
3. Non-destructive or concealed testing for hazardous materials (e.g., lead paint, asbestos) or for assessment of hidden damages.

#### **B. Utilities and Mechanical, Electrical, and Security Systems**

1. In-kind repair or replacement, or limited upgrading of interior utility systems, including mechanical (e.g., heating, ventilation, air conditioning), electrical, and plumbing systems. This allowance does not provide for the installation of new exposed ductwork.
2. Elevation of heating, ventilation, and air conditioning system (HVAC) and mechanical equipment as long as it is placed or located where it is not highly visible from the street.
3. Replacement or installation of interior fire detection, fire suppression, or security alarm systems. The allowance does not apply to surface mounted wiring, conduits, piping, etc., unless previously existing, provided that installation of the system hardware does not damage or cause the removal of character-defining architectural features and can be easily removed in the future.
4. Installation of building communication and surveillance security systems, such as cameras, closed-circuit television, alarm systems, and public address systems, provided that installation of the system hardware does not damage or cause the removal of character defining architectural features and can be easily removed in the future.
5. Installation of building access security devices, such as card readers, enhanced locks, and security scanners (e.g., metal detectors), provided the device does not damage or cause the removal of character-defining architectural features and can be removed in the future without impacts to significant architectural features.

#### **C. Windows and Doors**

1. In-kind repair of damaged or severely deteriorated windows and window frames,, shutters, storm shutters, doors and door frames, and associated hardware, where profiles, elevations, details and materials match those of the originals.
2. In-kind replacement of window panes. Clear plate, double, laminated or triple insulating glazing can be used, provided it does not result in altering the existing window material, tint, form, muntin profiles, or number of divided lights. This allowance does not apply to the replacement of existing intact archaic or decorative glass.
3. Replacement of exterior, utilitarian, non-character-defining metal doors and frames leading into non character-defining spaces with metal blast resistant doors and frames.

#### **D. Exterior Walls, Cornices, Porches, and Foundations**

1. In-kind repainting of surfaces, provided that destructive surface preparation treatments are not used, such as water blasting, sandblasting, power sanding and chemical cleaning.
2. In-kind repair of walls, porches, foundations, columns, cornices, siding, balustrades, stairs, dormers, brackets, trim, and their ancillary components or in-kind replacement of severely deteriorated or missing or lost features, as long as the replacement pieces match the original in detail and material. Any ground disturbance will be limited to previously disturbed soils.
3. In-kind repair or replacement of signs or awnings.
4. Installation of temporary stabilization bracing or shoring, provided such work does not result in additional damage.
5. Anchoring of walls to floor systems, provided the anchors are embedded and concealed from exterior view.
6. In-kind repair of concrete and masonry walls, columns, parapets, chimneys, or cornices or limited in-kind replacement of damaged components including comparable brick, and mortar that matches the color, strength, content, rake, and joint width.
7. Bracing and reinforcing of walls, chimneys and fireplaces, provided the bracing and reinforcing are either concealed from exterior view or reversible in the future.
8. Strengthening of foundations and the addition of foundation bolts, provided that visible new work is in-kind, including mortar that matches the color, content, strength, rake, and joint width where occurring.
9. Repairs to and in-kind replacement of elements of curtain wall assemblies or exterior cladding that is hung on the building structure, usually from floor to floor, and when the color, size reflectivity, materials, and visual patterns are unaltered.

#### **E. Roofing**

1. Installation of scaffolding, polyethylene sheeting, or tarps, provided such work will not result in additional damage or irreversible alterations to character defining features.
2. In-kind repair or replacement of roofing, of roofing, rafters, fascia, soffits, gutters, verge boards, leader boxes, downspouts, or other damaged roof system components.
3. Repairs to a flat roof cladding, including changes in roofing materials, where the repairs are not highly visible from the ground level.

#### **F. Weatherproofing and Insulation**

1. Caulking and weather-stripping to complement the color of adjacent surfaces or sealant materials.
2. In-kind repair or replacement of insulation systems, provided that existing interior plaster, woodwork, exterior siding, or exterior architectural detail is not altered.

#### **G. Structural Retrofits**

1. The installation of the following retrofits/upgrades, provided that such upgrades are not visible on the exterior: attic bracing, cross bracing on pier and post foundations; fasteners; collar ties; gussets; tie downs; strapping and anchoring of mechanical, electrical, and plumbing equipment; concealed anchoring of furniture; installation of plywood diaphragms beneath first floor joists, above top floor ceiling rafters, and on roofs; and automatic gas shut off valves.
2. Replacement, repair or installation of lightning rods.

**III. TRANSPORTATION FACILITIES**, when proposed activities substantially conform to the original footprint and/or performed in previously disturbed soils, including the area where the activity is staged.

#### **A. Roads and Roadways**

1. Repair of roads to pre-disaster geometric design standards and conditions using in-kind materials, shoulders, medians, clearances, curbs, and side slopes. This allowance permits minor improvement to meet current code and standards or hazard mitigation measures, such as those designed to harden exposed surfaces, including the application of gravel armoring to side slopes and ditches.
2. In kind repair to historic paving materials for roads and walkways.
3. In-kind repair or replacement, or minor upgrade of culvert systems and arches beneath roads or within associated drainage systems, including provision of headwalls, riprap and any modest increase in capacity for the purposes of hazard mitigation or to meet current codes and standards, provided that the work substantially conforms to the existing footprint. For stone or brick culverts or arches beneath roadways, this allowance only applies to in-kind repair.
4. In-kind repair or replacement of road lighting systems, including period lighting fixture styles.
5. In-kind repair or replacement of road appurtenances such as curbs, berms, fences, and sidewalks.

#### **B. Bridges**

1. Installation of a temporary (Bailey-type) bridge over an existing structure or at a previously disturbed location, such as a former bridge location, to allow passage of emergency vehicles.
2. In-kind repair or replacement of bridges and bridge components (e.g. abutments, wing walls, piers, decks, and fenders in previously disturbed soils).

**IV. UTILITIES, COMMUNICATIONS SYSTEMS AND TOWERS**, when proposed activities substantially conform to the original footprint and/or performed in previously disturbed soils, including the area where the activity is staged.

**A. General**

1. In-kind repair or replacement, or minor upgrading, small scale realignment, and elevation of utilities and associated features and structures within previously disturbed soils of rights-of-way or utility corridors.
2. Installation of new utilities and associated features within existing rights-of-way.
3. Directional boring of new/replacement service line and related appurtenances involving boring or silt trenches within previously disturbed soils of rights-of-way or utility corridors.
4. In-kind repair or replacement, or minor upgrade of water towers provided activities take place within previously disturbed soils. Ground-level facilities may be added or expanded in previously disturbed areas. This allowance does not apply to masonry water towers.

**B. Generators and Utilities**

1. In-kind repair or replacement, or minor upgrades elevation, and/or installation of generators, HVAC systems, and similar equipment provided activities occur within previously disturbed soils and any roof mounted equipment is not visible from the ground level.

**C. Communication Equipment/Systems and Towers**

1. Acquisition, installation, or operation of communication and security equipment/systems that use existing distribution systems, facilities, or existing infrastructure right-of-way.
2. The collocation of communication and security equipment on existing towers and buildings/structures less than 45 year in age, provided that the work does not increase existing tower height or footprint by more than 10% and occurs within previously disturbed soils.

3. Enhancement, repair or replacement of existing communication towers and antenna structures provided the work does not increase existing tower height or footprint by more than 10% and occurs within previously disturbed soils.
4. Installation of new temporary (not to exceed 12 months) communications towers and antenna structures provided that the work occurs does not require modification of buildings/structures older than 45 years and occurs within previously disturbed soils.
5. Installation of new communication towers, less than 200 feet tall, in previously developed urban complexes when the work does not require modification of buildings/structures older than 45 years, occurs within previously disturbed soils and is not within 500 feet of the boundaries of a historic property.

**V. WATER RESOURCE MANAGEMENT AND CONTROLS**, when proposed activities substantially conform to the original footprint and/or performed in previously disturbed soils, including the area where the activity is staged.

**A. Canal Systems**

1. In-kind repairs or replacement to canal systems and associated elements.

**B. Breakwaters, Seawalls, Revetments, and Berms**

1. In-kind repair or replacement of breakwaters, seawalls, and revetments, provided the work occurs in previously disturbed soils.

**C. Dams, Levees, and Floodwalls**

1. In-kind repair of dams, levees, floodwalls and related features, including spillways, tide gates, and fuse plugs, provided the work occurs in previously disturbed soils.

**D. Fish Hatcheries**

1. In-kind repair or replacement of fish hatcheries and fish ladders.

**E. Waste-Water Treatment Lagoon Systems**

1. In-kind repair or replacement, or minor upgrades of waste-water treatment lagoon systems.

**VI. OTHER PROGRAM ACTIVITIES**

**A. Elevation, Demolition, and Reconstruction**

1. Activities related to the elevation, demolition and/or reconstruction of buildings or structures less than 45 years of age so long as the proposed activities substantially

conform to the original footprint and/or are performed in previously disturbed soils including any staging area, and the buildings or structures are not located within or adjacent to a National Register or LPC historic district.

**B. Safe Rooms**

1. Installation of individual safe rooms within the property limits of a residence where the installation will occur within an existing structure or building that is less than 45 years of age and has been determined by FEMA not to be significant under Criterion G, or within previously disturbed soils.

## Appendix C

### Treatment Measures

[to be negotiated on a state-by-state basis]

**The following Treatment Measures are suggested for the resolution of Adverse Effects:**

If Undertakings result or will result in adverse effects, FEMA, the SHPO, OEM, and Participating Tribes(s), may develop a treatment measure plan that includes one or more of the following Treatment Measures, depending on the nature of historic properties affected and the severity of adverse effects. If an Undertaking will adversely affect a LPC designated or calendared properties, LPC may participate in development of a treatment measure plan. This Appendix may be amended in accordance with Stipulation IV.A.3 of this Agreement, Amendments.

#### A. Recordation Package

1. **Digital Photography Package:** Prior to project implementation, the designated responsible party shall oversee the successful delivery of a Digital Photography Package prepared by staff or contractors that meet the Secretary's Professional Qualifications for Architectural History, History, Architecture, or Historic Architecture, as appropriate. The Digital Photography Package will meet the standards cited in the National Park Service's *National Register of Historic Places Photographic Policy March 2010* or subsequent revisions (<http://www.nps.gov/nr/publications/bulletins/photopolicy/index.htm>).
  - a. The Digital Photography Package shall include a comprehensive collection of photographs of both interior and exterior views showing representative spaces and details of significant architectural features and typical building materials. Exterior photographs shall include full oblique and contextual images of each elevation. Exterior views shall be keyed to a site plan while interior views shall be keyed to a floor plan of the building/structure. The photographs shall be indexed according to the date photographed, site number, site name, site address, direction, frame number, subject matter and photographer's name recorded on the reverse side in pencil.
  - b. The Digital Photography Package shall include printed color copies of the digital photographs (on appropriate paper, per *NPS Photographic Policy*), a CD/DVD of the digital photographs, a completed state architectural inventory form, and a written site history of the historic property.
  - c. The designated responsible party shall submit the Digital Photography Package to the SHPO and Participating Tribe(s) for review and approval. Once approved by the SHPO and Participating Tribe(s), the designated responsible party shall submit full copies of the approved Digital Photography Package to \_\_\_\_\_ for permanent retention.

2. **35 mm Black and White Film Photography Package:** Prior to project implementation, the designated responsible party shall oversee the successful delivery of a 35 mm Black and White Film Photography Package prepared by staff or contractors that meet the Secretary's Professional Qualifications for Architectural History, History, Architecture, or Historic Architecture, as appropriate.
  - a. The 35 mm Black and White Film Photography Package shall include a comprehensive collection of photographs of both interior and exterior views showing representative spaces and details of significant architectural features and typical building materials. Exterior photographs shall include full oblique and contextual images of each elevation. Exterior views shall be keyed to a site plan while interior views shall be keyed to a floor plan of the building/structure. The photographs shall be indexed according to the date photographed, site number, site name, site address, direction, frame number, subject matter and photographer's name recorded on the reverse side in pencil.
  - b. The 35 mm Black and White Film Photography Package shall include one (1) full set of 35mm film black and white photographs printed on acid free paper, the corresponding 35mm film negatives in acid free sleeves, a completed state architectural inventory form, and a written site history of the historic property.
  - c. The designated responsible party shall submit the 35 mm Black and White Film Photography Package to the SHPO and Participating Tribe(s) for review and approval. Once approved by the SHPO and Participating Tribe(s), the designated responsible party shall submit full copies of the approved 35 mm Black and White Film Photography Package to \_\_\_\_\_ for permanent retention.
3. **Large Format Film Photography Package:** Prior to project implementation, the designated responsible party shall oversee the successful delivery of a Large Format Film Photography Package prepared by staff or contractors that meet the Secretary's Professional Qualifications for Architectural History, History, Architecture, or Historic Architecture, as appropriate.
  - a. The Large Format Film Photography Package shall include a comprehensive collection of photographs of both interior and exterior views showing representative spaces and details of significant architectural features and typical building materials. Exterior photographs shall include full oblique and contextual images of each elevation. Exterior views shall be keyed to a site plan while interior views shall be keyed to a floor plan of the building/structure. The photographs shall be indexed according to the date photographed, site number, site name, site address, direction, frame number, subject matter and photographer's name recorded on the reverse side in pencil.

- b. The Large Format Film Photography Package shall include one (1) full set of 4 x 5 or 5 x 7-inch photographs printed on acid free paper, the corresponding 4 x 5 or 5 x 7-inch negatives in acid free sleeves, a completed state architectural inventory form, and a written site history of the historic property.
- c. The designated responsible party shall submit the Large Format Film Photography Package to the SHPO and Participating Tribe(s) for review and approval. Once approved by the SHPO and affected Tribe(s), the designated responsible party shall submit full copies of the approved Large Format Film Photography Package to \_\_\_\_\_ for permanent retention.

**B. Design Review by SHPO and Participating Tribe(s)**

Prior to project implementation, FEMA, the Grantee, and subgrantee shall work with the SHPO and Participating Tribe(s) to develop a historically compatible design. Plans and specifications will, to the greatest extent feasible, preserve the basic character of a building. Primary emphasis shall be given to the major street elevations that are visible. Significant contributing features (e.g. trim, windows, doors, porches) will be repaired or replaced with either in-kind materials or materials that come as close as possible to the original materials in basic appearance. Aesthetic camouflaging treatments such as use of veneers, paints, texture compounds and other surface treatments and/or use of sympathetic infill panels and landscaping features will be employed to the greatest extent feasible. Final construction drawings used in the bidding process will be submitted to the SHPO and Participating Tribe(s) for review and comment prior to the award of a construction contract and the initiation of construction activities.

**C. Tribal Treatment Plan**

FEMA shall work with the Participating Tribe(s) to develop a plan for the protection and treatment of, including but not limited to, Native American remains, funerary objects, cultural and religious landscapes, ceremonial items, traditional gathering areas and cultural items, for known sites and in the event that any are discovered in conjunction with the Undertaking, including archaeological studies, excavation, geotechnical investigations, grading, and all ground-disturbing activity. The plan will also formalize procedures for Tribal monitoring during archaeological studies, grading, and ground disturbing activities for the Undertaking. No photography of Native Americans human remains or funerary objects will be allowed. No photography of Native Americans human remains or funerary objects will be allowed.

**D. Public Interpretation**

Prior to project implementation, FEMA, OEM, and the subgrantee will work with the SHPO and Participating Tribe(s) to design an educational interpretive plan. The plan may include signs, displays, educational pamphlets, websites, workshops and other similar mechanisms to educate the public on historic properties within the local community, state, or region. Once an interpretive plan has been agreed to by the parties, SHPO, Participating

Tribe(s), and the designated responsible party will continue to consult throughout implementation of the plan until all agreed upon actions have been completed by the designated responsible party.

#### E. Historical Context Statements and Narratives

Prior to project implementation, FEMA, OEM, and the subgrantee will work with the SHPO and Participating Tribe(s) to determine the topic and framework of a historic context statement or narrative the designated responsible party shall be responsible for completing. The statement or narrative may focus on an individual property, a historic district, a set of related properties, or relevant themes as identified in the statewide preservation plan. Once the topic of the historic context statement or narrative has been agreed to, the designated responsible party shall continue to coordinate with the SHPO and Participating Tribe(s) through the drafting of the document and delivery of a final product. The SHPO and Participating Tribe(s) shall have final approval over the end product. The designated responsible party will use staff or contractors that meet the Secretary's Professional Qualifications for the appropriate discipline.

#### F. Oral History Documentation

Prior to project implementation, FEMA, OEM, and the subgrantee will work with the SHPO and Participating Tribe(s) to identify oral history documentation needs and agree upon a topic and list of interview candidates. Once the parameters of the oral history project have been agreed upon, the designated responsible party shall continue to coordinate with the SHPO and Participating Tribe(s) through the data collection, drafting of the document, and delivery of a final product. The SHPO and Participating Tribe(s) shall have final approval over the end product. The designated responsible party will use staff or contractors that meet the Secretary's Professional Qualifications for the appropriate discipline.

#### G. Historic Property Inventory

Prior to project implementation, FEMA, OEM, and the subgrantee will work with the SHPO and Participating Tribe(s) to establish the appropriate level of effort to accomplish a historic property inventory. Efforts may be directed toward the resurvey of previously designated historic properties and/or districts which have undergone change or lack sufficient documentation, or the survey of new historic properties and/or districts that lack formal designation. Once the boundaries of the survey area have been agreed upon, the designated responsible party shall continue to coordinate with the SHPO and Participating Tribe(s) through the data collection process. The designated responsible party will use SHPO and Participating Tribe(s) standards for the survey of historic properties and SHPO and Participating Tribe(s) forms as appropriate. The designated responsible party will prepare a draft inventory report, according to SHPO and Participating Tribe(s) templates and guidelines, and work with the SHPO and Participating Tribe(s) until a final property inventory is approved. The designated responsible party will use staff or contractors that meet the Secretary's Professional Qualifications for the appropriate discipline.

## H. National Register and National Historic Landmark Nominations

Prior to project implementation, FEMA, OEM, and the subgrantee will work with the SHPO, and Participating Tribe(s) to identify the individual properties that would benefit from a completed National Register or National Historic Landmark nomination form. Once the parties have agreed to a property, the designated responsible party shall continue to coordinate with the SHPO and Participating Tribe(s) through the drafting of the nomination form. The SHPO and Participating Tribe(s) will provide adequate guidance to the designated responsible party during the preparation of the nomination form and shall formally submit the final nomination to the Keeper for inclusion in the National Register. The designated responsible party will use staff or contractors that meet the Secretary's Professional Qualifications for the appropriate discipline.

## I. Geo-References of Historic Maps and Aerial Photographs

Prior to project implementation, FEMA, OEM, and the subgrantee will work with the SHPO and Participating Tribe(s) to identify the historic maps and/or aerial photographs for scanning and geo-referencing. Once a list of maps and/or aerial photographs have been agreed upon, the designated responsible party shall continue to coordinate with the SHPO and Participating Tribe(s) through the scanning and geo-referencing process and shall submit drafts of paper maps and electronic files to them for review. The SHPO and Participating Tribe(s) shall have final approval on the quality of the documentation provided by the designated responsible party. The final deliverable shall include a paper copy of each scanned image, a geo-referenced copy of each scanned image, and the metadata relating to both the original creation of the paper maps and the digitization process.

## APPENDIX D

**TO THE PROGRAMMATIC AGREEMENT AMONG  
THE FEDERAL EMERGENCY MANAGEMENT AGENCY,  
THE NEW YORK STATE HISTORIC PRESERVATION OFFICER,  
THE NEW YORK STATE OFFICE OF EMERGENCY MANAGEMENT,  
THE DELAWARE NATION,  
THE DELAWARE TRIBE OF INDIANS,  
THE SHINNECOCK NATION,  
THE STOCKBRIDGE-MUNSEE COMMUNITY BAND OF MOHICANS,  
THE NEW YORK CITY LANDMARKS PRESERVATION COMMISSION,  
AND THE ADVISORY COUNCIL ON HISTORIC PRESERVATION,  
AS A RESULT OF HURRICANE SANDY**

**WHEREAS**, as a result of Hurricane Sandy (DR-4085-NY) (Disaster Declaration), the Federal Emergency Management Agency (FEMA) of the Department of Homeland Security, pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act, Pub. L. No. 93-288 (1974) (codified as amended at 42 U.S.C. § 5121 *et seq.*) (Stafford Act); the National Flood Insurance Act of 1968, Pub. L. No. 90-448 (1968) (as amended); the Flood Disaster Protection Act of 1973, Pub. L. No. 93-234 (1973) (as amended); the National Flood Insurance Reform Act of 1994, Pub. L. No. 103-325 (1994) (as amended); and implementing regulations contained in Title 44 of the Code of Federal Regulations (C.F.R.), proposes to provide assistance through the New York State Office of Emergency Management (OEM); and

**WHEREAS**, FEMA consulted with OEM, the New York State Historic Preservation Officer (SHPO), the Advisory Council on Historic Preservation (ACHP) and the New York City Landmarks Preservation Commission (LPC) to develop and execute a Programmatic Agreement (Agreement) for its disaster recovery activities, executed on May 9, 2013; and

**WHEREAS**, under the Disaster Relief Appropriations Act of 2013 (Public Law 113-2, January 29, 2013), the U.S. Department of Housing and Urban Development (HUD) has allocated funds for disaster recovery activities to New York State and New York City, each of which is executing a separate Appendix D Addendum to the Agreement; and

**WHEREAS**, New York State Homes and Community Renewal (NYS HCR) as the Responsible Entity for New York state activities outside New York City has assumed HUD's environmental responsibilities and is responsible for environmental review, decision-making and action, pursuant to Section 104(g) of the Housing and Community Development Act of 1974 and 24 CFR Part 58, and proposes to administer Community Development Block Grant – Disaster Recovery (CDBG-DR) funds pursuant to the Disaster Relief Appropriations Act of 2013 (Public Law 113-2, January 29, 2013); and

**WHEREAS**, the CDBG-DR funds will support activities that fall within the scope of programs authorized under the terms of this Agreement and Appendix A (Program activities); and

**WHEREAS**, to efficiently and expeditiously deliver disaster recovery assistance to those affected by Hurricane Sandy, there is an opportunity to coordinate and align Section 106 reviews of disaster recovery projects that may have multiple funding sources; and

**WHEREAS**, Stipulation I.A.3. of this Agreement allows other Federal agencies to fulfill their Section 106 responsibilities for those types of undertakings addressed in this Agreement by fully accepting all the terms of the Agreement and executing this Addendum; and

**WHEREAS**, NYS HCR will ensure that staff who meet the Secretary's Professional Qualification Standard will review Tier II projects and will provide resumes of such staff to the signatories to this Addendum;

**NOW, THEREFORE**, NYS HCR agrees to assume the federal agency role and accept the terms and conditions of the Agreement, as appropriate under HUD's authorizing legislation and regulations, and thereby take into account the effect of its undertakings and satisfy its Section 106 responsibilities for the CDBG-DR program for activities in New York state outside New York City.

**EXECUTION AND IMPLEMENTATION** of this Addendum to the Agreement evidences that New York State Homes and Community Renewal (NYS HCR) has taken into account the effects of its undertakings on historic properties, and that through the execution of this Addendum and implementation of the Agreement, NYS HCR will satisfy its responsibilities under Section 106 of the National Historic Preservation Act and its implementing regulations for the referenced CDBG-DR program for activities in New York state outside New York City.

**SIGNATORY PARTIES:**

**FEDERAL EMERGENCY MANAGEMENT AGENCY**

By: \_\_\_\_\_

By MaryAnn Tierney  
Acting Regional Administrator, Region II

Date: \_\_\_\_\_

7/25/13

**NEW YORK STATE HISTORIC PRESERVATION OFFICER**

By: Ruth Pierpont Date: 8/1/13  
By: Ruth Pierpont  
New York Deputy Commissioner/New York Deputy State Historic Preservation Officer

**NEW YORK STATE HOMES AND COMMUNITY RENEWAL**

By: [Signature] Date: \_\_\_\_\_  
By: Darryl C. Towns  
Commissioner/CEO

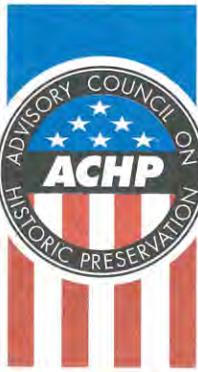
**ADVISORY COUNCIL ON HISTORIC PRESERVATION**

By: John M. Fowler Date: 8/6/13  
By: John M. Fowler  
Executive Director

## **Appendix E**

### **Stump Removal Guidance**

Removal of stumps will be accomplished by attaching a chain to the stump and a piece of heavy equipment which will then pull the unexposed portion of the stump from the ground. If this method is not practicable, then the bucket of the machine will be used to grab and pull the stump out. Additional excavation in the surrounding soil will be avoided whenever possible and minimized when it is necessary. Void spaces will be backfilled with fill soil and any original loose native soil from the rootball when possible. Locations for proposed stump removal that are proposed to occur in areas with known archeological sites will undergo further evaluation and consultation. An archeologist will be present during the removal of rootballs within or adjacent to previously recorded archeological sites or when there are unexpected discoveries. If any potential archeological resources are discovered, work will immediately cease, and the Subgrantee or contractor will notify the Grantee and FEMA.



Preserving America's Heritage

August 6, 2013

Mr. Matthew Nelson  
President  
New York State Office of Community Renewal  
38-40 State Street  
Albany, NY 12207

Ref: *Addendum to the Programmatic Agreement for Disaster Response Activities as a Result of Hurricane Sandy in the City of New York*

Dear Mr. Nelson:

Enclosed is a copy of the executed Appendix D for the referenced programmatic agreement. By carrying out the terms of the agreement, you will fulfill your responsibilities under Section 106 of the National Historic Preservation Act and the regulations of the Advisory Council on Historic Preservation, "Protection of Historic Properties" (36 CFR Part 800). The original agreement will remain on file in our office.

We commend the New York State Office of Community Renewal for working closely with the New York State Historic Preservation Officer, the U.S. Department of Housing and Urban Development and the Federal Emergency Management Agency to develop and execute this addendum which will administer Hurricane Sandy response activities using Community Development Block Grant-Disaster Recovery funds.

We are available to provide any assistance you may need while implementing the agreement. If you have any questions, please contact Ms. Jaime Loichinger at (202) 606-8529, or via e-mail at [jloichinger@achp.gov](mailto:jloichinger@achp.gov).

Sincerely,

*for* 

Charlene Dwin Vaughn, AICP  
Assistant Director  
Federal Permitting, Licensing, and Assistance Section  
Office of Federal Agency Programs

ADVISORY COUNCIL ON HISTORIC PRESERVATION

1100 Pennsylvania Avenue NW, Suite 803 • Washington, DC 20004  
Phone: 202-606-8503 • Fax: 202-606-8647 • [achp@achp.gov](mailto:achp@achp.gov) • [www.achp.gov](http://www.achp.gov)

## **Appendix Q:**

### **HUD Noise Abatement and Explosive Operations Email**

**From:** Schopp, Danielle L [<mailto:Danielle.L.Schopp@hud.gov>]  
**Sent:** Monday, March 18, 2013 12:32 PM  
**To:** Sullivan, Neil  
**Cc:** Potter, James M; Rivera, Nelson A; Furda, Michael R; Fretwell, Therese J; Sanders, Jerimiah J  
**Subject:** RE: Noise and above ground storage tanks - New Jersey

Neil,  
As discussed, noise is not applicable for a disaster recovery program including reconstruction and rehabilitation that meets the requirement at 24 CFR 51.101(a)(3). In addition, ASD requirements do not apply because the definition for HUD assisted projects at 24 CFR Part 51.201 is predicated on whether the HUD project increases the number of people exposed to hazardous operations; therefore, the environmental review for grants to elevate, rehabilitate, or reconstruct housing that existed prior to the disaster where the number of dwelling units is not increased is not required to apply 24 CFR Part 51 Subpart C. Mike Furda, as the FEO for New Jersey, is available for questions, follow up or additional guidance.

Thanks,  
Danielle  
Danielle Schopp, JD, MPA  
Director, Office of Environment and Energy  
Department of Housing and Urban Development  
451 7th Street SW, Room 7250  
Washington, DC 20410  
phone (202) 402-4442  
fax (202) 708-3363  
<http://portal.hud.gov/portal/page/portal/HUD/topics/environment>



Please consider the environment before printing this e-mail

**From:** Sullivan, Neil [<mailto:Neil.Sullivan@icfi.com>]  
**Sent:** Monday, March 18, 2013 10:26 AM  
**To:** Schopp, Danielle L  
**Subject:** Noise and above ground storage tanks - New Jersey  
Danielle,

Just to follow up on our call on Thursday, NJ DEP requested that I e-mail you and confirm that there is no need to conduct a noise analysis for rehab and reconstruction projects (as defined by HUD) for 1-4 unit homes (the subject of NJ's first Tier 1 EA). Your comment that the analysis is unnecessary is based on the citation below at 24 CFR Part 51.101(a)(3). Can you please confirm that NJ can just cite the highlighted text below and avoid doing noise and AST analysis for both rehab and reconstruction projects?

Thanks  
Neil

24 CFR Part 51.101(a)(3)

*HUD support for new construction.* HUD assistance for the construction of new noise sensitive uses is prohibited generally for projects with unacceptable noise exposures and is discouraged for projects with normally unacceptable noise exposure. (Standards of acceptability are contained in § 51.103(c).) This policy applies to all HUD programs providing assistance, subsidy or insurance for housing, manufactured home parks, nursing homes, hospitals, and all programs providing assistance or insurance for land

development, redevelopment or any other provision of facilities and services which are directed to making land available for housing or noise sensitive development. The policy does not apply to research demonstration projects which do not result in new construction or reconstruction, flood insurance, interstate land sales registration, or any action or emergency assistance under disaster assistance provisions or appropriations which are provided to save lives, protect property, protect public health and safety, remove debris and wreckage, or assistance that has the effect of restoring facilities substantially as they existed prior to the disaster.

**NEIL SULLIVAN** | Senior Manager | 703.218.2533 (o) | [Neil.Sullivan@icfi.com](mailto:Neil.Sullivan@icfi.com) | [icfi.com](http://icfi.com)  
**ICF INTERNATIONAL** | 9300 Lee Highway, Fairfax, VA 22031 | 703.975.8853 (m)

**Appendix R:**  
**NMFS Consultation Letters**



**UNITED STATES DEPARTMENT OF COMMERCE**  
**National Oceanic and Atmospheric Administration**  
NATIONAL MARINE FISHERIES SERVICE  
NORTHEAST REGION  
55 Great Republic Drive  
Gloucester, MA 01930-2276

APR 16 2014

Heather M. Spitzberg  
NYS Homes and Community Renewal  
38-40 State Street  
Hampton Plaza  
Albany, NY 112207

Re: CDBG-DR Programmatic Consultation

Dear Ms. Spitzberg,

We received your letter dated April 1, 2014 regarding the program update and introduction of the NY Rising and NYC Build It Back Acquisition for Redevelopment Program. As we understand these activities, they are upland activities that will occur above the high water mark and do not involve work in waterways. We also understand that appropriate best management practices will be required by other permits and employed to avoid any discharge into waterways and wetlands during any work.

While there are Endangered Species Act (ESA) listed species under National Marine Fisheries Service (NMFS) jurisdiction in New York, all of these species are aquatic and limited to oceans and rivers. Activities not affecting waterways or wetlands do not appear to have the potential to impact NMFS listed species and their habitats. ESA Section 7 consultation is required when a proposed Federal action may affect a listed species. Because no NMFS listed species will be exposed to any effects of the proposed activities for the NY Rising and NYC Build It Back Acquisition for Redevelopment Program, no further coordination regarding endangered species is necessary. Additionally, no consultation or coordination pursuant to the Fish and Wildlife Protection Act or the Essential Fish Habitat provisions of the Magnuson-Stevens Act regarding impacts is necessary.

Your letter also requests documentation that programmatic consultation with us is underway for the NY Rising and NYC Build It Back Acquisition for Redevelopment Program and that guidance will be received for the process to be followed for Section 7 and EFH compliance at the site-specific Tier 2 review. Please note that the guidance provided to you on March 14, 2014 was intended for your use during the site-specific Tier 2 review process for the NY Rising Program. While the NYC Build It Back Acquisition for Redevelopment Program does not appear to involve any work in waterways (e.g. through pile driving, dredging, disposal), the guidance provided on March 14 could also be used by you to determine if additional coordination or consultation would be required for any of the projects being considered. The guidance provided for endangered species requires that the lead action agency, or their designated non-Federal representative, determine if a proposed action may affect a listed species. The agency should use the information on these listed species, including distribution maps, that



is available on our website (<http://www.nero.noaa.gov/protected/section7/listing/index.html>). If you determine that listed species will not be exposed to any effects of a proposed activity, no additional coordination with us is necessary. For any activities that may affect a listed species, section 7 consultation is required.

As noted in the March 14 letter, we expect the projects that will require additional coordination would be any that result in negative impacts to submerged aquatic vegetation (SAV), shellfish resources or involve use of an impact hammer. Impacts to species such as the sea turtles and sturgeon in shallow waters adjacent to the shoreline are more likely from farfield effects such as increased turbidity (due to sediment disturbance) and noise. Measures that can be implemented to minimize the potential exposure of these species to these stressors include the use of turbidity or silt curtains, construction at low tide when water is absent from the area, and use of noise mitigating machinery (such as vibratory pile drivers). Avoidance of the May-October time period would also reduce the likelihood of impacts to listed species.

### **Essential Fish Habitat**

EFH has been designated within the proposed project area by the New England and Mid-Atlantic Fishery Management Councils. Additional information on EFH designations and the EFH consultation process can be found at <http://www.nero.noaa.gov/habitat/#>. Programs occurring along the shoreline and adjacent to nearshore coastal waters will likely require federal authorizations by the US Army Corps of Engineers (ACOE) pursuant to Section 10 of the Rivers and Harbors Act and Section 404 of the Clean Water Act, potentially through the Nationwide permit program. One aspect of the conditions for these authorizations is to identify and implement measures which would avoid and minimize adverse effects to EFH and other trust resources, therefore avoiding the need for additional consultation with us. In order to avoid and minimize impacts to EFH, we encourage you to design any shoreline structures in accordance with these regional conditions. Activities that do not meet these regional conditions will require additional EFH consultation with our office.

### **Conclusion**

This guidance applies to all present and potential projects under both the state NY Rising Recovery Program and the NYC Build It Back Program, including bulkhead repair activities, housing rehabilitation for homes of all sizes, reimbursement for costs incurred, demolition, redevelopment activities, economic development, and infrastructure activities, and will assist us in determining if additional consultation is necessary.

We look forward to continuing to work with you on your CDBG-DR Programs. Should you have any questions regarding the ESA comments, please contact Julie Crocker in our Protected Resources Division (978-282-8480 or [Julie.Crocker@noaa.gov](mailto:Julie.Crocker@noaa.gov)). For questions regarding EFH, please contact Christopher Boelke at 978-281-9131 or [Christopher.boelke@noaa.gov](mailto:Christopher.boelke@noaa.gov)

Sincerely,



Mary A. Colligan  
Assistant Regional Administrator  
for Protected Resources

EC: Crocker, Murray-Brown – F/NER3  
Boelke – F/NER4  
Steffen – ProSource Technologies LLC



ANDREW M. CUOMO  
GOVERNOR

DARRYL C. TOWNS  
COMMISSIONER/CEO

NEW YORK STATE  
DIVISION OF HOUSING  
& COMMUNITY  
RENEWAL

1 April 2014

HOUSING  
TRUST FUND  
CORPORATION

STATE OF  
NEW YORK MORTGAGE  
AGENCY

NEW YORK STATE  
HOUSING FINANCE  
AGENCY

NEW YORK STATE  
AFFORDABLE HOUSING  
CORPORATION

STATE OF  
NEW YORK MUNICIPAL  
BOND BANK AGENCY

TOBACCO SETTLEMENT  
FINANCING  
CORPORATION

Mr. John Bullard  
Regional Administrator  
National Oceanographic and Atmospheric Administration  
National Marine Fisheries Service-Northeast Region  
55 Great Republic Drive  
Gloucester, Massachusetts 01930-2276

**Re: CDBG-DR Program update and introduction of NY Rising and NYC  
Build It Back Acquisition for Redevelopment Program**

Dear Mr. Bullard,

On July 19, 2013, NYS Homes and Community Renewal (HCR) submitted a program introduction letter regarding the U.S. Department of Housing and Urban Development (HUD) Community Development Block Grant – Disaster Recovery (CDBG-DR) NY Rising Recovery Program (referred to as Housing Assistance Program in earlier agency consultation) regarding Section 7 and Essential Fish Habitat (EFH) consultation. This request for consultation was responded to by Ms. Mary Colligan of the National Oceanographic and Atmospheric Administration's (NOAA) National Marine Fisheries Service (NMFS)—Northeast Region on July 31, 2013. On February 3, 2014, HCR also sent a follow-up agency consultation letter regarding the NY Rising Bulkhead Repair Program and is anticipating receiving guidance on site-specific compliance for endangered species and EFH.

Since submittal of the February 3, 2014 consultation letter, a new program, the NY Rising and NYC Build It Back Acquisition for Redevelopment Program (Program), has been initiated. This Program is being conducted jointly by NYS and New York City (NYC) under a Memorandum of Agreement between the two responsible entities.

Under the Program, one- and two-unit storm-damaged residential homes will be purchased by NYS then transferred to NYC's designated non-profit entity. The existing structures will be demolished, and the sites will be redeveloped with new one- and two- unit dwellings. NYS's role will include environmental review, title work, and purchase. All other action will be taken by NYC or its designated non-profit entity, prior to the referral and following the property transfer.

Mr. John Bullard

1 April 2014

Page 2 of 2

This program is being implemented in all five NYC counties (Bronx, Kings, New York, Queens, and Richmond), and Tier 1 Programmatic Environmental Assessments will be completed for the Program in each NYC county. A full Program description is located in Attachment A, and a flowchart of the environmental process for this Program has been included in Attachment B.

HCR would like to take this opportunity to engage in initial consultation regarding Section 7 and EFH compliance for the NY Rising and NYC Build It Back Acquisition for Redevelopment Program.

HCR requests a response letter from NMFS to document that programmatic consultation with NMFS is underway for the NY Rising and NYC Build It Back Acquisition for Redevelopment Program and that guidance will be received for the process to be followed for Section 7 and EFH compliance at the site-specific Tier 2 review.

If you have any questions or require additional information regarding this request, please contact me at (518) 486-3379 or [hspitzberg@nyshcr.org](mailto:hspitzberg@nyshcr.org). Thank you for your time and consideration.

Sincerely,

A handwritten signature in blue ink that reads "Heather Spitzberg". The signature is written in a cursive style with a blue circular stamp or mark at the end.

Heather M. Spitzberg, Esq.  
NEPA Certifying Officer  
NYS Homes and Community Renewal  
38-40 State Street  
Hampton Plaza  
Albany, NY 12207

cc. Mary Colligan, NMFS  
Christopher Boelke, NMFS  
Mark Murray-Brown, NMFS  
Jennifer Wolff, ProSource Technologies, LLC  
Rebecca A. Steffen, J.D., ProSource Technologies, LLC

Attachment A: NY Rising and NYC Build It Back Acquisition for Redevelopment Program

Attachment B: NYS and NYC CDBG-DR Environmental Process Flowchart

## **Acquisition for Redevelopment Program Description**

The NY Rising and NYC Build It Back (BIB) Acquisition for Redevelopment Program will fund the purchase of storm-damaged one- to two- (1-2) unit residential buildings from residents who wish to sell their homes and relocate away from areas prone to repeated storm damage. The program will also fund the demolition of currently existing structures. Participation in the Acquisition for Redevelopment Program is voluntary. Neither NYS nor NYC will use its power of eminent domain to force any homeowner to sell their property. The property owners must apply to the program and decide whether to accept the accompanying conditions.

Under the program, NYC will complete an applicant intake process through its BIB program and complete appraisals for the applicant properties. Eligible applicants from the BIB program will have established substantial damage. Once NYC makes the eligibility determination, the applicant will be referred to NYS. Applicants will then go through the NY Rising application and eligibility determination process. NYS will then complete a Tier 2 site-specific environmental assessment and Phase I ESAs for all properties that are determined to be eligible for the Acquisition for Redevelopment Program. NYS will purchase the property, complete all Phase II environmental testing and soil remediation as necessary for the program site, and secure the site in such a manner that the site will not adversely impact adjacent properties or owners. Once the site has been secured, NYS will transfer the property to NYC's designated nonprofit agent for demolition, including any asbestos and hazardous materials survey and abatement, and finally redevelopment. NYS's role will include environmental review, title work, and purchase. All other action will be taken by NYC prior to the referral and following the transfer. During this time, the properties would be unoccupied. The post-purchase fate of acquired properties will be determined in consultation with local officials to ensure that the properties best serve the future goals of the community and will be in accordance with local zoning and land use plans. In most cases, properties will be redeveloped with more resilient single family homes and duplexes, maintaining the same use of the property. Properties may also, in some cases, remain undeveloped. If redevelopment involves structures or uses other than one- to two- (1-2) unit residential housing or leaving the property undeveloped, additional environmental review will be needed.

The CDBG-DR funds will be used for the following specific activities for the acquisition of one- to two- (1-2) unit storm-damaged residential properties:

### Activities Funded by NYS

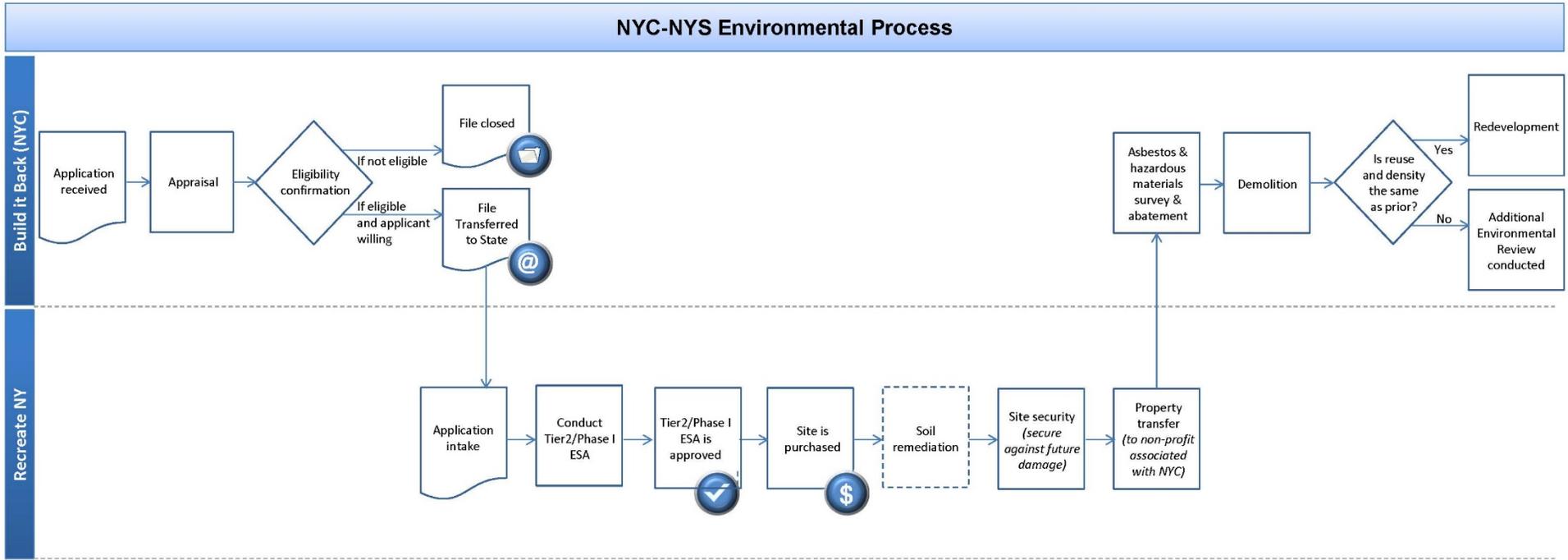
- Customary costs associated with the acquisition of private property, including:
  - Legal fees
  - Title fees
    - Surveys
    - Title preparation
    - Title report
    - Title insurance
    - Transfer tax
  - Liability insurance
- Site work and property maintenance costs, including:
  - Site security
  - Fencing

## Attachment 1

- Environmental remediation
- Backfill
- Grading

### Activities Funded by NYC

- Customary costs associated with the acquisition of private property, including:
  - Appraisals (prior to referral to NYS)
  - Legal fees
  - Title fees
    - Surveys
    - Title preparation
    - Title report
    - Title insurance
    - Title fees (adjustments, water/sewer, violations, etc)
  - Liability Insurance
- Site work and property maintenance costs, including:
  - Site security
  - Fencing
  - Environmental remediation
  - Backfill
  - Grading
  - Real Estate Taxes
  - Utility management (disconnection)
  - Property maintenance
  - Violations
  - Working capital
- Demolition of structures on the property, including:
  - Demolition and removal of structures
  - Permits and filing fees
  - Lead abatement
  - Asbestos abatement
- All customary costs associated with the disposition of property, including:
  - Marketing and advertising
  - Broker Fees
  - Legal fees
  - Program administration costs





**UNITED STATES DEPARTMENT OF COMMERCE**  
**National Oceanic and Atmospheric Administration**  
NATIONAL MARINE FISHERIES SERVICE  
NORTHEAST REGION  
55 Great Republic Drive  
Gloucester, MA 01930-2276

MAR 14 2014

Heather M. Spitzberg  
NYS Homes and Community Renewal  
38-40 State Street  
Hampton Plaza  
Albany, New York 12207

Re: NY Rising Bulkhead Program

Dear Ms. Spitzberg,

New York State (NYS) Homes and Community Renewal is working with the U.S. Department of Housing and Urban Development to provide funds to homeowners for repair and replacement of bulkheads at residential properties damaged during storm events, including superstorm Sandy. You are currently preparing a Tier 1 Programmatic Environmental Review for the Bulkhead Repair Program in various New York counties. You have requested technical guidance to help you determine which activities funded by the program may require additional coordination with NOAA's National Marine Fisheries Service, including consultation pursuant to Section 7 of the Endangered Species Act (ESA) of 1973, as amended, and the Essential Fish Habitat (EFH) provisions of the Magnuson-Stevens Fishery Conservation and Management Act. Based on maps provided by you, we have determined that the only counties considered where activities may impact EFH and species listed under the ESA are Nassau and Suffolk counties on Long Island. The guidelines provided below are intended to be incorporated into your environmental review process so that you can determine which bulkhead projects require additional coordination with NMFS. We expect the majority of activities being considered for funding will not need additional coordination with us.

#### **Endangered Species Act Guidance**

Several species of listed sea turtles and Atlantic sturgeon occur in the coastal waters of Long Island. More information on these species, including distribution maps, is available on our website (<http://www.nero.noaa.gov/protected/section7/listing/index.html>). Because these species only occur in the water, they would not be exposed to any effects of activities that occur solely on land or above the high tide line. Therefore, activities occurring out of the water do not require additional coordination with us.

We expect the majority of bulkhead repair and replacement to occur along the shoreline. Typical bulkhead repair and replacement methodologies include sheet pile installation, individual piles used to support an aboveground structure, or, gravity construction resting on the shore bottom supported by its own weight. The presence of sea turtles and sturgeon in shallow waters adjacent to the shoreline where bulkheads are typically installed would be rare. Impacts to these species are more likely from farfield effects such as increased turbidity (due to sediment disturbance)



and noise resulting from the installation of piles. Measures that can be implemented to minimize the potential exposure of these species to these stressors include the use of turbidity or silt curtains, construction at low tide when water is absent from the area, use of wood or vinyl piles (as opposed to steel), use of the smallest diameter piles practicable, and use of vibratory pile drivers. Avoidance of the May-October time period would also reduce the likelihood of impacts to listed species.

The lead action agency, or their designated non-Federal representative, is responsible for determining if a proposed action may affect a listed species. If you determine that listed species will not be exposed to any effects of a proposed activity, no additional coordination with us is necessary. For any activities that may affect a listed species, section 7 consultation is required. We expect the projects that will require additional coordination would be any that result in negative impacts to submerged aquatic vegetation (SAV), shellfish resources or involve installation of steel piles with an impact hammer. More information on the consultation process can be found on our website (<http://www.nero.noaa.gov/protected/section7/guidance/consultation/index.html>).

Although an ESA consultation is not in place for the ACOE Nationwide Permit program we encourage you to follow the guidance of the relevant permit conditions (e.g. #3 (maintenance), 13 (Bank Stabilization), 23 (NEPA CE exclusions), as well as general and regional specific conditions for NY.

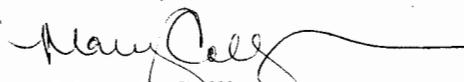
### **Essential Fish Habitat**

EFH has been designated within the proposed project area by the New England and Mid-Atlantic Fishery Management Councils. Additional information on EFH designations and the EFH consultation process can be found at <http://www.nero.noaa.gov/habitat/#>

We anticipate that the majority of the proposed work will occur along the shoreline and adjacent to nearshore coastal waters. These projects will likely require federal authorizations by the US Army Corps of Engineers (ACOE) pursuant to Section 10 of the Rivers and Harbors Act and Section 404 of the Clean Water Act, potentially through the Nationwide permit program. We have previously coordinated with the New York District of the ACOE on the development of regional conditions for the Nationwide permit program. One aspect of the regional conditions is to identify and implement measures which would avoid and minimize adverse effects to EFH and other trust resources, therefore avoiding the need for additional consultation with us. In order to avoid and minimize impacts to EFH, we encourage you to design shoreline structures in accordance with these regional conditions. Activities that do not meet these regional conditions will require additional EFH consultation with our office.

We look forward to continuing to work with you on this program. Should you have any questions regarding the ESA comments, please contact Julie Crocker in our Protected Resources Division (978-282-8480 or [Julie.Crocker@noaa.gov](mailto:Julie.Crocker@noaa.gov)). For questions regarding EFH, please contact Christopher Boelke at 978-281-9131 or [Christopher.boelke@noaa.gov](mailto:Christopher.boelke@noaa.gov)

Sincerely,



Mary A. Colligan  
Assistant Regional Administrator  
for Protected Resources

EC: Crocker, Murray-Brown – F/NER3  
Boelke – F/NER4

File Code: Sec 7 HUD NY Rising Bulkhead Program

**From:** [Shawn Williams](#)  
**To:** [Rebecca Steffen](#)  
**Subject:** FW: New York State Homes and Community Renewal (NYSHCR) - New York Rising Bulkhead Repair program  
**Date:** Thursday, February 06, 2014 1:29:19 PM

---

**From:** Mark Murray-Brown - NOAA Federal [mailto:mark.murray-brown@noaa.gov]  
**Sent:** Thursday, February 06, 2014 1:12 PM  
**To:** Shawn Williams  
**Subject:** Fwd: New York State Homes and Community Renewal (NYSHCR) - New York Rising Bulkhead Repair program

Shawn - Per our conversation NMFS has received your letter dated Feb 3 to our Regional Director, John Bullard. We are preparing a technical guidance document for ESA section 7 and EFH use in the Tier II site specific reviews. I look forward to staying in touch as we work together to assist these communities progress with their disaster planning and recovery.

All the best. Mark.

On Mon, Feb 3, 2014 at 10:15 AM, Shawn Williams <[swilliams@prosourcecotech.com](mailto:swilliams@prosourcecotech.com)> wrote:  
Good Morning,

On behalf of New York State Homes and Community Renewal (NYSHCR), we are providing this Program update letter regarding the New York Rising Bulkhead Repair program, for your review. Please let us know if you have questions or require additional information.

Thank you.

**Shawn Williams** | Wetland/Permitting Specialist  
ProSource Technologies, LLC | [swilliams@prosourcecotech.com](mailto:swilliams@prosourcecotech.com)  
[763.786.1445](tel:763.786.1445) | cell: [952.913.2962](tel:952.913.2962) | fax [763.786.1030](tel:763.786.1030)

--

Mark Murray-Brown  
Section 7 Coordinator  
Protected Resources Division  
NOAA National Marine Fisheries Service  
Northeast Regional Office  
55 Great Republic Drive  
Gloucester MA 01930  
[\(978\) 281-9306](tel:978.281.9306)



ANDREW M. CUOMO  
GOVERNOR

DARRYL C. TOWNS  
COMMISSIONER/CEO

NEW YORK STATE  
DIVISION OF HOUSING  
& COMMUNITY  
RENEWAL

February 3, 2014

HOUSING  
TRUST FUND  
CORPORATION

STATE OF  
NEW YORK MORTGAGE  
AGENCY

NEW YORK STATE  
HOUSING FINANCE  
AGENCY

NEW YORK STATE  
AFFORDABLE HOUSING  
CORPORATION

STATE OF  
NEW YORK MUNICIPAL  
BOND BANK AGENCY

TOBACCO SETTLEMENT  
FINANCING  
CORPORATION

Mr. John Bullard  
Regional Administrator  
National Marine Fisheries Service-Northeast Region  
55 Great Republic Drive  
Gloucester, Massachusetts 01930-2276

**Re: Introduction of NY Rising Bulkhead Repair Program for Section 7 and Essential Fish Habitat Consultation**

Dear Mr. Bullard,

On July 19, 2013, New York State (NYS) Homes and Community Renewal (HCR) submitted a program introduction letter regarding the U.S. Department of Housing and Urban Development (HUD) Community Development Block Grant – Disaster Recovery (CDBG-DR NY Rising Recovery Program (Program) (referred to as Housing Assistance Program in previous coordination). A response letter acknowledging the Program was provided by the National Marine Fisheries Service-Northeast Region (NMFS) on July 31, 2013. This coordination was reviewed by Ms. Mary Colligan of NMFS-Northeast Region.

The purpose of this letter is to introduce the NY Rising Bulkhead Repair Program which was not specified in the initial letter to NMFS. Since submittal of the previous two coordination letters (dated September 19, 2013 and July 19, 2013), HCR has identified bulkhead repair and replacement as activities that are eligible for CDBG-DR funding. HCR is preparing NEPA Tier 1 Programmatic Environmental Reviews (PEAs) for the Bulkhead Repair Program in various NYS counties. HCR would like to take this opportunity to engage in initial Section 7 and EFH consultation for the Bulkhead Repair Program, and is requesting a response letter from NMFS, acknowledging the updated activities described in this letter.

**Program Overview**

The CDBG-DR Program is large-scale and encompasses several counties throughout NYS. A detailed description of the activities to be funded under the Bulkhead Repair Program has been included in **Attachment A**. A map of affected counties included in the Bulkhead Repair program, is included in **Attachment B**. Specific Actions of the CDBG-DR program include:

38-40 State Street, Albany, NY 12207

1. **Housing Recovery**: This program provides funding for the repair and reconstruction of residential properties, along with funding appropriate storm mitigation measures. Rehabilitated properties within a floodplain will require raising foundations above the base flood elevation.
2. **Reimbursement**: As part of Housing Recover, qualifying applicants will be reimbursed for costs associated with repair of storm damaged homes that were completed before the CDBG-DR program funds were available.
3. **Buyouts**: Under the Buyout Program, NYS will purchase 1-2 unit storm-damaged homes, demolish existing structures on the properties, and return the properties to a natural state. These properties will remain as open space in perpetuity.
4. **Acquisitions**: Under the Acquisition Program, NYS will purchase 1-2 unit storm-damaged homes, leaving open the potential for future development.
5. **Economic Development**: Eligible businesses may receive funding for structural repairs, equipment replacement, and general economic recovery, contributing to improvement of the local economy.
6. **Bulkhead Repair**: Applicants will receive funding to repair or replace storm-damaged bulkheads on residential properties. This program includes reimbursement for work that has been completed, subject to the eligibility requirements of the program.

The *State of New York Action Plan for Community Development Block Grant Program Disaster Recovery*, dated April 2013 (Federal Register Docket # FR-5696-N-01) is available for review at <http://www.nyshcr.org/Publications/CDBGActionPlan.pdf>.

NYSHCR is requesting a response letter to document that coordination with NMFS is underway for the Bulkhead Repair program and is requesting guidance regarding the process to be followed for Section 7 and EFH compliance at the site-specific Tier 2 review. Each property receiving funding will be subject to a site-specific checklist review. GIS layers and review conditions may be adopted for HCR to complete the Tier 2 reviews, with the goal of keeping the review and consultation workload for NMFS to a minimum. We look forward to working with NMFS to identify a Tier 2 compliance process.

If you have question or require additional information regarding this request, please contact me at (518) 486-3379 or [hspitzberg@nyshcr.org](mailto:hspitzberg@nyshcr.org). Thank you for your time and consideration.

Sincerely,



Heather M. Spitzberg, Esq.  
NEPA Certifying Officer  
NYS Homes and Community Renewal  
38-40 State Street  
Hampton Plaza  
Albany, NY 12207

Mr. John Bullard  
February 3, 2014  
Page 2 of 2

cc. Mary Colligan, NMFS  
Christopher Boelke, NMFS  
Mark Murray-Brown, NMFS  
Jennifer Wolff, ProSource Technologies, LLC

Attachment A – Bulkhead Repair Program Description

Attachment B- Map of affected counties included in the Bulkhead Repair program

The NY Rising Bulkhead Repair Program for Residential Properties is designed to provide assistance for repairing damaged bulkheads on residential properties with any number of housing units, including reimbursing homeowners who have already begun repairing or have completed repairs to bulkheads.

### **Bulkhead Definitions:**

Bulkheads are defined as vertical structures constructed parallel to the shoreline or banks of a waterway, with retaining walls for the purpose preventing overtopping and flooding of the adjacent properties. Bulkheads are usually placed along an eroding bank or escapement to hold back the land and prevent erosion. Sometimes referred to as seawalls, gravity walls, quay walls, or riprap revetments, bulkheads are a long-lasting hardy structure that can stand up to moderate to high wave energy.

Residential bulkheads protect the banks and bluffs on a residential property by completely separating land from water. These bulkheads act as retaining walls, keeping the earth or sand behind them from crumbling or slumping. They also are used to resist wave action and protect property.

Bulkheads can be built in three basic types of design. They may consist of:

- 1) Thin, interlocking sheet piles driven deeply into the ground;
- 2) Individual piles used to support an aboveground structure; or
- 3) Massive gravity construction resting on the shore bottom or embedded slightly into it, supported by its own weight rather than by piling.

From these three basic design types, a wide variety of bulkhead designs have been developed. Common and uncommon types of bulkheads include:

- Common bulkheads:
  - Cantilever wall – typically used where there is no room for the installation of an anchor wall
  - Anchored wall with single layer of anchorage – most commonly used
    - Relieving platforms may be added to reduce lateral pressure
    - Batter piles may be driven to use as anchors behind the wall, but should only be considered if there is insufficient room for an anchor and the height of the walls exceeds the design parameters for a cantilever wall.
  - Soldier pile wall, also known as a “King” pile wall, consisting of piles added to the front of an anchored wall to help prevent deflection
  - Soldier beams and lagging
  - Close pile wall
  - Double wall
  - Various combinations can be used of the above general designs to meet the conditions of the site
- Some uncommon bulkhead types are listed below. They are unlikely to be encountered, but are listed for reference.
  - Railroad ties and steel H-piles
  - Treated timber
  - Untreated log

- Hogwire fencing and sandbags – this type would not meet the criteria provided in the general permit
- Used rubber tire and timber post
- Timber cribbing
- Stacked rubber tires
- Used concrete pipes
- Longard tubes
- Stacked bags
- Gabbions

#### Damage to Bulkheads

Bulkheads are susceptible to various forms of damage due to their presence in the interface between land and water. The action of water, both in front of the wall and behind it, can cause bulkhead damage. Waves that lap over the top can erode the land behind the structure as if the wall were not there, so the structure must be built high enough to prevent such overtopping. Groundwater and rain percolating through the soil may build up pressure behind the wall, eventually pushing it over. Scour at the toe of the bulkhead can undermine the structure and tip it over. Water flowing around the sides of the bulkhead can also cause severe erosion damage, so the structure should cover the entire surface that could be eroded.

Typical storm damage that has been seen from Hurricane Sandy and other similar events has included erosion of the toe of the bulkhead, washout of fill behind the bulkheads, impact damage to sheet piling or other sheeting, and the loss of decking and sheeting from flooding. Most references to historical storm events indicate that the damage incurred was an acceleration of typical wear to bulkheads.

#### **Program description:**

Residential property owners in disaster-declared counties who sustained damage to bulkheads have been invited to submit an application for assistance to repair damage caused by any of the storms identified in the Action Plan. Funding for repair and mitigation will include costs for the repair/replacement of damaged bulkheads, seawalls, quay wall, and coastal revetments. It will cover costs for unmet repair or replacement needs after accounting for all federal, state, local and/or private sources of disaster-related assistance. Assistance for repair, rehabilitation, replacement, and reimbursement funding will be capped at the lesser of a specified dollar amount to be determined by NYS, or the unmet repair, rehabilitation, replacement, and reimbursement need as described above. To direct sufficient levels of assistance to those most in need, especially low- or moderate-income and minority households, a higher overall dollar cap amount may be applied to those households of low- or moderate-income, where the need is justified.

The discussion below outlines the activities that would be carried out under the NY Rising Bulkhead Repair Program to address storm-related damage to bulkheads. The following steps will be implemented:

#### Inspection and Reporting

The condition of the existing bulkhead will be identified, and qualified personnel will determine whether to repair or replace the damaged structure. The inspector will provide photographs,

sketches, and a detailed narrative of the existing site conditions and proposed method of repair or replacement, including a cost estimate.

### Documentation

Documentation will be prepared to satisfy General Permit GP-0-13-006, which includes plans and sections. These documents may require the signature and seal of a civil and/or structural engineer.

### Activity Summary

Bulkhead repair activities will be conducted in accordance with the federally issued design criteria documents.

As project activity begins, certain portions of the existing wall that could not previously be inspected will be exposed and/or accessible, and should be assessed for additional damage. While most of these materials are unlikely to have been damaged during a storm event, depending on the age of the wall, there is the potential for wear. These previously inaccessible features include:

- Tiebacks
- Anchor walls
- Batter piles
- Relieving platforms
- Backfill
- Scour protection materials

The applicability of the existing bulkhead design to the local conditions will be reviewed. For replacement walls, the following design issues will be considered:

- Exposure to wave attack
- Foundation condition
- Scour, in particular wave reflection from vertical walls for bulkheads
- Overtopping by wave action (in particular during storm events)

During storm events, excessive waves may cause increased scour and overtopping, while debris carried in the storm event may damage walls and piles. To ensure protection during storm events, the review of existing walls and the design or replacements or repairs will include assessment of:

- Compartmentation: The design of the wall should be such to allow for repair only of the area damaged rather than the entire wall
- The potential for inundation of the backfill of the wall, which could cause wash out or subsidence, should be reviewed, and if necessary adequate drainage should be provided
- Impact to the wall, including storm debris

Methods for construction or repairs of the walls will vary based on site conditions. An example of construction methods for a sheet pile wall is provided below:

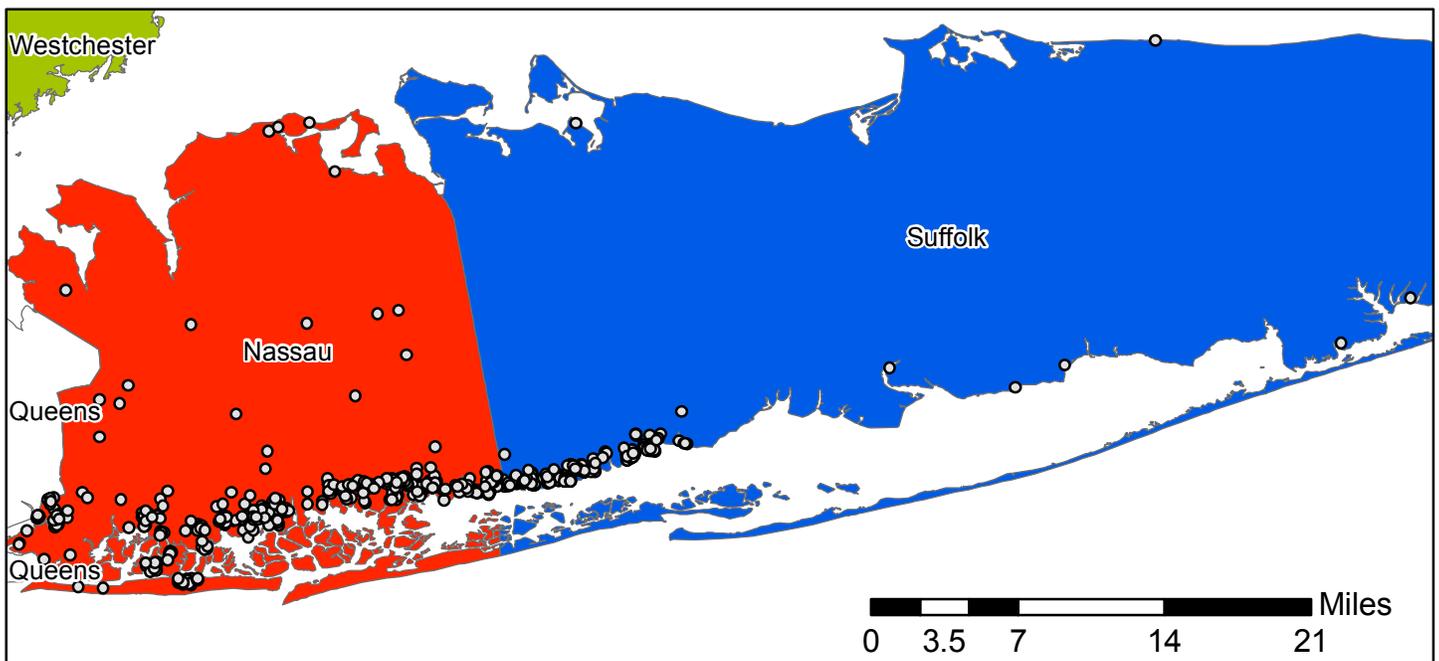
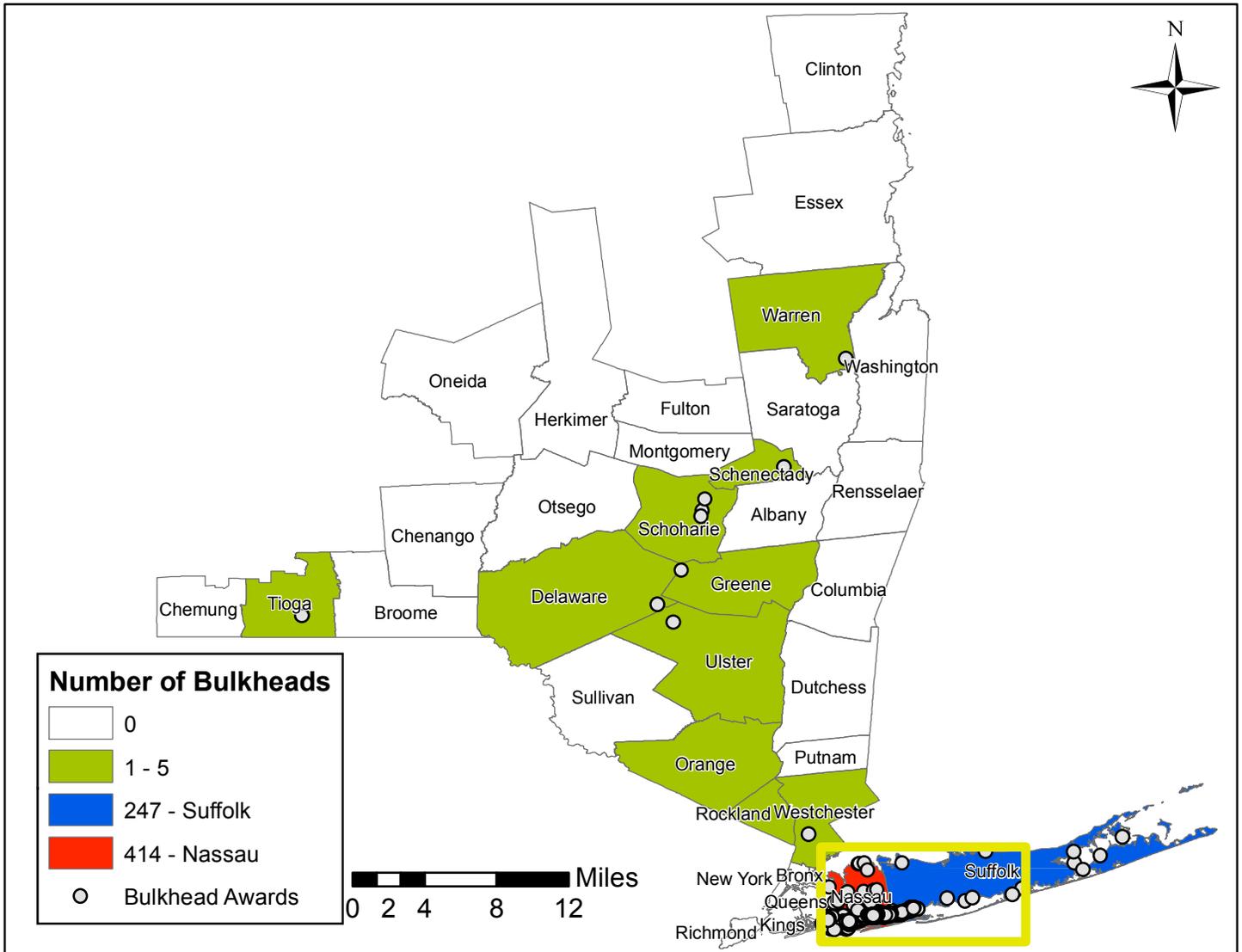
- Where removal of soft material is contemplated, dredging should precede the driving of sheet piling.

- Where existing material behind the bulkhead is to remain in place, it is advisable to dredge in front of the bulkhead after completion of the structure. This emphasizes arching in the material behind the wall and reduces bending stresses. Dredging adjacent to sheet piling after completion should be done in two or three vertical stages to avoid rapid changes and load differentials.
  - Add fill behind the wall in areas of broad extent so that the concentration of lateral pressure does not cause differential alignment along the length of the wall.
  - Consider compaction pressure due to the driving of support piles (relieving platform or track supports) behind the front wall. If dredging in front of the wall is done after the piles are driven, deflection of the wall will tend to relieve these pressures. Specify the driving sequence for such piles to avoid a progressive increase of the wedging effect.
  - Tie rods would be pre-tensioned as uniformly as is practicable. It is emphasized, however, that uniform load in the tie rods is an unlikely occurrence. The provisions relating to allowable stresses in the anchor system are intended to provide for this situation. The implications are more general, however. The anchor system must be able to deform inelastically.
  - Concrete walls and anchor walls should be reinforced on both faces and not simply in accordance with the theoretical moment diagram. The use of high steel in tie rods should be approached with caution to assure that the steel is capable of several percent elongation without fracture.
  - Where the anchorage depends on passive earth pressure, place and compact backfill around the anchorage before filling against the bulkhead.
- 
- In the filling of a relieving platform-type structure, the area at the back end of the platform should be filled to deck level, the deck placed over the batter piles, and filling continued to grade. This will provide load on the batter piles to assist in resisting the tension which will be caused by the tension in the tie rod. The deck area adjacent to the sheets may then be placed and fill completed.
  - When placing hydraulic fill, the discharge line should be located on or in front of the anchorage line. Drainage openings should be provided in sheet piles at about 100 foot (30.5 meter) intervals.
    - Depending on the wall type, a coffer dam may be necessary to perform repairs or construction.
    - For the installation of sheet piles, it is important to ensure that the base of the pile has been adequately seated to prevent deflection of the wall.
  - In a soft bottom, it should be possible to develop adequate toe resistance while driving the pile to adequately seat the pile. If adequate toe resistance cannot be obtained, excavating and replacing of the bottom should be considered
  - In a hard bottom with shallow impenetrable material, consider using soldier piles for support or trenching for the base of the wall.
  - Various materials are available for construction of the front wall. For the majority of the materials, such as steel, timber, and concrete, standard pile and sheet piling techniques, as well as the manufacturer's recommendation, will insure proper

installation. More recently, newer materials, including galvanized corrugated sheet metal, corrugated fiberglass, and corrugated aluminum have become available on the market. The use of these materials at existing locations should be reviewed based on:

- Freeze thaw cycles
  - Corrosion
  - Marine borers
  - Ultraviolet light reactions
  - Abrasion
  - Wave and ice forces
- It is recommended that regardless of the materials selected, the manufacturer should be consulted for proper installation techniques.
  - For the construction of the anchorage, a simple concrete wall or sheet pile deadman should be used. If there is limited area, pile-supported anchorage (batter piles) may be used, but this should be a last resort.

# Number of Bulkhead Awards by County



**From:** [Shawn Williams](#)  
**To:** [Rebecca Steffen](#)  
**Subject:** FW: New York State Homes and Community Renewal (NYSHCR) Community Development Block Grant- Disaster Recovery (CDBG-DR) Program- Introduction of Bulkhead repair/replacement program (NOAA NMFS)  
**Date:** Monday, January 27, 2014 1:54:46 PM  
**Attachments:** [Bulkheads Nov2013.pdf](#)

---

**Shawn Williams** | Wetland/Permitting Specialist  
ProSource Technologies, LLC | [swilliams@prosourcetech.com](mailto:swilliams@prosourcetech.com)  
763.786.1445 | cell: 952.913.2962 | fax 763.786.1030

---

**From:** Shawn Williams  
**Sent:** Tuesday, January 14, 2014 12:52 PM  
**To:** Mary.A.Colligan@noaa.gov; Mark.Murray-Brown@noaa.gov; christopher.boelke@noaa.gov; Lou Chiarella (Lou.Chiarella@noaa.gov)  
**Cc:** Jennifer Wolff; Erica Davis  
**Subject:** FW: New York State Homes and Community Renewal (NYSHCR) Community Development Block Grant- Disaster Recovery (CDBG-DR) Program- Introduction of Bulkhead repair/replacement program (NOAA NMFS)

Good Afternoon,

Attached is a map that shows the locations of applicants who applied for funding for bulkhead repair/replacement, as of November 2013. We are working to get an updated figure. However, I wanted to pass this along so you can reference it for our discussion today at 3 Eastern. Please note that that Title states "Award", but no funding has been released to applicants yet. It should say "Applicants". I think current estimates of Bulkhead applicants at this point is around 700 to 800.

Agenda/Topics:

1. Recap of previous NMFS Coordination and CDBG program
2. Introduction of Bulkhead Program
3. NYSHCR and HUD are currently defining program language and specifics
4. Background and define requirements of Section 7 and Essential Fish Habitat programs
5. Define which counties apply to NMFS
6. GIS layers for use
7. Marine/Riverine species of concern (by County)
8. Determine most appropriate method to achieve compliance on a large-scale program, that has continuous incoming application (coverage letter, parameters for site-specific coordination with NMFS)
9. Other topics

Thanks.

**Shawn Williams** | Wetland/Permitting Specialist  
ProSource Technologies, LLC | [swilliams@prosourcetech.com](mailto:swilliams@prosourcetech.com)  
763.786.1445 | cell: 952.913.2962 | fax 763.786.1030

---

**From:** Shawn Williams  
**Sent:** Friday, January 10, 2014 3:10 PM  
**To:** 'Mary Colligan - NOAA Federal'; [Mark.Murray-Brown@noaa.gov](mailto:Mark.Murray-Brown@noaa.gov); [christopher.boelke@noaa.gov](mailto:christopher.boelke@noaa.gov); Lou Chiarella  
**Cc:** Jennifer Wolff; Erica Davis; Rebecca Steffen  
**Subject:** RE: New York State Homes and Community Renewal (NYSHCR) Community Development Block Grant- Disaster Recovery (CDBG-DR) Program- Introduction of Bulkhead repair/replacement program (NOAA NMFS)

Good Afternoon NMFS staff,

I think we can plan to have a call Tuesday afternoon (Jan 14) at 3 Eastern. We can coordinate with Mary as necessary, if she is not available. She stated Mark and Chris would have the programs covered.

Please mark your calendar, and we'll plan for then. Let me know if we need to adjust. Thank you.

Dial # 1-712-432-3100  
Participant Conference # 972351

**Shawn Williams** | Wetland/Permitting Specialist  
ProSource Technologies, LLC | [swilliams@prosourcetech.com](mailto:swilliams@prosourcetech.com)  
763.786.1445 | cell: 952.913.2962 | fax 763.786.1030

**From:** Mary Colligan - NOAA Federal [<mailto:mary.a.colligan@noaa.gov>]  
**Sent:** Friday, January 10, 2014 2:42 PM  
**To:** Shawn Williams  
**Subject:** Re: New York State Homes and Community Renewal (NYSHCR) Community Development Block Grant- Disaster Recovery (CDBG-DR) Program- Introduction of Bulkhead repair/replacement program (NOAA NMFS)

Shawn - I took a quick look at Chris, Mark and my calendars and next week is pretty crowded! It looks like Chris and Mark might be available next Tuesday from 3pm on and Friday the three of us look available before 11 or between 1 and 2. Do any of those times work for you?

On Tue, Jan 7, 2014 at 2:21 PM, Shawn Williams <[swilliams@prosourcetech.com](mailto:swilliams@prosourcetech.com)> wrote:  
Good Afternoon Chris and Mary,

Chris, thank you for taking time to discuss the forthcoming Bulkhead program, that is now being coordinated as part of the greater CDBG-DR program.

Previous correspondence regarding the program is attached for review. Previous work (rehab, buy-outs etc.) for the CDBG-DR program was identified for upland areas, not affecting NOAA-jurisdictional Section 7 species. However, now that NYSHCR will be including Bulkhead repair/replacement into the program, NEPA Tier 1 Environmental Review Records (ERRs) are being prepared (only for NY counties that were declared for the disaster, not all NY counties).

Discussion with Chris today opened a dialogue with NOAA NMFS to begin a compliance process/approach for:

- Essential Fish Habitat Program
- Section 7 of the Endangered Species Act

Preliminary thoughts are that the focus of review may be limited to Rockland, Westchester, Nassau, and Suffolk Counties, unless some jurisdictional nexus requires other NY counties to be included.

We understand Ms. Colligan is out of the office until January 10. NYSHCR is developing a Bulkhead program description, and we will provide this to you when it is available. However, it may take some time to refine the actual description, and we wanted to get coordination underway. Chris, if you could please reply to this email, acknowledging our initiation of coordination for the Essential Fish Habitat Program and Section 7 of the Endangered Species Act, that would be appreciated.

We agree that a conference call (Mary, Chris, Shawn, others?) will be appropriate to further define program details, scope, goals, etc., to assist with determining the most appropriate compliance process (consultation letter, parameters, guidance etc.)

I will touch base on Friday, when Mary is available. Please contact me if you have questions, as you review the attached files.

Regards,

**Shawn Williams** | Wetland/Permitting Specialist  
ProSource Technologies, LLC | [swilliams@prosourcetech.com](mailto:swilliams@prosourcetech.com)  
[763.786.1445](tel:763.786.1445) | cell: [952.913.2962](tel:952.913.2962) | fax [763.786.1030](tel:763.786.1030)

--

**Mary Colligan**

*Assistant Regional Administrator for Protected Resources*

*Northeast Regional Office*

*NOAA Fisheries*

[Mary.A.Colligan@noaa.gov](mailto:Mary.A.Colligan@noaa.gov)

[ph: 978-281-9116](tel:978-281-9116)

[www.nmfs.noaa.gov](http://www.nmfs.noaa.gov)

\_\_\_\_\_

**Appendix S:**  
**USFWS Consultation Letters**

---

**From:** Papa, Steve [[mailto:steve\\_papa@fws.gov](mailto:steve_papa@fws.gov)]  
**Sent:** Monday, February 10, 2014 04:51 PM  
**To:** Seth Diamond  
**Cc:** [patricia\\_cole@fws.gov](mailto:patricia_cole@fws.gov) <[patricia\\_cole@fws.gov](mailto:patricia_cole@fws.gov)>  
**Subject:** Re: NYSHCR Section 7 Determinations for Select Properties. Review Date: Feb 4, 2013

In response to your Feb 3, 2014, correspondence the Service will be available to provide technical assistance and respond to your requests for initiation of Endangered Species Act consultation for the NY Rising Bulkhead Repair Program.

Steven T. Papa  
U.S. Fish and Wildlife Service  
Long Island Field office  
340 Smith Rd  
Shirley, NY 11967  
(631) 286-0485 (tel)  
(631) 286-4003 (fax)  
[Steve\\_Papa@fws.gov](mailto:Steve_Papa@fws.gov)

On Mon, Feb 10, 2014 at 4:27 PM, Seth Diamond <[sdiamond@stormrecovery.ny.gov](mailto:sdiamond@stormrecovery.ny.gov)> wrote:

We are still trying to get an indication from you of cooperation on our bulkhead submission. At this point this indication is the only item holding up our submission to HUD. I would appreciate your getting back to me as soon as possible. At this point I don't think anything more than an e mail indicating you will work with us is needed and going forward we will try and limit the workload for all involved. I appreciate your help in moving this ahead.

**From:** Seth Diamond  
**Sent:** Friday, February 07, 2014 1:50 PM  
**To:** '[patricia\\_cole@fws.gov](mailto:patricia_cole@fws.gov)'  
**Subject:** Re: NYSHCR Section 7 Determinations for Select Properties. Review Date: Feb 4, 2013

Thank you for your feedback. Appreciate your getting back to me as soon as you can on the coordination.

---

**From:** Cole, Patricia [[mailto:patricia\\_cole@fws.gov](mailto:patricia_cole@fws.gov)]  
**Sent:** Friday, February 07, 2014 01:36 PM  
**To:** Seth Diamond  
**Subject:** Re: NYSHCR Section 7 Determinations for Select Properties. Review Date: Feb 4, 2013

Seth,

Per ESA, you do not need our concurrence on no effect determinations, so you may proceed with those. Otherwise, we will respond to the NLAA determinations as soon as possible.

Regards,

Patricia Cole  
Deputy Field Supervisor  
New York Field Office  
U.S. Fish and Wildlife Service  
3817 Luker Road  
Cortland, New York 13045  
607/753-9334

On Fri, Feb 7, 2014 at 1:33 PM, Seth Diamond <[sdiamond@stormrecovery.ny.gov](mailto:sdiamond@stormrecovery.ny.gov)> wrote:  
I had a second matter to raise. You talked with state representatives earlier in the week about consultation on our tier 1 bulkhead. I believe we were waiting to receive a response from you in response to the e mail we sent you. I would greatly appreciate anything you can do on both this issue and the clearance of no effect properties before the end of the day

---

**From:** Seth Diamond  
**Sent:** Friday, February 07, 2014 10:45 AM  
**To:** '[patricia\\_cole@fws.gov](mailto:patricia_cole@fws.gov)' ([patricia\\_cole@fws.gov](mailto:patricia_cole@fws.gov))

**Subject:** NYSHCR Section 7 Determinations for Select Properties. Review Date: Feb 4, 2013

We have been working with Steve on trying to gain approval to move forward for as many homeowner sites as we can. We had sent this to Steve indicating 27 properties received a no effect determination; 5 properties received a may affect, but is not likely to adversely affect determination. We are anxious to receive your concurrence as soon as possible. I know Steve is out until next week but if there is any way you could approve this week it would be greatly appreciated. I have also attached a related e mail

---

**From:** Shawn Williams  
**Sent:** Tuesday, February 04, 2014 3:30 PM  
**To:** Steve Papa ([steve\\_papa@fws.gov](mailto:steve_papa@fws.gov))  
**Cc:** Jennifer Wolff; [sdiamond@nyshcr.org](mailto:sdiamond@nyshcr.org)  
**Subject:** FW: NYSHCR Section 7 Determinations for Select Properties. Review Date: Feb 4, 2013

Hi Steve,

Here is a PDF version....

Thanks!

**Shawn Williams** | Wetland/Permitting Specialist  
ProSource Technologies, LLC | [swilliams@prosourceotech.com](mailto:swilliams@prosourceotech.com)  
763.786.1445 | cell: 952.913.2962 | fax 763.786.1030

---

**From:** Shawn Williams  
**Sent:** Tuesday, February 04, 2014 3:06 PM  
**To:** Steve Papa ([steve\\_papa@fws.gov](mailto:steve_papa@fws.gov))  
**Cc:** [sdiamond@nyshcr.org](mailto:sdiamond@nyshcr.org); Jennifer Wolff; Rebecca Steffen  
**Subject:** NYSHCR Section 7 Determinations for Select Properties. Review Date: Feb 4, 2013

Hello Steve,

As follow up to our discussion last Friday, We have attached the Section 7 Determinations spreadsheet, dated February 4, 2013. This spreadsheet contains the brief work descriptions at each property and the Section 7 review determination.

During the evaluation, we reviewed the project work descriptions provided in the Estimated Cost of Repair (ECR) documents, reviewed species mapping layers in Arc GIS, and completed distance measurements (between property and mapped habitat).

The attached kmz file is the same one that was sent to you last Friday, and is applicable for the properties in this spreadsheet.

To summarize, 27 properties received a *no effect* determination; 5 properties received a *may affect, but is not likely to adversely affect* determination (light purple shade).

We look forward to the USFWS response to this request for concurrence.

Regards,

**Shawn Williams** | Wetland/Permitting Specialist  
ProSource Technologies, LLC | [swilliams@prosourceotech.com](mailto:swilliams@prosourceotech.com)  
763.786.1445 | cell: 952.913.2962 | fax 763.786.1030

**Confidentiality Notice:** This e-mail message, including attachments, is for the sole use of the intended recipient(s) and may contain confidential and privileged information. Any unauthorized review, use, disclosure, or distribution is prohibited. If you are not the intended recipient, please contact the sender by reply e-mail and destroy all copies of the original message.

Like us on Facebook: <https://www.facebook.com/nystormrecovery>

Follow us on Twitter: <https://twitter.com/NYStormRecovery>

[www.stormrecovery.ny.gov](http://www.stormrecovery.ny.gov)

**Confidentiality Notice: This e-mail message, including attachments, is for the sole use of the intended recipient(s) and may contain confidential and privileged information. Any unauthorized review, use, disclosure, or distribution is prohibited. If you are not the intended recipient, please contact the sender by reply e-mail and destroy all copies of the original message.**

Like us on Facebook: <https://www.facebook.com/nystormrecovery>

Follow us on Twitter: <https://twitter.com/NYStormRecovery>

[www.stormrecovery.ny.gov](http://www.stormrecovery.ny.gov)

**Confidentiality Notice: This e-mail message, including attachments, is for the sole use of the intended recipient(s) and may contain confidential and privileged information. Any unauthorized review, use, disclosure, or distribution is prohibited. If you are not the intended recipient, please contact the sender by reply e-mail and destroy all copies of the original message.**

Like us on Facebook: <https://www.facebook.com/nystormrecovery>

Follow us on Twitter: <https://twitter.com/NYStormRecovery>

[www.stormrecovery.ny.gov](http://www.stormrecovery.ny.gov)



ANDREW M. CUOMO  
GOVERNOR

DARRYL C. TOWNS  
COMMISSIONER/CEO

NEW YORK STATE  
DIVISION OF HOUSING  
& COMMUNITY  
RENEWAL

February 3, 2014

HOUSING  
TRUST FUND  
CORPORATION

STATE OF  
NEW YORK MORTGAGE  
AGENCY

NEW YORK STATE  
HOUSING FINANCE  
AGENCY

NEW YORK STATE  
AFFORDABLE HOUSING  
CORPORATION

STATE OF  
NEW YORK MUNICIPAL  
BOND BANK AGENCY

TOBACCO SETTLEMENT  
FINANCING  
CORPORATION

Ms. Patricia Cole  
Deputy Field Supervisor  
New York Field Office  
U.S. Fish and Wildlife Service  
3817 Luker Road  
Cortland, New York 13045

**Re: Introduction of CDBG-DR NY Rising Bulkhead Repair Program for Section 7 consultation**

Dear Ms. Cole,

On August 26, 2013, New York State (NYS) Homes and Community Renewal (HCR) submitted a program update letter regarding the U.S. Department of Housing and Urban Development (HUD) Community Development Block Grant – Disaster Recovery (CDBG-DR) NY Rising Recovery Program (Program) (referred to as Housing Assistance Program in previous coordination). The letter provided an update of the expanded activities included in the Program.

The purpose of this letter is to introduce the NY Rising Bulkhead Repair Program to the USFWS. Since submittal of the previous update letter, HCR has identified bulkhead repair and replacement as activities that are eligible for CDBG-DR funding. HCR is preparing NEPA Tier 1 Programmatic Environmental Reviews (PEAs) for the Bulkhead Repair Program in various NYS counties. HCR would like to take this opportunity to engage in initial Section 7 consultation for the Bulkhead Repair Program and is requesting a response letter from USFWS, acknowledging the updated activities described in this letter.

**Program Overview**

A detailed description of the activities to be funded under the Bulkhead Repair Program has been included in **Attachment A**. A map of affected counties included in the Bulkhead Repair program, is included in **Attachment B**. As noted in previous consultation letters, the Program includes the following recovery activities:

1. Housing Recovery: This program provides funding for the repair and reconstruction of residential properties, along with funding appropriate storm mitigation measures. Rehabilitated properties within a floodplain will require raising foundations above the base flood elevation.
2. Reimbursement: As part of Housing Recover, qualifying applicants will be reimbursed for costs associated with repair of storm damaged homes that were completed before the CDBG-DR program funds were available.
3. Buyouts: Under the Buyout Program, NYS will purchase 1-2 unit storm-damaged homes, demolish existing structures on the properties, and return the properties to a natural state. These properties will remain as open space in perpetuity.
4. Acquisitions: Under the Acquisition Program, NYS will purchase 1-2 unit storm-damaged homes, leaving open the potential for future development.
5. Economic Development: Eligible businesses may receive funding for structural repairs, equipment replacement, and general economic recovery, contributing to improvement of the local economy.
6. **Bulkhead Repair: Applicants will receive funding to repair or replace storm-damaged bulkheads on residential properties. This program includes reimbursement for work that has been completed, subject to the eligibility requirements of the program.**

HCR anticipates that Section 7 coordination with the USFWS will be ongoing as applicants are identified and a program site is determined to need additional coordination for endangered species or Coastal Barrier Resources System determinations. HCR will continue to keep USFWS updated as necessary, as the Tier 2 compliance reviews are completed, and is requesting a response letter to document that coordination with USFWS is underway for the Bulkhead Repair Program.

If you have question or require additional information regarding this request, please contact me at (518) 486-3379 or [hspitzberg@nyshcr.org](mailto:hspitzberg@nyshcr.org). Thank you for your time and consideration.

Sincerely,



Heather M. Spitzberg, Esq.  
NEPA Certifying Officer  
NYS Homes and Community Renewal  
38-40 State Street  
Hampton Plaza  
Albany, NY 12207

cc. Steve Papa, USFWS  
Dana Wright, USFWS  
Jennifer Wolff, ProSource Technologies, LLC

Attachment A – Bulkhead Repair Program Description  
Attachment B- Map of affected counties included in the Bulkhead Repair Program

The NY Rising Bulkhead Repair Program for Residential Properties is designed to provide assistance for repairing damaged bulkheads on residential properties with any number of housing units, including reimbursing homeowners who have already begun repairing or have completed repairs to bulkheads.

### **Bulkhead Definitions:**

Bulkheads are defined as vertical structures constructed parallel to the shoreline or banks of a waterway, with retaining walls for the purpose preventing overtopping and flooding of the adjacent properties. Bulkheads are usually placed along an eroding bank or escapement to hold back the land and prevent erosion. Sometimes referred to as seawalls, gravity walls, quay walls, or riprap revetments, bulkheads are a long-lasting hardy structure that can stand up to moderate to high wave energy.

Residential bulkheads protect the banks and bluffs on a residential property by completely separating land from water. These bulkheads act as retaining walls, keeping the earth or sand behind them from crumbling or slumping. They also are used to resist wave action and protect property.

Bulkheads can be built in three basic types of design. They may consist of:

- 1) Thin, interlocking sheet piles driven deeply into the ground;
- 2) Individual piles used to support an aboveground structure; or
- 3) Massive gravity construction resting on the shore bottom or embedded slightly into it, supported by its own weight rather than by piling.

From these three basic design types, a wide variety of bulkhead designs have been developed. Common and uncommon types of bulkheads include:

- Common bulkheads:
  - Cantilever wall – typically used where there is no room for the installation of an anchor wall
  - Anchored wall with single layer of anchorage – most commonly used
    - Relieving platforms may be added to reduce lateral pressure
    - Batter piles may be driven to use as anchors behind the wall, but should only be considered if there is insufficient room for an anchor and the height of the walls exceeds the design parameters for a cantilever wall.
  - Soldier pile wall, also known as a “King” pile wall, consisting of piles added to the front of an anchored wall to help prevent deflection
  - Soldier beams and lagging
  - Close pile wall
  - Double wall
  - Various combinations can be used of the above general designs to meet the conditions of the site
- Some uncommon bulkhead types are listed below. They are unlikely to be encountered, but are listed for reference.
  - Railroad ties and steel H-piles
  - Treated timber
  - Untreated log

- Hogwire fencing and sandbags – this type would not meet the criteria provided in the general permit
- Used rubber tire and timber post
- Timber cribbing
- Stacked rubber tires
- Used concrete pipes
- Longard tubes
- Stacked bags
- Gabbions

#### Damage to Bulkheads

Bulkheads are susceptible to various forms of damage due to their presence in the interface between land and water. The action of water, both in front of the wall and behind it, can cause bulkhead damage. Waves that lap over the top can erode the land behind the structure as if the wall were not there, so the structure must be built high enough to prevent such overtopping. Groundwater and rain percolating through the soil may build up pressure behind the wall, eventually pushing it over. Scour at the toe of the bulkhead can undermine the structure and tip it over. Water flowing around the sides of the bulkhead can also cause severe erosion damage, so the structure should cover the entire surface that could be eroded.

Typical storm damage that has been seen from Hurricane Sandy and other similar events has included erosion of the toe of the bulkhead, washout of fill behind the bulkheads, impact damage to sheet piling or other sheeting, and the loss of decking and sheeting from flooding. Most references to historical storm events indicate that the damage incurred was an acceleration of typical wear to bulkheads.

#### **Program description:**

Residential property owners in disaster-declared counties who sustained damage to bulkheads have been invited to submit an application for assistance to repair damage caused by any of the storms identified in the Action Plan. Funding for repair and mitigation will include costs for the repair/replacement of damaged bulkheads, seawalls, quay wall, and coastal revetments. It will cover costs for unmet repair or replacement needs after accounting for all federal, state, local and/or private sources of disaster-related assistance. Assistance for repair, rehabilitation, replacement, and reimbursement funding will be capped at the lesser of a specified dollar amount to be determined by NYS, or the unmet repair, rehabilitation, replacement, and reimbursement need as described above. To direct sufficient levels of assistance to those most in need, especially low- or moderate-income and minority households, a higher overall dollar cap amount may be applied to those households of low- or moderate-income, where the need is justified.

The discussion below outlines the activities that would be carried out under the NY Rising Bulkhead Repair Program to address storm-related damage to bulkheads. The following steps will be implemented:

#### Inspection and Reporting

The condition of the existing bulkhead will be identified, and qualified personnel will determine whether to repair or replace the damaged structure. The inspector will provide photographs,

sketches, and a detailed narrative of the existing site conditions and proposed method of repair or replacement, including a cost estimate.

### Documentation

Documentation will be prepared to satisfy General Permit GP-0-13-006, which includes plans and sections. These documents may require the signature and seal of a civil and/or structural engineer.

### Activity Summary

Bulkhead repair activities will be conducted in accordance with the federally issued design criteria documents.

As project activity begins, certain portions of the existing wall that could not previously be inspected will be exposed and/or accessible, and should be assessed for additional damage. While most of these materials are unlikely to have been damaged during a storm event, depending on the age of the wall, there is the potential for wear. These previously inaccessible features include:

- Tiebacks
- Anchor walls
- Batter piles
- Relieving platforms
- Backfill
- Scour protection materials

The applicability of the existing bulkhead design to the local conditions will be reviewed. For replacement walls, the following design issues will be considered:

- Exposure to wave attack
- Foundation condition
- Scour, in particular wave reflection from vertical walls for bulkheads
- Overtopping by wave action (in particular during storm events)

During storm events, excessive waves may cause increased scour and overtopping, while debris carried in the storm event may damage walls and piles. To ensure protection during storm events, the review of existing walls and the design or replacements or repairs will include assessment of:

- Compartmentation: The design of the wall should be such to allow for repair only of the area damaged rather than the entire wall
- The potential for inundation of the backfill of the wall, which could cause wash out or subsidence, should be reviewed, and if necessary adequate drainage should be provided
- Impact to the wall, including storm debris

Methods for construction or repairs of the walls will vary based on site conditions. An example of construction methods for a sheet pile wall is provided below:

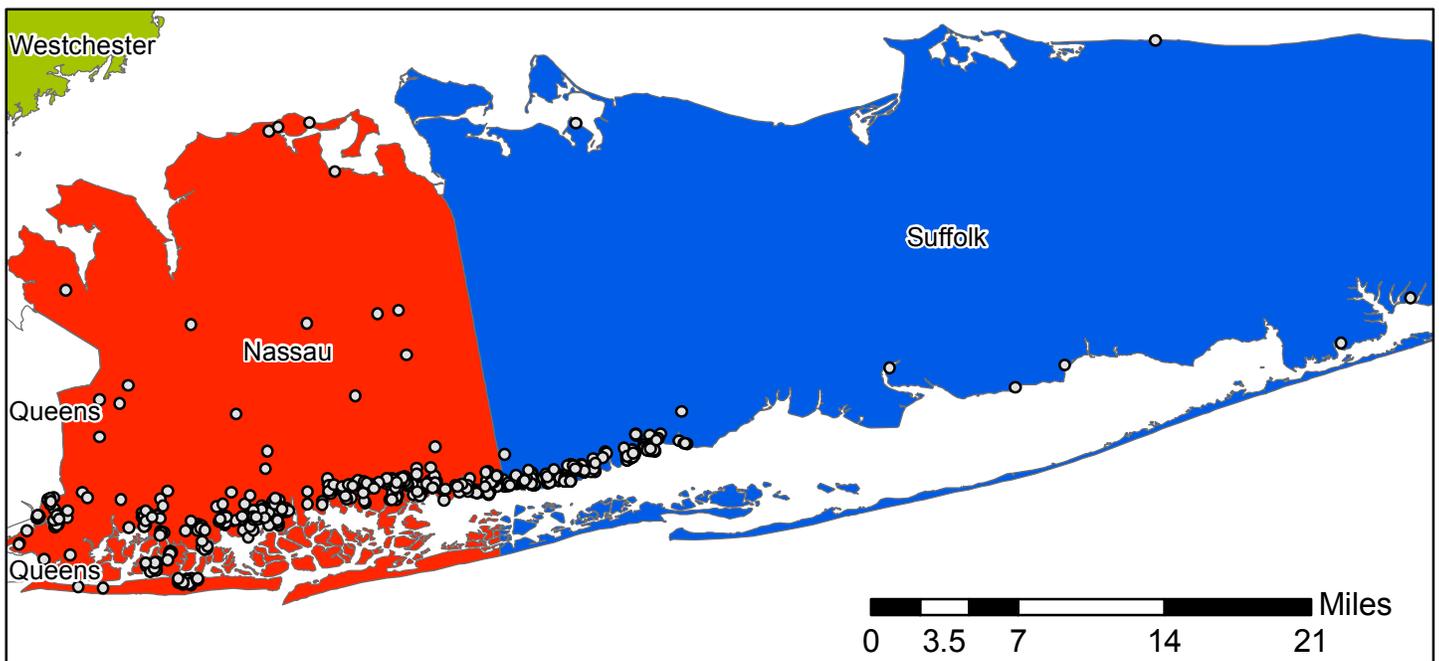
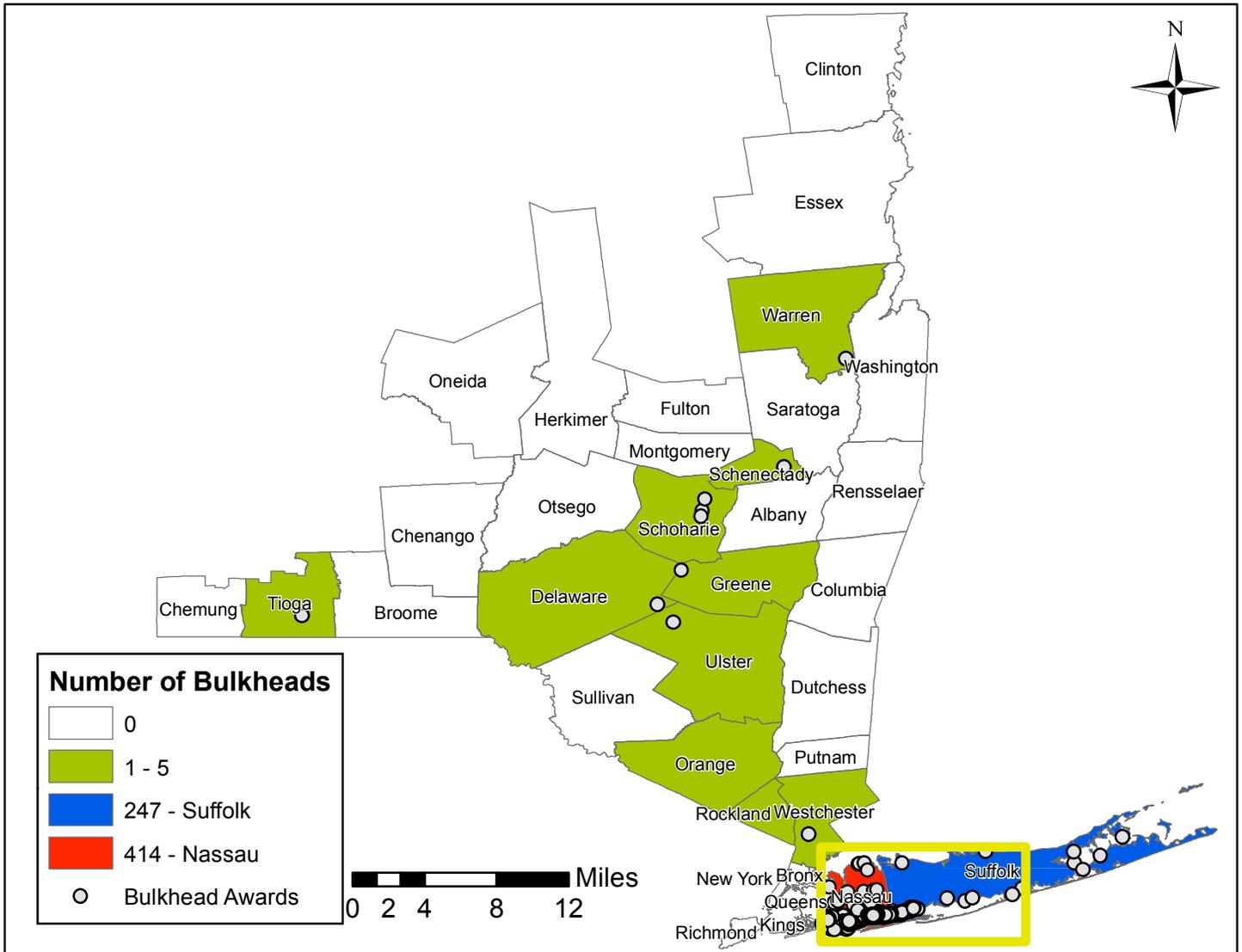
- Where removal of soft material is contemplated, dredging should precede the driving of sheet piling.

- Where existing material behind the bulkhead is to remain in place, it is advisable to dredge in front of the bulkhead after completion of the structure. This emphasizes arching in the material behind the wall and reduces bending stresses. Dredging adjacent to sheet piling after completion should be done in two or three vertical stages to avoid rapid changes and load differentials.
  - Add fill behind the wall in areas of broad extent so that the concentration of lateral pressure does not cause differential alignment along the length of the wall.
  - Consider compaction pressure due to the driving of support piles (relieving platform or track supports) behind the front wall. If dredging in front of the wall is done after the piles are driven, deflection of the wall will tend to relieve these pressures. Specify the driving sequence for such piles to avoid a progressive increase of the wedging effect.
  - Tie rods would be pre-tensioned as uniformly as is practicable. It is emphasized, however, that uniform load in the tie rods is an unlikely occurrence. The provisions relating to allowable stresses in the anchor system are intended to provide for this situation. The implications are more general, however. The anchor system must be able to deform inelastically.
  - Concrete walls and anchor walls should be reinforced on both faces and not simply in accordance with the theoretical moment diagram. The use of high steel in tie rods should be approached with caution to assure that the steel is capable of several percent elongation without fracture.
  - Where the anchorage depends on passive earth pressure, place and compact backfill around the anchorage before filling against the bulkhead.
- 
- In the filling of a relieving platform-type structure, the area at the back end of the platform should be filled to deck level, the deck placed over the batter piles, and filling continued to grade. This will provide load on the batter piles to assist in resisting the tension which will be caused by the tension in the tie rod. The deck area adjacent to the sheets may then be placed and fill completed.
  - When placing hydraulic fill, the discharge line should be located on or in front of the anchorage line. Drainage openings should be provided in sheet piles at about 100 foot (30.5 meter) intervals.
    - Depending on the wall type, a coffer dam may be necessary to perform repairs or construction.
    - For the installation of sheet piles, it is important to ensure that the base of the pile has been adequately seated to prevent deflection of the wall.
  - In a soft bottom, it should be possible to develop adequate toe resistance while driving the pile to adequately seat the pile. If adequate toe resistance cannot be obtained, excavating and replacing of the bottom should be considered
  - In a hard bottom with shallow impenetrable material, consider using soldier piles for support or trenching for the base of the wall.
  - Various materials are available for construction of the front wall. For the majority of the materials, such as steel, timber, and concrete, standard pile and sheet piling techniques, as well as the manufacturer's recommendation, will insure proper

installation. More recently, newer materials, including galvanized corrugated sheet metal, corrugated fiberglass, and corrugated aluminum have become available on the market. The use of these materials at existing locations should be reviewed based on:

- Freeze thaw cycles
  - Corrosion
  - Marine borers
  - Ultraviolet light reactions
  - Abrasion
  - Wave and ice forces
- It is recommended that regardless of the materials selected, the manufacturer should be consulted for proper installation techniques.
  - For the construction of the anchorage, a simple concrete wall or sheet pile deadman should be used. If there is limited area, pile-supported anchorage (batter piles) may be used, but this should be a last resort.

# Number of Bulkhead Awards by County



**From:** [Shawn Williams](#)  
**To:** [Cole, Patricia \(patricia\\_cole@fws.gov\)](#); [Steve Papa \(steve\\_papa@fws.gov\)](#); [Wright, Dana](#)  
**Cc:** [Jennifer Wolff](#); [Rebecca Steffen](#)  
**Subject:** New York State Homes and Community Renewal (NYSHCR) CDBG-DR Program Update- Introduction of Bulkhead Repair and Replacement Program - Section 7 and CBRS  
**Date:** Thursday, January 30, 2014 1:35:01 PM  
**Attachments:** [NY Rising Bulkhead Repair Program Description 1-30-2014.pdf](#)  
[AwardedBulkheads\\_County\\_172014.pdf](#)  
[USFWS\\_CDBG-DR\\_UpdateLetter\\_8-26-2013.pdf](#)

---

Good Afternoon Patricia, Steve, and Dana,

On behalf of NYSHCR, we are contacting the USFWS to introduce the Bulkhead Repair and Replacement program (description is attached). Previous correspondence has also been attached for reference, as a reminder of the previous programs coordinated. As you are aware, NYSHCR has been conducting reviews for Section 7 and CBRS compliance, and has been coordinating with USFWS regarding properties that require USFWS review for the ongoing 1-4 unit rehab program.

Since the August 26, 2013 program coordination letter was provided to USFWS, NYSHCR has determined that a Bulkhead Repair and Replacement program is necessary to incorporate under the greater CDBG-DR program being implemented in various counties throughout the State (attached map). Many residents had storm-related damage to their bulkheads. Accordingly NYSHCR is introducing this program, which allows qualifying participants to receive CDBG-DR funds to repair or replace their bulkheads. The attached map shows approximately 700 applicants for the bulkhead repair program, throughout the disaster-declared counties, and is subject to refinement as applicants are identified.

Therefore, as part of the Tier 1 Environmental Review Record being prepared for this program (action), we are providing USFWS notice of this program. We are requesting a written response from USFWS, acknowledging the Bulkhead repair program, as well as any specific conditions or requirements NYSHCR will need to comply with (that haven't already been identified in past correspondence), as the program is implemented. Coordination has been initiated with the National Marine Fisheries Service-Northeast Region for Section 7 and Essential Fish Habitat, for the Bulkhead repair program.

We look forward to working with USFWS as this program develops.

Please let us know if you have questions or require additional information.

Thank you,

**Shawn Williams** | Wetland/Permitting Specialist  
ProSource Technologies, LLC | [swilliams@prosourcetech.com](mailto:swilliams@prosourcetech.com)  
763.786.1445 | cell: 952.913.2962 | fax 763.786.1030



# United States Department of the Interior

## FISH AND WILDLIFE SERVICE

3817 Luker Road  
Cortland, NY 13045



September 25, 2013

Ms. Heather M. Spitzberg  
NEPA Certifying Officer  
NYS Home and Community Renewal  
38-40 State Street, Hampton Plaza  
Albany, NY 12207

Dear Ms. Spitzberg:

This is the U.S. Fish and Wildlife Service's (Service) response to your correspondence dated August 26, 2013, concerning early coordination for Endangered Species Act (ESA) (87 Stat. 884, as amended; 16 U.S.C. 1531 *et seq.*) review of the U.S. Department of Housing and Urban Development's (HUD) Community Development Block Grant-Disaster Recovery Program, administered by the New York State Homes and Community Renewal Program (NYSHCR). Specifically, your letter introduced additional program elements including economic development, rehabilitation of 5+ unit homes, rehabilitation of 1-4 unit homes reimbursement, and buy-out/acquisitions for inclusion in the ESA consultation.

The Service has contributed to NYSHCR's initial request for ESA consultation including participation in teleconferences, providing written correspondence dated August 6, 2013, acknowledging NYSHCR's consultation request, as well as providing NYSHCR with Google Earth kml and Geographical Information System (GIS) files on the location of federally-listed species including the piping plover (*Charadrius melodus*; threatened), roseate tern (*Sterna dougallii dougallii*; endangered), seabeach amaranth (*Amaranthus pumilus*; threatened), and sandplain gerardia (*Agalinus acuta*; endangered) breeding and growing areas for Nassau, Suffolk, Queens, and Kings County, New York. We are developing polygons showing habitat utilized by red knot (*Calidris canutus rufa*), a candidate for protection under the ESA.

The purpose of this letter is to acknowledge NYSHCR additional program elements as noted above and to provide preliminary comments on NYHCR ESA determination worksheet that was provided at the end of your August 26, 2013, letter.

### **Service Comments on NYSHCR Endangered Species Act Determination Worksheet**

*Bullet 1, First paragraph, second sentence:* It is correct that the Service provided and will continue to update and inform NYSHCR about endangered species areas in their program area,

but please note that pursuant to section 7 of the ESA, it is the responsibility of the action agency, in this case HUD or its non-federal designee, to determine whether a proposed activity may affect listed species.

The piping plover, seabeach amaranth, and roseate tern utilize the coastal barrier island habitats along the south shore of Long Island, with only a couple of bay side breeding areas located on the mainland shoreline in middle to eastern Suffolk County. Sandplain gerardia is an upland grassland species found in discrete locations in Nassau and Suffolk Counties. The piping plover also utilizes Long Island Sound beaches along the north shore of Long Island from Manhasset Bay to Orient Point, and shorelines within the Peconic Bay system. Seabeach amaranth and sandplain gerardia growing areas and roseate tern breeding areas are not found along the north shore of Long Island. However, seabeach amaranth's range is similar to that of the piping plover on the Atlantic Ocean beaches. Several small colonies of roseate terns can be found within the Peconic Bay system, with the largest colony occurring on Great Gull Island.

*First paragraph, sentence 3:* NYSHCR did not provide a justification for using a 200 feet (ft) buffer zone for analyzing project impacts to listed species. We agree that this may be appropriate and reasonable in the case of listed plant species for certain types of program activities. However, we would advise against the use of 200 ft buffer zones for piping plover and roseate terns, as program activities may result in adverse effects under this scenario. Therefore, we recommend that HUD undertake further consultation with the Service for projects within a 1000 meter (m) of plover and tern breeding areas, as both species have the ability to move around the landscape in search of feeding, breeding, and sheltering areas.

*Bullet 2, First paragraph:* See comment above regarding the Service recommendation to increase the buffer zone to 1000 m.

*Bullet 2, sub-bullet 2, paragraph 1, sentence 1:* Please describe "area of concern for the species."

In conducting its analysis, NYSHCR should evaluate the potential impacts of its program considering direct and indirect effects on listed species. In most cases, direct effects, such as species' disturbance due to re-construction activities, can be avoided by undertaking activities outside of the breeding and growing season. For piping plover and roseate tern, this period is from April 1 to September 1. The seabeach amaranth and sandplain gerardia season extends from May 1 to November 1. Indirect effects, such as man-induced changes in habitat or land use which result in adverse effects to listed species, would require further consultation with the Service.

If you have any questions or require further information, please have your staff contact Steve Papa of the Long Island Field Office at (631) 286-0485 ext. 2120.

Sincerely,

*for Patricia Cole*  
David A. Stilwell  
Field Supervisor



ANDREW M. CUOMO  
GOVERNOR

DARRYL C. TOWNS  
COMMISSIONER/CEO

NEW YORK STATE  
DIVISION OF HOUSING  
& COMMUNITY  
RENEWAL

HOUSING  
TRUST FUND  
CORPORATION

STATE OF  
NEW YORK MORTGAGE  
AGENCY

NEW YORK STATE  
HOUSING FINANCE  
AGENCY

NEW YORK STATE  
AFFORDABLE HOUSING  
CORPORATION

STATE OF  
NEW YORK MUNICIPAL  
BOND BANK AGENCY

TOBACCO SETTLEMENT  
FINANCING  
CORPORATION

August 26, 2013

Ms. Patricia Cole  
Deputy Field Supervisor  
New York Field Office  
U.S. Fish and Wildlife Service  
3817 Luker Road  
Cortland, New York 13045

**Re: Early Coordination for Section 7 Review for U.S. Department of Housing and Urban Development (HUD) Community Development Block Grant-Disaster Recovery (CDBG-DR) Housing Assistance Program, administered by New York State Homes and Community Renewal (NYSHCR): Program Update, and Introduction of Economic Development, Rehabilitation of 5+ Unit Homes, Rehabilitation of 1-4 Unit Homes Reimbursement and Buy-Out/Acquisition for all Affected Counties.**

Dear Ms. Cole:

On July 18, 2013 New York State Homes and Community Renewal (NYSHCR) submitted a Program Introduction letter regarding the U.S. Department of Housing and Urban Development (HUD) Community Development Block Grant – Disaster Recovery (CDBG-DR) Housing Assistance Program (Program). A response letter acknowledging the Program, and providing Endangered Species Act (ESA) information, was provided by the U.S. Fish and Wildlife Service-New York Field Office (USFWS), dated August 7, 2013.

NYSHCR is providing this letter to USFWS to introduce the aforementioned actions of the overall CDBG-DR Program. Since submittal of the July 18, 2013 letter, these actions have been identified as a priority for the Program, and NYSHCR is proceeding with preparation of the Environmental Review Records (ERR) for all of these actions. Program descriptions, which constitute the actions, are included in **Attachment A**.

As outlined in the *State of New York Action Plan for Community Development Block Grant Program Disaster Recovery* (Action Plan), the vast majority of the storm-damaged properties are located in Nassau, Suffolk, Kings, and Queens Counties. A list of affected counties included in the CDBG-DR program and the specific programs (and associated ERRs) planned for each of these counties is included in **Attachment B**.

The primary purpose of this letter is to inform the USFWS that NYSHCR would like to work with the USFWS to develop an agreed-upon compliance process so that NYSHCR, as the Responsible Entity (RE), can accurately determine Section 7 compliance at the Tier 2 level of review. NYSHCR is requesting whether a standardized species habitat matrix table (sorted by county), maps, and/or GIS data, may be adopted as the compliance tool for Tier 2 reviews.

A draft Excel table and a draft Tier 2 Site-Specific Checklist (Wildlife Section) are included in **Attachment C**, for consideration. The USFWS website is the source of the information in the table. In previous discussions between ProSource and USFWS, a species matrix table, sorted by county, was considered but was not adopted for the CDBG-DR Program.

NYSHCR is requesting a program comprehensive response letter from USFWS, covering all actions, that can be included in all Tier 1 ERRs to document that coordination with USFWS is being completed, and that Compliance with Section 7 will be completed during Tier 2 site specific review. As soon as reasonably possible, we would like to work with USFWS to develop a suitable tool for Tier 2 compliance. NYSHCR has begun Tier 2 site-specific reviews for the Program and an approved process needs to be ready for implementation.

If you have question or require additional information regarding this request, please contact me at (518) 486-3379 or [hspitzberg@nyshcr.org](mailto:hspitzberg@nyshcr.org). Thank you for your time and consideration.

Sincerely,

A handwritten signature in blue ink that reads "Heather Spitzberg". The signature is written in a cursive style.

Heather M. Spitzberg, Esq.  
NEPA Certifying Officer  
NYS Homes and Community Renewal  
38-40 State Street  
Hampton Plaza  
Albany, NY 12207

cc. Chris Leo, NYHCR  
Steve Papa, USFWS

Attachment A - Program Descriptions  
Attachment B- List of Affected and Actions for Counties Included in the CDBG-DR Program  
Attachment C- Species Matrix Table for Affected NY Counties

## **Attachment A- Program Descriptions**

The *State of New York Action Plan for Community Development Block Grant Program Disaster Recovery* (Action Plan), issued April 25, 2013, is used as the overall reference for these programs and is incorporated by reference into these project descriptions. The *State of New York Action Plan for Community Development Block Grant Program Disaster Recovery*, dated April 2013 (Federal Register Docket # FR-5696-N-01) may be referenced at: <http://www.nyshcr.org/Publications/CDBGActionPlan.pdf>.

### **Buyout/Acquisition**

An overview of each activity under the program covered by this document is provided below. This program applies to 1- and 2-unit residential properties.

#### **Voluntary Buyouts and Acquisitions of One- and Two-unit Homes**

The Recreate NY Home Buyout Program will include the purchase of eligible substantially damaged properties (>50% of the pre-storm value of the property) inside the floodplain in storm-impacted areas.

Certain highest risk areas in the floodplains, determined to be among the most susceptible to future disasters and that therefore present a greater risk to people and property, will be identified by the State and its local partners for the purposes of this program as enhanced buyout areas (see below). The State will conduct purchases inside of the enhanced buyout areas as “buyouts,” as defined by HUD, whereby they will be eligible for purchase starting at 100% of the property’s pre-storm fair market value (FMV), plus available incentive(s) as outlined below.

The State intends to conduct most purchases outside of the enhanced buyout areas as “acquisitions,” as defined by HUD, whereby purchase offers must begin with the post-storm FMV of the property.

In accordance with the notice governing the use of these funds, properties purchased as a “buyout” will be maintained in perpetuity as coastal buffer zones, while properties purchased as “acquisitions” will be eligible for redevelopment in the future in a resilient manner to protect future occupants of this property. The post-purchase fate of most acquired properties will be determined by the State in consultation with local officials to ensure that the properties best serve the future goals of the community. In some cases, the properties will remain undeveloped and be transformed into parks or other non-residential uses, while in most cases they will be redeveloped in a resilient manner.

#### **Enhanced Buyout Areas**

Enhanced buyouts in select pre-defined targeted buyout areas, which will be determined in consultation with county and local governments, will include an incentive(s) ranging from 5%-15% on top of the pre-storm FMV of property acquired through the buyout program. Reconstruction may not occur on lots in these areas. Lots will be maintained as coastal buffer

zones or other non-residential/commercial uses; there may also be acquisition of vacant or undeveloped land in these targeted areas.

### **Program Activities**

Summarized in the sections below are the physical program activities:

#### Buyout

Following purchase of the property, the land would remain open space in perpetuity. As applicable, structures on the properties would be removed. The Housing Trust Fund Corporation would hold title to the property until the property is transferred to another owner, but will retain restrictions on use.

#### Acquisition

Following purchase of the property, the land may be developed in a resilient manner. The Housing Trust Fund Corporation would hold title to the property until the property is transferred to another owner for development.

### **Rehabilitation 1-4 Units and 5+ Units**

In response to the damage caused by Hurricane Sandy and other natural disasters that occurred across the nation in 2011, 2012, and 2013, homeowners of disaster-declared counties who sustained damage will be invited to submit an application for assistance. The Recreate New York Smart Homes Project activities to be funded by CDBG-DR have been designed to provide assistance for repairing damaged property, reconstructing damaged homes, and mitigating damaged properties for future resilience.

The specific actions include rehabilitation and reconstruction of moderate, major, and substantial storm-damaged structures and elevation to the required advisory base flood elevation plus freeboard as required by each community's floodplain ordinance as further described in the Floodplain Management Document. It is anticipated that the renovations and elevations will take place within the existing footprint of the structure (unless elevation is not technically feasible without alteration of the footprint), and no additional structures will be built upon each approved project parcel. Under this program, the expansion of the structure may not exceed 20% of the original pre storm footprint. The structure must remain 1-4 units in size after rehabilitation or reconstruction.

Wherever allowable by local building codes and any other law and/or regulation, homeowners will be allowed to choose whether to repair the original home, or rebuild (reconstruct) a new home in its place. However, only funding for the more cost-effective option will be provided.

#### Reimbursement

The program may also provide reimbursements for homeowners of one- to four-unit buildings that have started or completed Hurricane Sandy-related rehabilitation work with personal resources, subject to restrictions in line with applicable laws, regulations, and the program requirements (e.g., eligibility criteria, grant restrictions). Reimbursement is contingent on compliance with Recreate NY 1-4 Unit Rehabilitation requirements discussed above

### **Economic Development Program Description**

The applicable programs from the Action Plan are:

- Small Business Grant Program
- Small Business Loan Program
- Coastal Fishing Industry Program
- Seasonal Tourism Industry Program

An overview of each program covered by this document is provided below.

#### **Small Business Grant Program**

This program will provide funding grants to eligible businesses for purchase or repair of equipment, renovation of damaged or destroyed facilities, mitigation actions to protect businesses from future storms, and the following activities identified in Section 4 of the Action Plan:

- Purchase of equipment, materials, inventory, furniture, fixtures
- Employee training
- Acquisition of real property
- Working capital
- Construction, rehabilitation, reconstruction of buildings)
- Engineering, architectural, and/or design costs
- Infrastructure directly associated with economic development activities
- Technical assistance
- Any other eligible business related activity (requires State consultation and approval)
- Marketing and outreach to solicit applications from businesses eligible for any of the State's proposed programs

#### **Small Business Loan Program**

This program will provide loans to eligible businesses for purchase or repair of equipment, renovation of damaged or destroyed facilities, mitigation actions to protect businesses from future storms, and other activities identified in Section 4 of the Action Plan.

#### **Coastal Fishing Industry Program**

This program will provide funding to businesses and individuals qualified as a Coastal Fishing Industry. Details of this program are included on page 50 of the Action Plan.

#### **Seasonal Tourism Industry Program**

This program will provide funding to eligible seasonal tourism businesses. Details of this program are also included on page 50 of the Action Plan.



## FEDERAL ENDANGERED AND THREATENED SPECIES KNOWN TO OCCUR IN STORM-AFFECTED COUNTIES

<b>Common Name</b>	<b>Scientific Name</b>	<b>Status</b>	<b>Distribution</b>	<b>Storm-Affected Counties</b>
				Albany
<b>FISHES</b>				
Sturgeon, Shortnose*	<i>Acipenser brevirostrum</i>	E	Hudson River & Atlantic Coastal Rivers	X
<b>REPTILES</b>				
Turtle, bog	<i>Clemmys [=Glyptemys] muhlenbergii</i>	T		X
Turtle, green*	<i>Chelonia mydas</i>	T	Oceanic summer visitor coastal waters	
Turtle, hawksbill*	<i>Eretmochelys imbricata</i>	E	Oceanic summer visitor coastal waters	
Turtle, leatherback*	<i>Dermochelys coriacea</i>	E	Oceanic summer resident coastal waters	
Turtle, loggerhead*	<i>Caretta caretta</i>	T	Oceanic summer resident coastal waters	
Turtle, Atlantic ridley*	<i>Lepidochelys kempii</i>	E	Oceanic summer resident coastal waters	
<b>BIRDS</b>				
Eagle, bald	<i>Haliaeetus leucocephalus</i>	T		X
Plover, piping (Atlantic Coast Population)	<i>Charadrius melodus</i>	T	Coastal sites (Atlantic Coast)	
Tern, roseate	<i>Sterna dougallii dougallii</i>	E	Southeastern coastal portions of state	
<b>MAMMALS</b>				
Bat, Indiana	<i>Myotis sodalis</i>	E		X
Cougar, eastern	<i>Felis concolor couguar</i>	E	Probably extinct	X
<b>MOLLUSKS</b>				
Mussel, dwarf wedge	<i>Alasmidonta heterodon</i>	E	lower Neversink River	
<b>BUTTERFLIES</b>				
Butterfly, Karner blue	<i>Lycaeides melissa samuelis</i>	E		X
<b>PLANTS</b>				
Monkshood, northern wild	<i>Aconitum noveboracense</i>	T		
Pogonia, small whorled	<i>Isotria medeoloides</i>	T		X
Swamp pink	<i>Helonias bullata</i>	T	Staten Island - presumed extirpated	
Gerardia, sandplain	<i>Agalinis acuta</i>	E		
Amaranth, seabeach	<i>Amaranthus pumilus</i>	T	Atlantic coastal plain beaches	
E=endangered T=threatened P=proposed C=candidate				<b>Bold = m</b>
* = Except for sea turtle nesting habitat, principal responsibility for these species is vested with NMFS				







## Endangered Species Act

- The proposed eligible activity does not affect the (specie[s]). The USFWS defined the geographic area of concern where project activities may affect the (specie[s]). Based upon initial findings, there is no potential impact on the (specie[s]) because the proposed project site is located outside of the (species'/specie's) mapped buffer zone(s) (area[s] of concern plus a 200-foot buffer zone). See attached (map name).
- The proposed eligible activity may affect the (specie[s]). Based upon comparison of the proposed project site location with the (species'/specie's) mapped buffer zone(s) (area[s] of concern plus a 200-foot buffer zone), it has been determined that (check one):
  - The proposed project site is located within the mapped buffer zone, but not the area of concern for the (specie[s]). Proposed eligible project activities cannot proceed during the (season) which occurs from (dates). *(If an optional USFWS consultation was conducted then include the following language: The USFWS finding stated/concluded \_\_\_\_\_.* The proposed project site map and the USFWS biologist's finding are attached.)
  - The proposed project site is located within the area of concern for the (specie[s]). Proposed eligible project activities cannot proceed during the (season) which occurs from (dates) and will require USFWS consultation. The USFWS finding stated/concluded \_\_\_\_\_. The proposed project site map and the USFWS biologist's finding are attached.
    - Consultation with the USFWS resulted in a determination that (check one):
      - The proposed eligible activity incorporating appropriate measures to avoid adverse impacts would not adversely affect the (specie[s]). (Explain how this conclusion was reached and describe mitigation measures.) The (supporting documentation) is/are attached.
      - The proposed eligible activity would adversely affect the (specie[s]). (Explain how this conclusion was reached.) The (supporting documentation) is/are attached. *Activity is not in compliance.*



# United States Department of the Interior



## FISH AND WILDLIFE SERVICE

3817 Luker Road  
Cortland, NY 13045

August 7, 2013

Ms. Heather M. Spitzberg  
NEPA Certifying Officer  
NYS Homes and Community Renewal  
38-40 State Street, Hampton Plaza  
Albany, NY 12207

Dear Ms. Spitzberg:

This responds to your July 18, 2013, letter requesting informal consultation with the U.S. Fish and Wildlife Service (Service) pursuant to section 7 of the Endangered Species Act (ESA) of 1973 (87 Stat. 884, as amended; 16 U.S.C. 1531 *et seq.*), the Bald and Golden Eagle Protection Act (BGEPA) (16 U.S.C. 668-668d), and the Migratory Bird Treaty Act (MBTA) (16 U.S.C. 703-712; Ch. 128; July 13, 1918; 40 Stat. 755) for the U.S. Department of Housing and Urban Development's (HUD) Community Development Block Grant - Disaster Recovery Housing Assistance Program (CDBG-DR).

In a letter to the Service dated July 23, 2013, HUD certified New York State Homes and Community Renewal (NYSHCR) with the authority to assume all federal responsibilities for all National Environmental Policy Act (42 U.S.C. 4321 *et seq.*) and related environmental laws and authorities as identified in HUD regulation 24 Code of Federal Regulations (CFR) 58.5. Consultation arising from activities funded under this program will be conducted directly by NYSHCR in accordance with the assumption authority of 24 CFR 58.4.

### **Program Description**

NYSHCR developed the "*State of New York Action Plan for Community Development Block Grant Program Disaster Recovery*," (Action Plan) in April 2013. This is a large-scale program that will encompass several counties throughout New York and will implement specific federal actions related to the program including:

1. Rehabilitation and repair of one- to four-unit homes, five- to nine-unit buildings, and commercial properties. Rehabilitated properties within a floodplain will require raising foundations above the base flood elevation;

2. Buy-out of storm-damaged properties (result in demolition and return to green space for perpetuity); and
3. Acquisition of damaged properties (result in demolition and options for future land use).

### **Nassau and Suffolk Counties**

Presently, NYSHCR is preparing an amended Programmatic Environmental Assessment (PEA) for reconstruction and rehabilitation of one- to four-unit homes in Nassau and Suffolk Counties. The one- to four-unit actions will cover participating homeowners at various locations within the boundaries of Nassau and Suffolk Counties. NYSHCR will restore storm-damaged homes, including elevation and/or other mitigation activities within the original footprint of the structure(s). No new construction or housing developments will occur as a result of the rehabilitation of one- to four-unit homes. NYSHCR anticipates a Negative Declaration and Finding of No Significant Impact (FONSI) for these actions.

### **Endangered Species Act Section 7 Consultation**

The ESA requires that the “action agency,” in this case NYSHCR which is acting as HUD’s designated representative, make a determination of effect to any federally listed species or designated critical habitat that may occur as a result of any action that is funded, authorized, or carried out by that agency. This determination for listed species results in one of the following outcomes:

- (1) No Effect, in which case no concurrence from the Service is necessary;
- (2) May Affect, but Not Likely to Adversely Affect (NLAA), which requires the Service’s written concurrence, or
- (3) May Affect, Likely to Adversely Affect (LAA), which requires formal consultation with the Service and results in the Service’s issuance of a biological opinion.

If a project is likely to adversely affect a listed species, formal consultation with the Service should be initiated as soon as practicable. Note, if NYSHCR determines after their review that there are a significant number of LAAs, then we recommend that formal programmatic consultation be initiated in order to streamline and facilitate the completion of this obligation. Please note that the ESA provides for 90 days to complete consultation and 45 days to produce the final biological opinion, for a total of 135 days.

Any additional information regarding specific projects and their potential to impact state-listed species should also be coordinated with the New York State Department of Environmental Conservation (NYSDEC). The NYSDEC Wildlife Diversity Unit is located at 625 Broadway, Albany, NY 12233 (telephone (518) 402-8859). For additional information on fish and wildlife resources or state-listed species, we suggest you contact the appropriate NYSDEC regional office(s).\*

As noted in your letter, the current priority, as outlined in the Action Plan and expressed to the Service in an interagency conference call on July 30, 2013, is one- to four-unit homes and buyouts in Nassau and Suffolk Counties. However, we understand through coordination with ProSource Technologies, LLC., on August 5, 2013, that your agency is also interested in including Rockland County in the list of priority locations at this time.

We are including information relative to the following counties in order to assist your agency conduct the necessary environmental evaluations and species determinations: New York, Bronx, Westchester, Rockland, Richmond, Kings, Queens, Nassau, and Suffolk.

#### *New York, Bronx, Richmond, and Kings Counties*

Federally-listed species under the jurisdiction of the Service are not present in these counties, therefore, no further consultation is required with the Service at this time. We recommend you visit the Service's website at <http://www.fws.gov/northeast/nyfo/es/section7.htm> every 90 days for updated information.

#### *Queens, Nassau, and Suffolk Counties*

There are three federally-listed species that are known to occur in the coastal areas of Queens, Nassau, and Suffolk Counties – the piping plover (*Charadrius melodus*; threatened), the roseate tern (*Sterna dougallii dougallii*; endangered), and the seabeach amaranth (*Amaranthus pumilus*; threatened). Sandplain gerardia (*Agalinus acuta*; endangered) is an annual plant that is also protected under the ESA and is found in several upland grassland habitats in Nassau and Suffolk Counties.

The red knot (*Calidris canutus rufa*) is a candidate species for listing under the ESA. Candidate species are plant and animal taxa considered for possible addition to the List of Endangered and Threatened Species. These are taxa for which the Service has on file sufficient information on biological vulnerability and threat(s) to support issuance of a proposal to list, but issuance of a proposed rule is currently precluded by higher priority listing actions (61 FR 7596-7613 [February 28, 1996]). While candidate species are not afforded protection under the ESA, the Service encourages their consideration in environmental planning. If impacts to candidate species can be avoided, the likelihood that they will require the protection of the ESA in the future may be reduced.

Piping plovers are distributed across the Atlantic Ocean beaches from Queens to eastern Suffolk County and north shores of Nassau and Suffolk Counties as well as throughout the Peconic Bay ecosystem in eastern Suffolk County. Along the south shore, piping plovers are present from March to September on Atlantic Ocean beaches from Rockaway Inlet in Queens to Montauk Point in eastern Suffolk County. Piping plovers are not present during this time along the northern shorelines of Jamaica Bay, Great South Bay (except for Roe Avenue County Park in East Patchogue), Moriches Bay, and Shinnecock Bay (except for Middle Pond Inlet).

Along the north shore of these counties, piping plover are not present in Queens County, but are present from March to September at discrete locations from Manhasset Bay to Orient Point in the counties of Nassau and Suffolk, respectively.

In the Peconic Bay System between the north and south forks of Long Island, piping plovers are present from March to September at discrete locations along the shoreline from Orient Point to Montauk Point, including bay islands such as Plum Island, Shelter Island, Robins Island, and Gardiner's Island.

Seabeach amaranth is only present on the Atlantic shoreline of Long Island from May to November.

The vast majority of breeding roseate terns are restricted to Great Gull Island, with smaller satellite colonies located on several small islands in the Peconic Bay System.

Sandplain gerardia is extremely limited in its distribution and occurs on upland habitats managed by Nassau County, the Service's National Wildlife Refuge, the New York State Office of Parks and Recreation, and the Town of East Hampton.

Red knots utilize extensive tidal flat areas for migratory stopover areas from May to September within Jamaica Bay, Rockaway Inlet, East Rockaway Inlet, Jones Inlet, Fire Island Inlet, Moriches Inlet, and Shinnecock Inlet.

Small whorled pogonia (*Isotria medeoloides*; historic; threatened) may be present in Nassau and Suffolk Counties.

#### *Rockland and Westchester Counties*

The New England cottontail (*Sylvilagus transitionalis*) is a candidate species that may be present in Rockland and Westchester Counties.

The bog turtle (*Clemmys [=Glyptemys] muhlenbergii*; threatened) may be present in both Rockland and Westchester Counties.

The Indiana bat (*Myotis sodalis*; threatened) may be present in Westchester County.

Small whorled pogonia may be present in Rockland County.

#### **Bald and Golden Eagle Protection Act**

NYSHCR should refer to the Service's Bald Eagle Management Guidelines, found on the Service's website at <http://www.fws.gov/northeast/nyfo/es/step6.htm> for information on avoiding and minimizing impacts to bald eagles (*Haliaeetus leucocephalus*) and their nests, if found within a NYSHCR project area. In such cases, we recommend that NYSHCR contact the Service to see whether a permit is required under BGEPA. Within the Action Plan area that includes

Long Island, the Service is only aware of one pair of bald eagles present within the Wertheim National Wildlife Refuge in Shirley, NY. The bald eagle is also present in Rockland and Westchester Counties, and in Inwood Hill Park in New York County.

### **Migratory Bird Treaty Act**

The MBTA implements four treaties that provide for international protection of migratory birds and prohibits taking, killing, possession, transportation, and importation of migratory birds, their eggs, parts, and nests. Take (*i.e.*, killing) of migratory birds by any person constitutes a violation of MBTA. While MBTA has no provisions for authorizing take, we recognize that some birds may be killed even if all reasonable measures to avoid it are implemented. Therefore, the Service will provide technical assistance to NYSHCR when funding post-storm projects to ensure that the proposed projects avoid and minimize impacts to migratory birds to the greatest extent possible.

### **Coastal Barrier Resources Act**

The Service notes that in addition to consultation pursuant to section 7 of the ESA, consultation is also required by the Coastal Barrier Resources Act (CBRA) of 1982, as amended (96 Stat. 1653, as amended; 16 U.S.C. 3501 *et seq.*). Federal agencies are required to consult with the Service prior to committing funds for projects or actions within or affecting the Coastal Barrier Resources System (CBRS). Below is the general process and guidelines for CBRA consistency consultations.

#### Coastal Barrier Resources Act Process

Federal agencies must first determine whether a proposed project or action is located within a CBRS unit or an Otherwise Protected Area (OPA) of the CBRS. If a proposed project is located close to a CBRS boundary, the federal funding agency may request assistance from the Service to determine whether the proposed project or action is located within the CBRS. Further consultation with the Service is not needed if the proposed project or action is located within an OPA and is not related to federal flood insurance. The only federal spending prohibition within OPAs is the prohibition on federal flood insurance; other federal expenditures are permitted.

If the proposed project or action is within or will affect a System unit, the federal agency must consult with the Service to determine whether or not any of the Section 6 exceptions under CBRA (16 U.S.C. § 3505) are applicable. If none of CBRA's exceptions are applicable, the proposed project should not proceed with federal funding. The Service's response to a consultation request is advisory only. The funding agency is responsible for complying with the provisions of CBRA. A description of the limitations on federal expenditures and the exceptions to these limitations is at the Service's website found at <http://www.fws.gov/cbra/Consultations/Limitations-and-Exceptions.html>.

Thank you for the opportunity to provide assistance. For further assistance, please contact Mr. Steve Papa at our Long Island Field Office at 631-286-0485.

Sincerely,

*for Patricia Cole*  
David A. Stilwell  
Field Supervisor

\*Additional information referred to above may be found on our website at:  
<http://www.fws.gov/northeast/nyfo/es/section7.htm>

**Appendix T:**  
**USACE Coordination and Permits**



DEPARTMENT OF THE ARMY  
NEW YORK DISTRICT, CORPS OF ENGINEERS  
JACOB K. JAVITS FEDERAL BUILDING  
26 FEDERAL PLAZA  
NEW YORK, NEW YORK 10278-0090

*c. Ms. Wolff*  
FEB 26 2014

Reply to:  
Regulatory Branch

Subject: New York Rising Bulkhead Repair Program

Ms. Heather M. Spitzberg, Esq.  
NEPA Certifying Officer  
New York State Homes and Community Renewal  
38-40 State Street  
Hampton Plaza  
Albany, New York 12207

Dear Ms. Spitzberg:

The New York District of the U.S. Army Corps of Engineers thanks you and your colleagues for meeting with representatives of the District and the Corps' North Atlantic Division, on February 20, 2014, to discuss the Bulkhead Repair Program of the New York Rising Recovery Program, under New York State Homes and Community Renewal. It appears that the bulkhead repair program will involve many individual shoreline projects that will require project review under the District's regulatory program, and this office appreciates your efforts to insure that these issues are thoroughly coordinated among the federal and state agencies.

Many projects that involve bulkhead replacement and repair may require authorization from this office under the Rivers and Harbors Act of 1899 (specifically Section 10 (Title 33 of the United States Code, Section 403), which prohibits unauthorized structures or fill in, and unauthorized changes to the capacity of, navigable waters), and the Clean Water Act (specifically Sections 301 (33 U.S.C. 1311), which prohibits the unauthorized discharge of fill into waters of the United States, including wetlands, and 404 (33 U.S.C. 1344), which sets out the manner in which such discharges may be authorized). The implementing regulations for these statutes are found at Title 33 of the Code of Federal Regulations, Sections 320 through 332.

As discussed at the meeting, projects submitted to this office for review by individual project sponsors will be processed in accordance with the level of authorization that each project will require. Some may be eligible for authorization under the nationwide general permit program or regional general permits, some may require individual permits, and some may not require authorization from this office at all (that is, those that do not involve structures or fill within jurisdictional waters, the limits of which as set out in 33 C.F.R. 328 and 329).

Subject: New York Rising Bulkhead Repair Program

Those projects that would generally involve minor and less complex reviews would include:

- projects where the work has been completed, but whose impacts were within the standards set out in nationwide general permit # 3;
- projects where the work has been completed within the eligible time period for regional general permit # 15, and whose impacts are within the standards set out for the general permit; and
- projects that are proposed, and whose impacts are within the standards set out for nationwide general permit # 3 (although some of these may require a pre-construction notification, under the terms and conditions of nationwide general permit # 3).

Those projects that would generally involve major and more complex reviews would include:

- projects where the work has been completed, and the impacts are beyond the standards of nationwide general or other general permits, and which may be addressed by this office through enforcement actions; and
- projects that are proposed, and the impacts are beyond the standards of nationwide or other general permits, and which would require an individual permit.

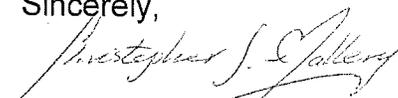
There is enclosed a copy of:

- the section of the Federal Register that describes the nationwide general permits;
- the regional conditions for nationwide general permit # 3 for the New York District;
- the public notice describing regional general permit # 15; and
- the Regulatory Program Applicant Information Guide, which would be of assistance to your program's participants in preparing their submittals.

It appears that there may be a limited number of projects that lie within the jurisdiction of the Buffalo District of the U.S. Army Corps of Engineers (please see map on Enclosure #1 of the public notice for the general permit for district boundaries). Your office should contact the Buffalo District to insure appropriate coordination for such projects. A copy of this letter will be provided to the Buffalo District, whose regulatory program may be contacted at 716-879-4330.

This office looks forward to working with you on this important mission. If any questions should arise concerning this matter, please contact me at 917-790-8418.

Sincerely,



Christopher S. Mallery, Ph.D.  
Deputy Chief, Regulatory Branch

Enclosures

- c: Ms. Jennifer Wolff, ProSource
- Ms. Therese Fretwell, U.S. H.U.D.
- Ms. Irene Chang-Cimino, F.E.M.A.
- Mr. Jeffrey D'Agostino, U.S. H.U.D.
- Mr. Christopher Boelke, N.O.A.A. - Fisheries
- Mr. James Haggerty, U.S.A.C.E. (CENAD)
- Ms. Diane Kozlowski, U.S.A.C.E. (CELRB)

**From:** [Rebecca Steffen](#)  
**To:** [Rebecca Steffen](#)  
**Subject:** FW: New York Rising - Bulkhead Repair Program  
**Date:** Friday, February 07, 2014 10:09:17 AM

---

From: Mallery, Christopher S NAN02 [<mailto:Christopher.S.Mallery@usace.army.mil>]  
Sent: Friday, February 07, 2014 10:53 AM  
To: Seth Diamond  
Cc: McDonald, Jodi M NAN02; Haggerty, James W NAD; Fretwell, Therese J; Christopher Boelke - NOAA Federal  
Subject: New York Rising - Bulkhead Repair Program

Mr. Diamond:

The New York District of the U.S. Army Corps of Engineers has reviewed the letter from NYS Homes and Community Renewal, dated February 3, 2014, with regard to the New York Rising Bulkhead Repair Program. The District's Regulatory Branch staff has also discussed this program with the NYSHCR consultants from ProSource Technologies, LLC. The District appreciates your efforts to coordinate this program with this office, and looks forward to working with your staff on this important mission.

It appears that this program will involve hundreds of individual shoreline projects that will require project review by this office.

The District is currently in the process of setting up a meeting with state and federal officials dealing with this program to discuss the manner in which the further coordination of the associated regulatory issues can best serve both this office and your program. We are currently considering a late morning meeting on Thursday, February 20, 2014, in the Operations Division conference room on the 19th Floor of 26 Federal Plaza in New York City. I will contact all parties once the specific time is set.

If your staff can be represented at this meeting, please call me at 917-790-8418.

Thanks.

Christopher S. Mallery, Ph.D.  
Deputy Chief, Regulatory Branch  
New York District, U.S. Army Corps of Engineers  
26 Federal Plaza,  
New York, New York 10278  
917-790-8418

Confidentiality Notice: This e-mail message, including attachments, is for the sole use of the intended recipient(s) and may contain confidential and privileged information. Any unauthorized review, use, disclosure, or distribution is prohibited. If you are not the intended recipient, please contact the sender by reply e-mail and destroy all copies of the original message.

Like us on Facebook: <https://www.facebook.com/nystormrecovery>

Follow us on Twitter: <https://twitter.com/NYStormRecovery>

[www.stormrecovery.ny.gov](http://www.stormrecovery.ny.gov)<<http://www.stormrecovery.ny.gov/>>



ANDREW M. CUOMO  
GOVERNOR

DARRYL C. TOWNS  
COMMISSIONER/CEO

NEW YORK STATE  
DIVISION OF HOUSING  
& COMMUNITY  
RENEWAL

February 3, 2014

HOUSING  
TRUST FUND  
CORPORATION

STATE OF  
NEW YORK MORTGAGE  
AGENCY

NEW YORK STATE  
HOUSING FINANCE  
AGENCY

NEW YORK STATE  
AFFORDABLE HOUSING  
CORPORATION

STATE OF  
NEW YORK MUNICIPAL  
BOND BANK AGENCY

TOBACCO SETTLEMENT  
FINANCING  
CORPORATION

Christopher Mallery, Ph.D.  
Deputy Chief, Regulatory Branch  
U.S. Army Corps of Engineers- New York District  
Jacob K. Javits Federal Building  
26 Federal Plaza  
New York, NY 10278-0090

**Re: Project Introduction and Early Coordination for Regulatory Compliance for NY Rising Bulkhead Repair Program**

Dear Mr. Mallery:

New York State (NYS) Homes and Community Renewal (HCR) is authorized under the U.S. Department of Housing and Urban Development (HUD) Community Development Block Grant – Disaster Recovery (CDBG-DR) for the NY Rising Recovery Program (Program), to implement grant funding in accordance with the *State of New York Action Plan for Community Development Block Grant Program Disaster Recovery* (April 2013, Federal Register Docket # FR-5696-N-01). This document is available for review at <http://www.nyshcr.org/Publications/CDBGActionPlan.pdf>.

The purpose of this letter introduce the NY Rising Bulkhead Repair Program to the U.S. Army Corps of Engineers-New York District (USACE) and begin early coordination under the U.S. National Environmental Policy Act (NEPA) for Tier 1 Programmatic Environmental Assessment (PEA) preparation. As part of the environmental review, a Tier 2 site-specific evaluation will also be completed for each program application. As the Responsible Entity (RE), HCR is will complete more than 100 Tier 1 PEAs for the NY Rising Recovery Program and ensure compliance for thousands of Tier 2 site-specific reviews.

Upon review of the USACE permits and per the phone conversation with you (from ProSource Technologies, LLC), we understand Regional General Permit 15 will be the applicable permit for the activities of the CDBG-DR program.

**Program Overview**

The Implementation of the Program is large-scale and encompasses many counties throughout NYS. Specific actions included in the overall Program include:

1. **Housing Recovery**: This program provides funding for the repair and reconstruction of residential properties, along with funding appropriate storm mitigation measures. Rehabilitated properties within a floodplain will require raising foundations above the base flood elevation.
2. **Reimbursement**: As part of Housing Recover, qualifying applicants will be reimbursed for costs associated with repair of storm damaged homes that were completed before the CDBG-DR program funds were available.
3. **Buyouts**: Under the Buyout Program, NYS will purchase 1-2 unit storm-damaged homes, demolish existing structures on the properties, and return the properties to a natural state. These properties will remain as open space in perpetuity.
4. **Acquisitions**: Under the Acquisition Program, NYS will purchase 1-2 unit storm-damaged homes, leaving open the potential for future development.
5. **Economic Development**: Eligible businesses may receive funding for structural repairs, equipment replacement, and general economic recovery, contributing to improvement of the local economy.
6. **Bulkhead Repair**: Applicants will receive funding to repair or replace storm-damaged bulkheads on residential properties. This program includes reimbursement for work that has been completed, subject to the eligibility requirements of the program (see Attachment A for a detailed description of the activities to be funded under the Bulkhead Repair Program).

The Bulkhead Repair Program will, in most cases, involve work near and/or within Waters of the U.S. A map of affected counties included in the Bulkhead Repair Program is included in **Attachment B**. Currently, there are approximately 700 applicants identified for the Bulkhead Repair Program.

The number and location of participants in the Program is constantly evolving. Participation is voluntary and applicants must meet eligibility requirements and be located within the affected counties listed in the Action Plan.

Prior to issuance of CDBG-DR funds to applicants, it is the requirement that HCR, as the RE, documents environmental compliance. Applicants to the Program are responsible for obtaining the proper permits demonstrating their project has met the conditions of the applicable USACE permit individually. We are requesting written response from the USACE acknowledging the NY Rising Bulkhead Repair Program, to be included in the Tier 1 PEA.

If you have question or require additional information regarding this request, please contact me at (518) 486-3379 or [hspitzberg@nyshcr.org](mailto:hspitzberg@nyshcr.org).

Sincerely,



Heather M. Spitzberg, Esq.  
NEPA Certifying Officer  
NYS Homes and Community Renewal  
38-40 State Street  
Hampton Plaza  
Albany, NY 12207

Mr. Christopher Mallery

February 3, 2014

Page 2 of 2

cc. Jennifer Wolff, ProSource Technologies, LLC

Attachment A – Bulkhead Program Description

Attachment B- List of Affected and Actions for Counties Included in the CDBG-DR Program

The NY Rising Bulkhead Repair Program for Residential Properties is designed to provide assistance for repairing damaged bulkheads on residential properties with any number of housing units, including reimbursing homeowners who have already begun repairing or have completed repairs to bulkheads.

### **Bulkhead Definitions:**

Bulkheads are defined as vertical structures constructed parallel to the shoreline or banks of a waterway, with retaining walls for the purpose preventing overtopping and flooding of the adjacent properties. Bulkheads are usually placed along an eroding bank or escapement to hold back the land and prevent erosion. Sometimes referred to as seawalls, gravity walls, quay walls, or riprap revetments, bulkheads are a long-lasting hardy structure that can stand up to moderate to high wave energy.

Residential bulkheads protect the banks and bluffs on a residential property by completely separating land from water. These bulkheads act as retaining walls, keeping the earth or sand behind them from crumbling or slumping. They also are used to resist wave action and protect property.

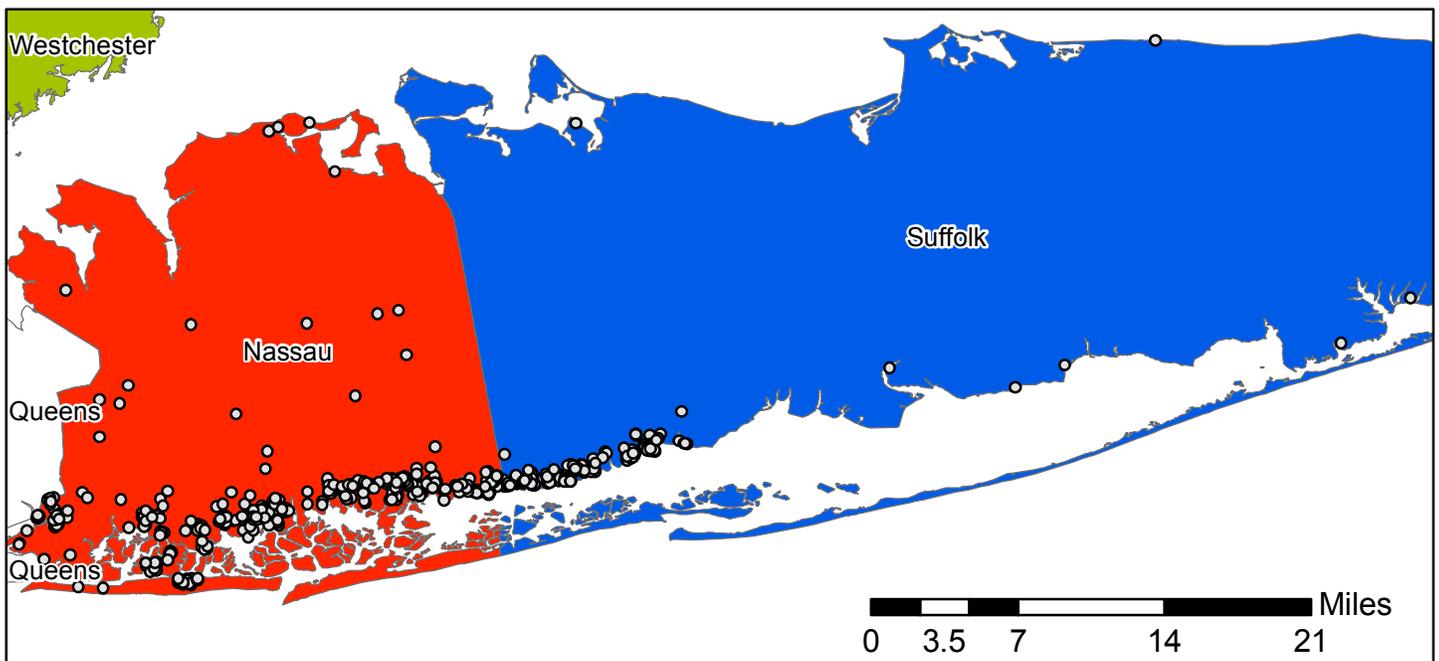
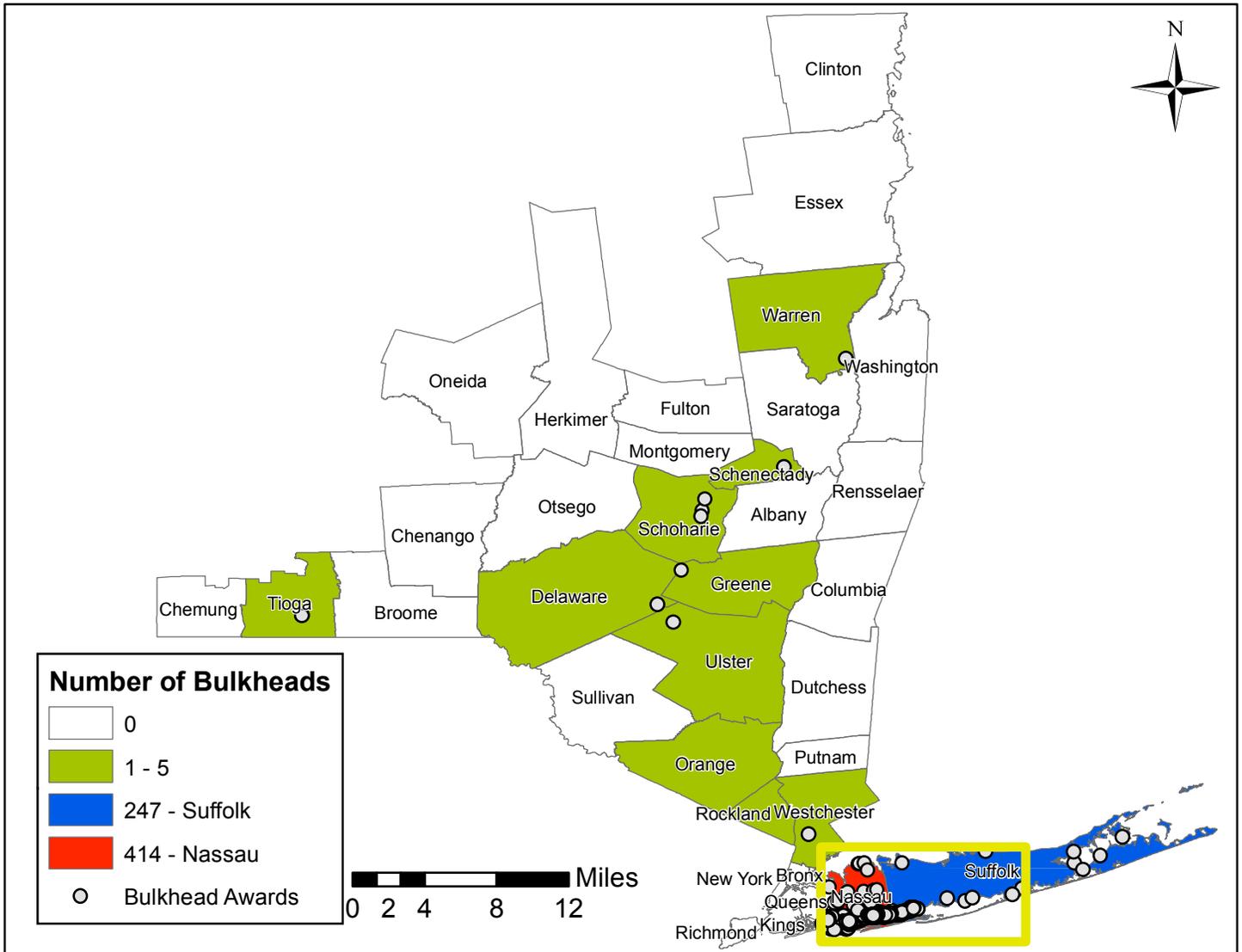
Bulkheads can be built in three basic types of design. They may consist of:

- 1) Thin, interlocking sheet piles driven deeply into the ground;
- 2) Individual piles used to support an aboveground structure; or
- 3) Massive gravity construction resting on the shore bottom or embedded slightly into it, supported by its own weight rather than by piling.

From these three basic design types, a wide variety of bulkhead designs have been developed. Common and uncommon types of bulkheads include:

- Common bulkheads:
  - Cantilever wall – typically used where there is no room for the installation of an anchor wall
  - Anchored wall with single layer of anchorage – most commonly used
    - Relieving platforms may be added to reduce lateral pressure
    - Batter piles may be driven to use as anchors behind the wall, but should only be considered if there is insufficient room for an anchor and the height of the walls exceeds the design parameters for a cantilever wall.
  - Soldier pile wall, also known as a “King” pile wall, consisting of piles added to the front of an anchored wall to help prevent deflection
  - Soldier beams and lagging
  - Close pile wall
  - Double wall
  - Various combinations can be used of the above general designs to meet the conditions of the site
- Some uncommon bulkhead types are listed below. They are unlikely to be encountered, but are listed for reference.
  - Railroad ties and steel H-piles
  - Treated timber
  - Untreated log

# Number of Bulkhead Awards by County



**From:** [Shawn Williams](#)  
**To:** [Rebecca Steffen](#)  
**Subject:** FW: New York State Homes and Community Renewal (NYSHCR) Community Development Block Grant- Disaster Recovery (CDBG-DR) Program- Introduction of Bulkhead repair/replacement program (NOAA NMFS)  
**Date:** Monday, January 27, 2014 1:54:46 PM  
**Attachments:** [Bulkheads Nov2013.pdf](#)

---

**Shawn Williams** | Wetland/Permitting Specialist  
ProSource Technologies, LLC | [swilliams@prosourcetech.com](mailto:swilliams@prosourcetech.com)  
763.786.1445 | cell: 952.913.2962 | fax 763.786.1030

---

**From:** Shawn Williams  
**Sent:** Tuesday, January 14, 2014 12:52 PM  
**To:** Mary.A.Colligan@noaa.gov; Mark.Murray-Brown@noaa.gov; christopher.boelke@noaa.gov; Lou Chiarella (Lou.Chiarella@noaa.gov)  
**Cc:** Jennifer Wolff; Erica Davis  
**Subject:** FW: New York State Homes and Community Renewal (NYSHCR) Community Development Block Grant- Disaster Recovery (CDBG-DR) Program- Introduction of Bulkhead repair/replacement program (NOAA NMFS)

Good Afternoon,

Attached is a map that shows the locations of applicants who applied for funding for bulkhead repair/replacement, as of November 2013. We are working to get an updated figure. However, I wanted to pass this along so you can reference it for our discussion today at 3 Eastern. Please note that that Title states "Award", but no funding has been released to applicants yet. It should say "Applicants". I think current estimates of Bulkhead applicants at this point is around 700 to 800.

Agenda/Topics:

1. Recap of previous NMFS Coordination and CDBG program
2. Introduction of Bulkhead Program
3. NYSHCR and HUD are currently defining program language and specifics
4. Background and define requirements of Section 7 and Essential Fish Habitat programs
5. Define which counties apply to NMFS
6. GIS layers for use
7. Marine/Riverine species of concern (by County)
8. Determine most appropriate method to achieve compliance on a large-scale program, that has continuous incoming application (coverage letter, parameters for site-specific coordination with NMFS)
9. Other topics

Thanks.

**Shawn Williams** | Wetland/Permitting Specialist  
ProSource Technologies, LLC | [swilliams@prosourcetech.com](mailto:swilliams@prosourcetech.com)  
763.786.1445 | cell: 952.913.2962 | fax 763.786.1030

---

**From:** Shawn Williams  
**Sent:** Friday, January 10, 2014 3:10 PM  
**To:** 'Mary Colligan - NOAA Federal'; [Mark.Murray-Brown@noaa.gov](mailto:Mark.Murray-Brown@noaa.gov); [christopher.boelke@noaa.gov](mailto:christopher.boelke@noaa.gov); Lou Chiarella  
**Cc:** Jennifer Wolff; Erica Davis; Rebecca Steffen  
**Subject:** RE: New York State Homes and Community Renewal (NYSHCR) Community Development Block Grant- Disaster Recovery (CDBG-DR) Program- Introduction of Bulkhead repair/replacement program (NOAA NMFS)

Good Afternoon NMFS staff,

I think we can plan to have a call Tuesday afternoon (Jan 14) at 3 Eastern. We can coordinate with Mary as necessary, if she is not available. She stated Mark and Chris would have the programs covered.

Please mark your calendar, and we'll plan for then. Let me know if we need to adjust. Thank you.

Dial # 1-712-432-3100  
Participant Conference # 972351

**Shawn Williams** | Wetland/Permitting Specialist  
ProSource Technologies, LLC | [swilliams@prosourcetech.com](mailto:swilliams@prosourcetech.com)  
763.786.1445 | cell: 952.913.2962 | fax 763.786.1030

**From:** Mary Colligan - NOAA Federal [<mailto:mary.a.colligan@noaa.gov>]  
**Sent:** Friday, January 10, 2014 2:42 PM  
**To:** Shawn Williams  
**Subject:** Re: New York State Homes and Community Renewal (NYSHCR) Community Development Block Grant- Disaster Recovery (CDBG-DR) Program- Introduction of Bulkhead repair/replacement program (NOAA NMFS)

Shawn - I took a quick look at Chris, Mark and my calendars and next week is pretty crowded! It looks like Chris and Mark might be available next Tuesday from 3pm on and Friday the three of us look available before 11 or between 1 and 2. Do any of those times work for you?

On Tue, Jan 7, 2014 at 2:21 PM, Shawn Williams <[swilliams@prosourcetech.com](mailto:swilliams@prosourcetech.com)> wrote:  
Good Afternoon Chris and Mary,

Chris, thank you for taking time to discuss the forthcoming Bulkhead program, that is now being coordinated as part of the greater CDBG-DR program.

Previous correspondence regarding the program is attached for review. Previous work (rehab, buy-outs etc.) for the CDBG-DR program was identified for upland areas, not affecting NOAA-jurisdictional Section 7 species. However, now that NYSHCR will be including Bulkhead repair/replacement into the program, NEPA Tier 1 Environmental Review Records (ERRs) are being prepared (only for NY counties that were declared for the disaster, not all NY counties).

Discussion with Chris today opened a dialogue with NOAA NMFS to begin a compliance process/approach for:

- Essential Fish Habitat Program
- Section 7 of the Endangered Species Act

Preliminary thoughts are that the focus of review may be limited to Rockland, Westchester, Nassau, and Suffolk Counties, unless some jurisdictional nexus requires other NY counties to be included.

We understand Ms. Colligan is out of the office until January 10. NYSHCR is developing a Bulkhead program description, and we will provide this to you when it is available. However, it may take some time to refine the actual description, and we wanted to get coordination underway. Chris, if you could please reply to this email, acknowledging our initiation of coordination for the Essential Fish Habitat Program and Section 7 of the Endangered Species Act, that would be appreciated.

We agree that a conference call (Mary, Chris, Shawn, others?) will be appropriate to further define program details, scope, goals, etc., to assist with determining the most appropriate compliance process (consultation letter, parameters, guidance etc.)

I will touch base on Friday, when Mary is available. Please contact me if you have questions, as you review the attached files.

Regards,

**Shawn Williams** | Wetland/Permitting Specialist  
ProSource Technologies, LLC | [swilliams@prosourcetech.com](mailto:swilliams@prosourcetech.com)  
[763.786.1445](tel:763.786.1445) | cell: [952.913.2962](tel:952.913.2962) | fax [763.786.1030](tel:763.786.1030)

--

**Mary Colligan**

*Assistant Regional Administrator for Protected Resources*

*Northeast Regional Office*

*NOAA Fisheries*

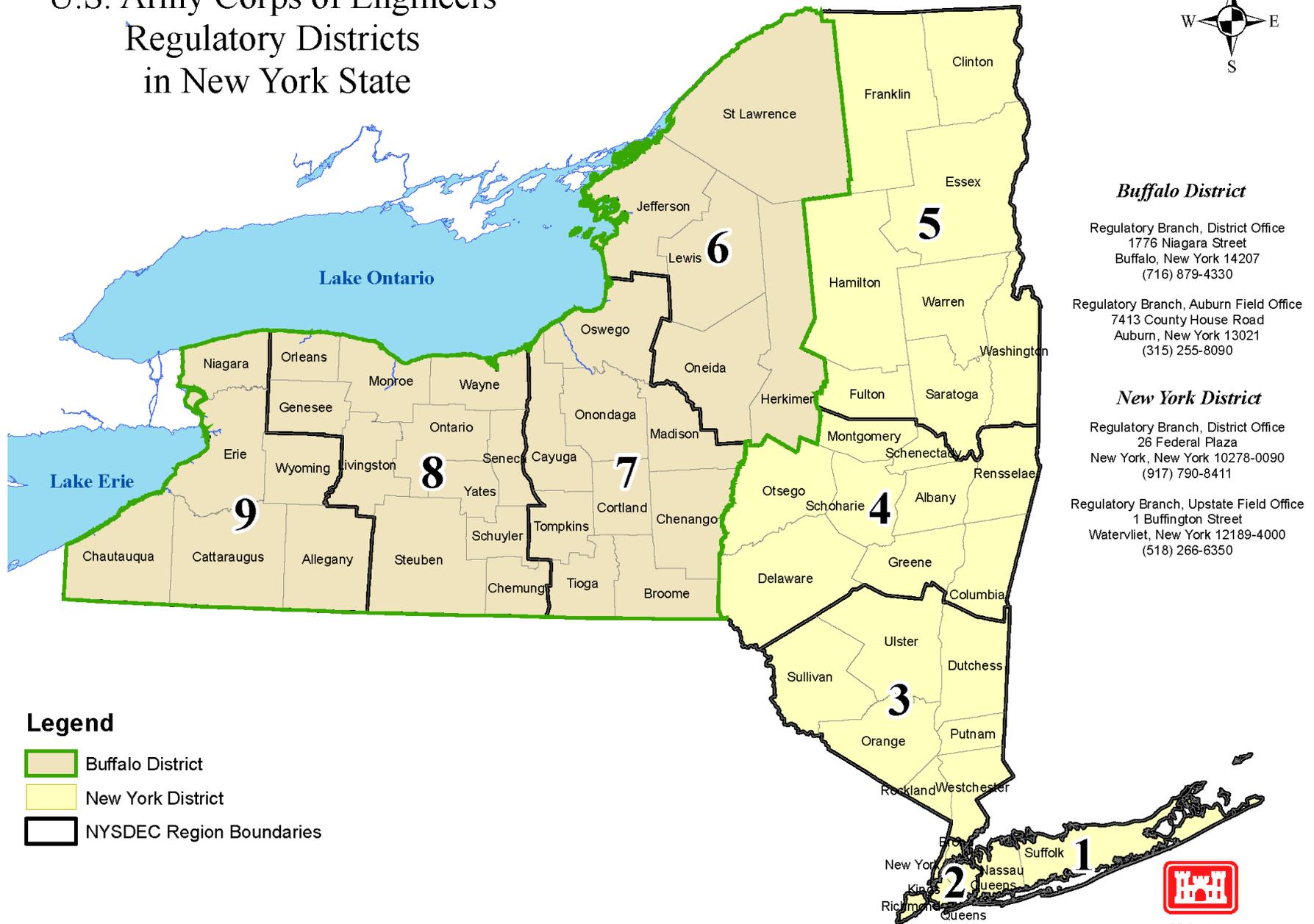
[Mary.A.Colligan@noaa.gov](mailto:Mary.A.Colligan@noaa.gov)

[ph: 978-281-9116](tel:978-281-9116)

[www.nmfs.noaa.gov](http://www.nmfs.noaa.gov)

\_\_\_\_\_

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



## Legend

- Buffalo District
- New York District
- NYSDEC Region Boundaries



U.S. Army  
Corps of Engineers

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

**B. Nationwide Permits**

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

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

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

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

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

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

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

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

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

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

**New York District Only Permit-specific Regional Condition:**

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

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

**Section 401 Water Quality Certification:**

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

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

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

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

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

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

**C. Nationwide Permit General Conditions**

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

1. Navigation. (a) No activity may cause more than a minimal adverse effect on navigation.  
(b) Any safety lights and signals prescribed by the U.S. Coast Guard, through regulations or otherwise, must be installed and maintained at the permittee's expense on authorized facilities in navigable waters of the United States.  
(c) The permittee understands and agrees that, if future operations by the United States require the removal, relocation, or other alteration, of the structure or work herein authorized, or if, in the opinion of the Secretary of the Army or his authorized representative, said structure or work shall cause unreasonable obstruction to the free navigation of the navigable waters, the permittee will be required, upon due notice from the Corps of Engineers, to remove, relocate, or alter the structural work or obstructions caused thereby, without expense to the United States. No claim shall be made against the United States on account of any such removal or alteration.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

---

(Transferee)

---

(Date)

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

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

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

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

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

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

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

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

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

(2) Location of the proposed project;

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

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

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

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

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

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

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

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

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

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

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

#### **D. District Engineer's Decision**

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

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

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

## **E. Further Information**

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

## **F. Definitions**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**Shellfish seeding:** The placement of shellfish seed and/or suitable substrate to increase shellfish production.

Shellfish seed consists of immature individual shellfish or individual shellfish attached to shells or shell fragments (i.e., spat on shell). Suitable substrate may consist of shellfish shells, shell fragments, or other appropriate materials placed into waters for shellfish habitat.

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

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

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

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

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

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

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

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

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

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

## **G. General Regional Conditions**

**These conditions apply to ALL Nationwide Permits.**

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

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

**General Information:**

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

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

**Preconstruction Notification (PCN)/Waiver Requirements:**

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

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

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

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

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

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

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

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

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

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

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

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

Note 1: All mitigation projects must comply with the Federal Regulations on compensatory mitigation (33 CFR 332) entitled "Compensatory Mitigation for Losses of Aquatic Resources: Final Rule", dated April 10, 2008, which is available at: [http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?c=ecfr&tpl=/ecfrbrowse/Title33/33cfr332\\_main\\_02.tpl](http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?c=ecfr&tpl=/ecfrbrowse/Title33/33cfr332_main_02.tpl), and any applicable District Guidelines.

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

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

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

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

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

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

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

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

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

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

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

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

**G- E. CRITICAL RESOURCE WATERS**

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

Critical Resource Waters in New York State include the following:

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

Putnam and Westchester Counties as delineated on Enclosure 2.

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

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

***1. Non-contamination of Waters:***

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

***2. Installation and Maintenance of Culverts:***

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

***3. Discharges and Disturbances:***

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

***4. Maintenance of Water Levels:***

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

***5. Dewatering:***

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

***6. Endangered or Threatened Species:***

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

***7. Prohibition Period/or In-stream Work:***

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

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

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

**8. Significant Coastal Fish and Wildlife Habitat:**

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

**9. Coastal Erosion Hazard Areas:**

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

**10. State-owned Underwater Lands:**

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

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

**11. Tidal Wetlands:**

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

**12. Wild, Scenic and Recreational Rivers:**

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

**13. Floodplains:**

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

**14. Combined use of permits:**

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

**15. Public Service Commission:**

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

**16. Utility Projects:**

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

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

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

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

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

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

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

Notes:

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

## **J. INFORMATION ON NATIONWIDE PERMIT VERIFICATION**

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

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

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

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

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



## **K. AGENCY CONTACT INFORMATION**

### **NYS Department of Environmental Conservation**

[www.dec.ny.gov](http://www.dec.ny.gov)

#### **NYS DEC REGION 1**

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

#### **NYS DEC REGION 2**

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

#### **NYS DEC REGION 3**

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

#### **NYS DEC REGION 4**

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

#### **NYS DEC REGION 4 Sub-Office**

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

#### **NYS DEC REGION 5**

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

#### **NYS DEC REGION 5 Sub-Office**

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

#### **NYS DEC REGION 6**

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

#### **NYS DEC REGION 6 Sub-Office**

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

#### **NYS DEC REGION 7**

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

#### **NYS DEC REGION 7 Sub-Office**

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

#### **NYS DEC REGION 8**

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

#### **NYS DEC REGION 9**

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

#### **NYS DEC REGION 9 Sub-Office**

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

### **NYS Department of State**

Division of Coastal Resources  
Consistency Review Unit  
One Commerce Plaza  
99 Washington Avenue, Suite 1010  
Albany, NY 12231-0001  
(518) 474-6000  
[www.nyswaterfronts.com](http://www.nyswaterfronts.com)  
PO Box 296  
1115 Route 86  
Ray Brook, NY 12977-0296  
(518) 897-1234

### **US Army Corps of Engineers**

[www.usace.army.mil](http://www.usace.army.mil)

For DEC Regions 1, 2 and 3

#### **US Army Corps of Engineers NY District**

ATTN: Regulatory Branch  
26 Federal Plaza, Room 1937  
New York, NY 10278-0090  
Email: [CENAN.PublicNotice@usace.army.mil](mailto: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, 3<sup>rd</sup> Floor  
Watervliet, NY 12189-4000  
(518) 266-6350 - Permits team  
(518) 266-6360 - Compliance Team

Email: [cenan.rfo@usace.army.mil](mailto: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](mailto:LRB.Regulatory@usace.army.mil)  
[www.lrb.usace.army.mil](http://www.lrb.usace.army.mil)

## **Appendix U:**

### **NYSDEC General Permit Application for Bulkhead Repairs**

**From:** [Stu Fox](#)  
**To:** [Shawn Williams](#)  
**Cc:** [Jennifer Wolff](#); [Rebecca Steffen](#)  
**Subject:** Re: New York State Homes and Community Renewal (NYSHCR) CDBG-DR Program Update- Introduction of Bulkhead Repair and Replacement program - Air Quality Compliance review  
**Date:** Friday, January 31, 2014 12:16:05 PM

---

Shawn,

I have reviewed the information you sent.

You mention satisfying General Permit GP-0-13-006. This general permit is applicable for Hurricane Sandy projects in DEC Region 1 only. A comparable general permit for Hurricane Sandy project in DEC Region 2 is GP-0-2-13-003. These are both available on DEC's website, <http://www.dec.ny.gov/permits/89343.html>.

In addition, we are about to issue a General Permit for bulkheads in portions of DEC Region 1. See <http://www.dec.ny.gov/permits/94281.html>.

Please see my email to Rebecca Steffen:

>>> Stu Fox 1/8/2014 2:02 PM >>>

Rebecca,

I'd like to provide some clarification to our earlier phone conversation:

Under Protection of Waters regulations (Part 608), there is no permit exemption for any ordinary maintenance, repairs or reconstruction. All such work in navigable waters or protected streams require a permit.

Under Freshwater Wetlands (Part 663) and Tidal Wetland (Part 661), ordinary maintenance and repairs do not require a permit, but restoring, reconstructing and modifying existing structures bulkhead do require a permit.

If you have any questions, you may contact me.

- Stu

If DEC permits are required, I would think that these general permits can be used for most of the projects now considered. Upstate projects may simply apply for individual permits.

Please let me know if you have any questions or if we need to discuss anything further.

- Stu.

---

Stuart Fox  
Deputy Chief Permit Administrator  
NYSDEC  
Division of Environmental Permits  
625 Broadway  
Albany, NY 12233-1750  
phone 518-402-9157  
fax 518-402-9168  
email [smfox@gw.dec.state.ny.us](mailto:smfox@gw.dec.state.ny.us)

>>> Shawn Williams <[swilliams@prosourcetech.com](mailto:swilliams@prosourcetech.com)> 1/30/2014 1:32 PM >>>

Good Afternoon Mr. Nasca,

On behalf of NYSHCR, we are contacting the New York Department of Environmental Conservation (DEC),

Division of Environmental Permits (for Air Quality Compliance) to introduce the Bulkhead Repair and Replacement program (description is attached). Previous correspondence has also been attached for reference, as a reminder of the previous programs coordinated.

Since the August 29, 2013 program coordination letter was provided to DEC, NYSHCR has determined that a Bulkhead Repair and Replacement program is necessary to incorporate under the greater CDBG-DR program being implemented in various counties throughout the State (attached map). Many residents had storm-related damage to their bulkheads. Accordingly NYSHCR is introducing this program, which allows qualifying participants to receive CDBG-DR funds to repair or replace their bulkheads.

The attached map shows upwards of 700 applicants for bulkhead program, throughout the disaster-declared counties, and the number continues to change.

Therefore, as part of the Tier 1 Environmental Review Record being prepared for this program (action), we are providing DEC notice of this program. We are requesting a written response from DEC, acknowledging the Bulkhead program, as well as any specific conditions or requirements NYSHCR will need to comply with, as the program is implemented.

Please let us know if you have questions or require additional information.

Thank you,

Shawn Williams | Wetland/Permitting Specialist  
ProSource Technologies, LLC | [swilliams@prosourcectech.com](mailto:swilliams@prosourcectech.com) <<mailto:gwheeler@prosourcectech.com>>  
763.786.1445 | cell: 952.913.2962 | fax 763.786.1030

From: Shawn Williams  
Sent: Thursday, August 29, 2013 11:00 AM  
To: 'deprmt@gw.dec.state.ny.us'  
Cc: Heather Spitzberg (HSpitzberg@nyshcr.org); lshirley@nyshcr.org; CLeo@nyshcr.org; rkeegan@nyshcr.org; Jennifer Wolff; Erica Davis  
Subject: New York State Homes and Community Renewal (NYSHCR) Community Development Block Grant-Disaster Recovery (CDBG-DR) Program Introduction- Air Quality Compliance review

Good Morning Mr. Nasca,

On behalf of New York State Homes & Community Renewal, ProSource Technologies, LLC is submitting this Program Introduction letter for review by the New York Department of Environmental Conservation (DEC), Division of Environmental Permits for Air Quality Compliance review. Thank you for reviewing this information, and we look forward to DEC's response.

Regards,

Shawn Williams | Wetland/Permitting Specialist  
ProSource Technologies, LLC | [swilliams@prosourcectech.com](mailto:swilliams@prosourcectech.com) <<mailto:gwheeler@prosourcectech.com>>  
763.786.1445 | cell: 952.913.2962 | fax 763.786.1030



**PERMIT**  
**Under the Environmental Conservation Law (ECL)**

**GENERAL PERMIT GP-0-13-006**  
**Hurricane Sandy General Permit**

**Permittee and Facility Information**

**Permit Issued To:**

Affected  
Landowner  
\_\_\_\_\_  
\_\_\_\_\_

**Facility:**

Location Listed on  
Notice of Intent  
\_\_\_\_\_  
\_\_\_\_\_

**Applicable DEC Region(s):** 1

**General Permit Authorized Activity:** General Permit for repair of damages resulting from Hurricane Sandy.

Description of Authorized Activities:

1. Stabilization of existing functional storm-damaged dwellings, decks and walkways with temporary bracing and pilings;
2. Construction of a single 4' wide access walkway to access damaged dwellings;
3. Installation of up to four rows of sandbags or 1 cubic yard sand cubes at the toe of storm damaged structures or eroded escarpments;
4. Placement of sand and/or material equivalent to existing material at the toe of eroded escarpments;
5. Repair or reconstruction of stairways that were functional before Hurricane Sandy;
6. Re-grade eroded dunes;
7. In-kind/in-place repair or reconstruction of bulkheads and shoreline erosion structures that were functional before Hurricane Sandy;
8. Repair or reconstruction of existing public roads, bridges, utilities and other public infrastructure.

All work shall be done according to the permit conditions contained herein.

**Permit Authorizations**

**Tidal Wetlands - Under Article 25**

Effective Date: 07/16/2013 Expiration Date: 10/31/2014

**Excavation & Fill in Navigable Waters - Under Article 15, Title 5**

Effective Date: 07/16/2013 Expiration Date: 10/31/2014

**Water Quality Certification - Under Section 401 - Clean Water Act**

Effective Date: 07/16/2013 Expiration Date: 10/31/2014

**Coastal Erosion Management - Under Article 34**

Effective Date: 07/16/2013 Expiration Date: 10/31/2014



**NYSDEC Approval**

By acceptance of this permit, the permittee agrees that the permit is contingent upon strict compliance with the ECL, all applicable regulations, and all conditions included as part of this permit.

**General Permit Authorized by**

Permit Administrator: STUART M FOX , Deputy Chief Permit Administrator  
Address: NYSDEC HEADQUARTERS  
625 BROADWAY  
ALBANY, NY 12233

Authorized Signature: Stuart M. Fox Date: 7/16/  
2013

**Permit Components**

NATURAL RESOURCE PERMIT CONDITIONS

WATER QUALITY CERTIFICATION SPECIFIC CONDITION

GENERAL CONDITIONS, APPLY TO ALL AUTHORIZED PERMITS

NOTIFICATION OF OTHER PERMITTEE OBLIGATIONS

**NATURAL RESOURCE PERMIT CONDITIONS - Apply to the Following Permits: COASTAL EROSION MANAGEMENT; WATER QUALITY CERTIFICATION; EXCAVATION & FILL IN NAVIGABLE WATERS; TIDAL WETLANDS**

- 1. Conformance With Plans** All activities authorized by this permit must be in strict conformance with the approved plans submitted by the applicant or applicant's agent as part of the permit application. Such approved plans were prepared by the applicant and/or an authorized representative.
- 2. In-kind, In-place Repair or Reconstruction** Existing bulkheads, walkways and shoreline erosion structures that were functioning at the time of the storm damage may be repaired or reconstructed in-kind and in-place of the existing structures. No expansion or seaward extension of bulkheads or shoreline structures is authorized by this permit.
- 3. Repairs to Structures** All repairs to existing structures shall be confined to replacement of existing elements with no change in design, dimension or materials, unless specifically authorized by this permit.
- 4. Stairway Design** The stairs and landings shall be a maximum of 4 feet in width and constructed a minimum of 3 feet above grade over the dune/bluff face.



- 5. Backfilling** All peripheral berms, cofferdams, rock revetments, seawalls, gabions, bulkheads or other approved shoreline stabilization structures shall be completed prior to placement of any fill material behind such structures.
- 6. Equipment Operation** Equipment operation below the high tide line is strictly prohibited. The storage of construction equipment and materials shall be confined to the project work area and areas more than 100 feet from the high tide line.
- 7. Sanitary Systems** This permit does not authorize filling or re-grading of exposed sanitary systems. Landowners must apply for separate permits to perform repairs or reconstruction to sanitary systems.
- 8. Hydraulically-filled Sandbags, Sand Cubes and Geotubes** Hydraulically-filled sandbags, sand cubes and geotubes are strictly prohibited.
- 9. Beach Excavation Prohibited for Fill** Excavation of the beach or dune for the purpose of obtaining fill material is prohibited. Sandbags may not be filled using sand from the beach or dune areas. Sandbags must be filled with clean sand; no debris or deleterious materials are allowed.
- 10. Sandbag and Sand Cube Installation** Sandbags and sand cubes must be installed no more than four rows deep and a maximum of three rows high.
- 11. Removal of Sandbags and Sand Cubes** Sandbags and sand cubes must be removed within 120 days of installation, or a separate DEC permit to allow the structures to remain permanently must be obtained.
- 12. Tidal Wetland Vegetation** There shall be no disturbance or damage to vegetated tidal wetlands or dune vegetation as a result of the work performed under this permit. All necessary precautions must be taken to prevent damage or disturbance to these vegetated areas.
- 13. Construction Debris** All construction debris shall be cleaned up at the end of each work day and disposed properly. No debris is permitted in tidal waters or the beach areas.
- 14. Asian Longhorned Beetles** Any tree debris within New York City, Nassau or Suffolk counties shall be disposed of by chipping to less than 1 inch in any two dimensions, then used as mulch, erosion control, building agent, or fuel. Wood may only be moved from Asian Longhorned Beetle quarantine areas under a permit from the NYS Department of Agriculture and Markets (<http://www.agriculture.ny.gov/PI/alb.html>).
- 15. Least Terns and Piping Plovers** All recovery and repair work occurring in open, sandy beach areas must cease on March 31, 2013 to protect potential habitat for Least Tern and Piping Plover, unless otherwise authorized in writing by the Department.
- 16. No Dredging or Excavation** No dredging, excavating or other alteration of shoreline or underwater areas is authorized by this permit, nor shall issuance of this permit be construed to suggest that the Department will issue a permit for such activities in the future.
- 17. No Interference With Navigation** There shall be no unreasonable interference with navigation by the work herein authorized.



**18. State Not Liable for Damage** The State of New York shall in no case be liable for any damage or injury to the structure or work herein authorized which may be caused by or result from future operations undertaken by the State for the conservation or improvement of navigation, or for other purposes, and no claim or right to compensation shall accrue from any such damage.

**19. State May Order Removal or Alteration of Work** If future operations by the State of New York require an alteration in the position of the structure or work herein authorized, or if, in the opinion of the Department of Environmental Conservation it shall cause unreasonable obstruction to the free navigation of said waters or flood flows or endanger the health, safety or welfare of the people of the State, or cause loss or destruction of the natural resources of the State, the owner may be ordered by the Department to remove or alter the structural work, obstructions, or hazards caused thereby without expense to the State, and if, upon the expiration or revocation of this permit, the structure, fill, excavation, or other modification of the watercourse hereby authorized shall not be completed, the owners, shall, without expense to the State, and to such extent and in such time and manner as the Department of Environmental Conservation may require, remove all or any portion of the uncompleted structure or fill and restore to its former condition the navigable and flood capacity of the watercourse. No claim shall be made against the State of New York on account of any such removal or alteration.

**20. State May Require Site Restoration** If upon the expiration or revocation of this permit, the project hereby authorized has not been completed, the applicant shall, without expense to the State, and to such extent and in such time and manner as the Department of Environmental Conservation may lawfully require, remove all or any portion of the uncompleted structure or fill and restore the site to its former condition. No claim shall be made against the State of New York on account of any such removal or alteration.

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

## WATER QUALITY CERTIFICATION SPECIFIC CONDITIONS

**1. Water Quality Certification** The NYS Department of Environmental Conservation hereby certifies that the subject project will not contravene effluent limitations or other limitations or standards under Sections 301, 302, 303, 306 and 307 of the Clean Water Act of 1977 (PL 95-217) provided that all of the conditions listed herein are met.

## GENERAL CONDITIONS - Apply to ALL Authorized Permits:

**1. Facility Inspection by The Department** The permitted site or facility, including relevant records, is subject to inspection at reasonable hours and intervals by an authorized representative of the Department of Environmental Conservation (the Department) to determine whether the permittee is complying with this permit and the ECL. Such representative may order the work suspended pursuant to ECL 71- 0301 and SAPA 401(3).



The permittee shall provide a person to accompany the Department's representative during an inspection to the permit area when requested by the Department.

A copy of this permit, including all referenced maps, drawings and special conditions, must be available for inspection by the Department at all times at the project site or facility. Failure to produce a copy of the permit upon request by a Department representative is a violation of this permit.

**2. Relationship of this Permit to Other Department Orders and Determinations** Unless expressly provided for by the Department, issuance of this permit does not modify, supersede or rescind any order or determination previously issued by the Department or any of the terms, conditions or requirements contained in such order or determination.

**3. Applications For Permit Renewals, Modifications or Transfers** The permittee must submit a separate written application to the Department for permit renewal, modification or transfer of this permit. Such application must include any forms or supplemental information the Department requires. Any renewal, modification or transfer granted by the Department must be in writing. Submission of applications for permit renewal, modification or transfer are to be submitted to:

Regional Permit Administrator

625 Broadway

Albany, NY

12233-1750

**4. Submission of Renewal Application** The permittee must submit a renewal application at least 30 days before permit expiration for the following permit authorizations: Tidal Wetlands, Excavation & Fill in Navigable Waters, Water Quality Certification, Coastal Erosion Management.

**5. Permit Modifications, Suspensions and Revocations by the Department** The Department reserves the right to exercise all available authority to modify, suspend or revoke this permit. The grounds for modification, suspension or revocation include:

- a. materially false or inaccurate statements in the permit application or supporting papers;
- b. failure by the permittee to comply with any terms or conditions of the permit;
- c. exceeding the scope of the project as described in the permit application;
- d. newly discovered material information or a material change in environmental conditions, relevant technology or applicable law or regulations since the issuance of the existing permit;
- e. noncompliance with previously issued permit conditions, orders of the commissioner, any provisions of the Environmental Conservation Law or regulations of the Department related to the permitted activity.

**6. Permit Transfer** Permits are transferrable unless specifically prohibited by statute, regulation or another permit condition. Applications for permit transfer should be submitted prior to actual transfer of ownership.



## NOTIFICATION OF OTHER PERMITTEE OBLIGATIONS

### **Item A: Permittee Accepts Legal Responsibility and Agrees to Indemnification**

The permittee, excepting state or federal agencies, expressly agrees to indemnify and hold harmless the Department of Environmental Conservation of the State of New York, its representatives, employees, and agents ("DEC") for all claims, suits, actions, and damages, to the extent attributable to the permittee's acts or omissions in connection with the permittee's undertaking of activities in connection with, or operation and maintenance of, the facility or facilities authorized by the permit whether in compliance or not in compliance with the terms and conditions of the permit. This indemnification does not extend to any claims, suits, actions, or damages to the extent attributable to DEC's own negligent or intentional acts or omissions, or to any claims, suits, or actions naming the DEC and arising under Article 78 of the New York Civil Practice Laws and Rules or any citizen suit or civil rights provision under federal or state laws.

### **Item B: Permittee's Contractors to Comply with Permit**

The permittee is responsible for informing its independent contractors, employees, agents and assigns of their responsibility to comply with this permit, including all special conditions while acting as the permittee's agent with respect to the permitted activities, and such persons shall be subject to the same sanctions for violations of the Environmental Conservation Law as those prescribed for the permittee.

### **Item C: Permittee Responsible for Obtaining Other Required Permits**

The permittee is responsible for obtaining any other permits, approvals, lands, easements and rights-of-way that may be required to carry out the activities that are authorized by this permit.

### **Item D: No Right to Trespass or Interfere with Riparian Rights**

This permit does not convey to the permittee any right to trespass upon the lands or interfere with the riparian rights of others in order to perform the permitted work nor does it authorize the impairment of any rights, title, or interest in real or personal property held or vested in a person not a party to the permit.

## **K. AGENCY CONTACT INFORMATION**

### **NYS Department of Environmental Conservation**

[www.dec.ny.gov](http://www.dec.ny.gov)

#### **NYS DEC REGION 1**

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

#### **NYS DEC REGION 2**

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

#### **NYS DEC REGION 3**

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

#### **NYS DEC REGION 4**

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

#### **NYS DEC REGION 4 Sub-Office**

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

#### **NYS DEC REGION 5**

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

#### **NYS DEC REGION 5 Sub-Office**

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

#### **NYS DEC REGION 6**

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

#### **NYS DEC REGION 6 Sub-Office**

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

#### **NYS DEC REGION 7**

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

#### **NYS DEC REGION 7 Sub-Office**

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

#### **NYS DEC REGION 8**

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

#### **NYS DEC REGION 9**

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

#### **NYS DEC REGION 9 Sub-Office**

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

### **NYS Department of State**

Division of Coastal Resources  
Consistency Review Unit  
One Commerce Plaza  
99 Washington Avenue, Suite 1010  
Albany, NY 12231-0001  
(518) 474-6000  
[www.nyswaterfronts.com](http://www.nyswaterfronts.com)  
PO Box 296  
1115 Route 86  
Ray Brook, NY 12977-0296  
(518) 897-1234

### **US Army Corps of Engineers**

[www.usace.army.mil](http://www.usace.army.mil)

For DEC Regions 1, 2 and 3

#### **US Army Corps of Engineers NY District**

ATTN: Regulatory Branch  
26 Federal Plaza, Room 1937  
New York, NY 10278-0090  
Email: [CENAN.PublicNotice@usace.army.mil](mailto: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, 3<sup>rd</sup> Floor  
Watervliet, NY 12189-4000  
(518) 266-6350 - Permits team  
(518) 266-6360 - Compliance Team

Email: [cenan.rfo@usace.army.mil](mailto: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](mailto:LRB.Regulatory@usace.army.mil)  
[www.lrb.usace.army.mil](http://www.lrb.usace.army.mil)

## **Appendix V:**

### **Sample Floodplain Management Public Notices**

**EARLY NOTICE AND PUBLIC REVIEW OF A PROPOSED  
ACTIVITY IN A 100-YEAR FLOODPLAIN**

Month XX, XXXX:

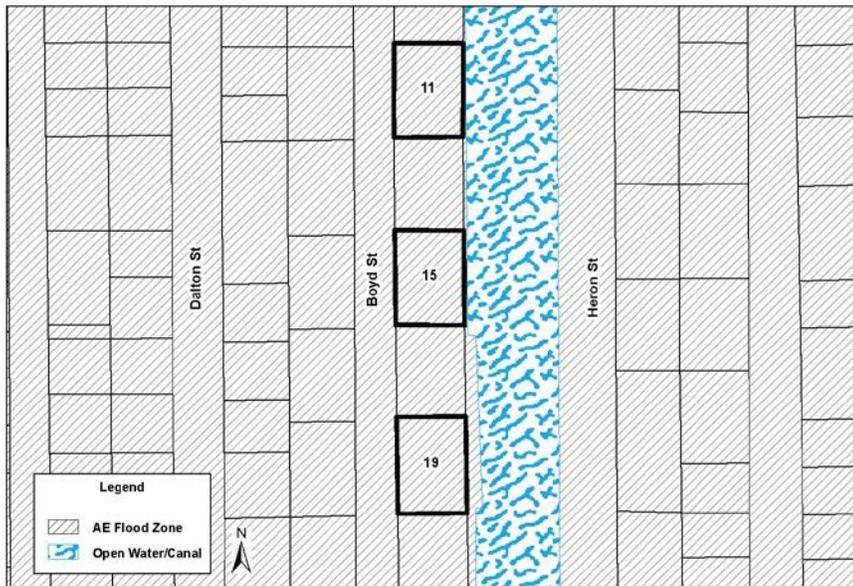
To: All Interested Agencies, Groups & Individuals

This is to give notice that the New York State Homes and Community Renewal (HCR) has conducted an evaluation as required by Executive Order 11988, in accordance with HUD regulations at 24 CFR 55.20 Subpart C, Procedures for Making Determinations on Floodplain Management, to determine the potential effect that its activity in the floodplain will have on the human environment for Community Development Block Grant – Disaster Recovery (CDBG-DR) Nassau County Bulkhead Repair Program under Title I of the Housing and Community Development Act of 1974 (PL 93-383). In accordance with the regulations, a Floodplain Management Areawide Compliance Document has been prepared for the CDBG-DR Bulkhead Repair Program for repair or reconstruction of bulkheads at Residential Properties in Nassau County.

New York State has been allocated \$1.7 Billion of CDBG-DR funds for acquisition, reconstruction, improvement, financing, and use of existing properties in the most impacted municipalities and counties. This funding reflects activity under the first allocation of funds. A significant portion of the current allocation will be used for the renovation of some of the worst damaged properties, including those that are the subject of this Notice. It is HCR’s expectation that with additional unmet needs assessment the number of housing units in this and other areas to be assisted additional funding will further increase. Additional areas will be the subject of additional notices, as needs arise.

The properties shown below are subject to this public notice:

City	Block	Lot	Address	Lot Acreage	Lot Acreage Withing 100Yr Flood Zone
Long Beach	219	19	16 Boyd Street	0.2	0.2
Long Beach	219	15	24 Boyd Street	0.19	0.19
Long Beach	219	11	30 Boyd Street	0.19	0.19



There are approximately 104,368 acres in the floodplain in Nassau County. The tidal floodplains in the State are depicted on two maps: the advisory mapping developed by FEMA, which can be viewed by selecting “FEMA's Interactive ABFE Map” link at [www.region2coastal.com/sandy/abfe](http://www.region2coastal.com/sandy/abfe) and the FEMA Base Flood Elevation Map link at [www.msc.fema.gov](http://www.msc.fema.gov).

Owners of residential properties with bulkheads that sustained substantial damage will be issued grant awards. These awards will assist in the repair of damaged bulkheads. In order to receive a grant award the damaged structure:

- The removal and replacement must be of a functional and lawfully existing bulkhead (including returns and parallel capping boardwalks) and in the same location as the existing bulkhead.
- The bulkhead must (1) be designed and built to control long-term erosion and (2) have a reasonable probability of controlling erosion for at least 30 years (N.Y. Comp. Codes R. & Regs. tit. 6, § 505.9(b)). A permit application must include a long-term maintenance program and specifications for (1) maintenance of degradable materials and (2) periodic replacement of removable materials. Materials must be strong enough to withstand waves, weathering, and storm conditions (N.Y. Comp. Codes R. & Regs. tit. 6, § 505.9(c)).
- Constructing, modifying, or restoring the bulkhead structure must (1) not increase erosion and (2) minimize or prevent adverse effects to natural protective features, existing erosion protection structures, and natural resources such as significant fish and wildlife habitats. Variances from the requirements may be granted if certain criteria are met (N.Y. Comp. Codes R. & Regs. tit. 6, § 505.9(e)).

There are three primary purposes for this notice. First, people who may be affected by activities in floodplains and those who have an interest in the protection of the natural environment have an opportunity to express their concerns and provide information about these areas. Second, adequate public notice is an important public education tool. The dissemination of information about floodplains facilitates and enhances Federal efforts to reduce the risks associated with the occupancy and modification of these special areas. Third, as a matter of fairness, when the Federal government determines it will participate in actions taking place in floodplains, it must inform those who may be put at greater or continued risk.

It is preferred for written comments to be submitted via e-mail at [NYSCDBG\\_DR\\_ER@nyshcr.org](mailto:NYSCDBG_DR_ER@nyshcr.org). Please include “Nassau County Floodplain Work Comments” in the subject line. Written comments may also be sent to HCR at the following address: NYS Homes and Community Renewal, 38-40 State Street, 4th Floor, Hampton Plaza, Albany, NY 12207 and (518) 486-3379 Attention: Heather M. Spitzberg, Esq., Certifying Officer. All comments must be received on or before **Day, Month XX, XXX**. A full copy of the Floodplain Management Document can be viewed from Monday - Friday: 9:00 AM - 5:00 PM at NYS Homes and Community Renewal, 38-40 State Street, Hampton Plaza, Albany, NY 12207 or at <http://www.nyshcr.org/Programs/NYS-HCR-CDBG-DR/EnvironmentalReview>.

Heather M. Spitzberg, Esq., Certifying Officer  
New York State Homes & Community Renewal  
Hampton Plaza  
38-40 State Street Albany, NY 12207  
(518) 486-3379  
[NYSCDBG\\_DR\\_ER@nyshcr.org](mailto:NYSCDBG_DR_ER@nyshcr.org)

**FINAL NOTICE AND PUBLIC REVIEW OF A PROPOSED  
ACTIVITY IN A 100-YEAR FLOODPLAIN**

Month XX, XXXX:

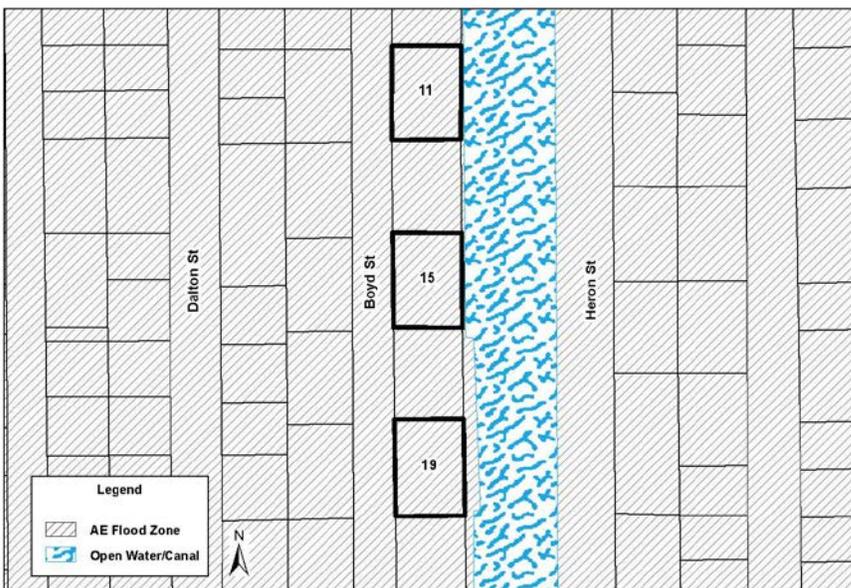
To: All Interested Agencies, Groups & Individuals

This is to give notice that the New York State Homes and Community Renewal (HCR) has conducted an evaluation as required by Executive Order 11988, in accordance with HUD regulations at 24 CFR 55.20 Subpart C, Procedures for Making Determinations on Floodplain Management, to determine the potential effect that its activity in the floodplain will have on the human environment for Community Development Block Grant – Disaster Recovery (CDBG-DR) Nassau County Bulkhead Repair Program under Title I of the Housing and Community Development Act of 1974 (PL 93-383). In accordance with the regulations, a Floodplain Management Areawide Compliance Document has been prepared for the CDBG-DR Housing Assistance Program for rehabilitation and mitigation of Bulkhead Residential Properties in Nassau County.

New York State has been allocated \$1.7 Billion of CDBG-DR funds for acquisition, reconstruction, improvement, financing, and use of existing properties in the most impacted municipalities and counties. This funding reflects activity under the first allocation of funds. A significant portion of the current allocation will be used for the renovation of some of the worst damaged properties, including those that are the subject of this Notice. It is HCR’s expectation that with additional unmet needs assessment the number of housing units in this and other areas to be assisted additional funding will further increase. Additional areas will be the subject of additional notices, as needs arise.

The properties shown below are subject to this public notice:

City	Block	Lot	Address	Lot Acreage	Lot Acreage Withing 100Yr Flood Zone
Long Beach	219	19	16 Boyd Street	0.2	0.2
Long Beach	219	15	24 Boyd Street	0.19	0.19
Long Beach	219	11	30 Boyd Street	0.19	0.19



There are approximately 104,368 acres in the floodplain in Nassau County. The tidal floodplains in the State are depicted on two maps: the advisory mapping developed by FEMA, which can be viewed by selecting “FEMA's Interactive ABFE Map” link at [www.region2coastal.com/sandy/abfe](http://www.region2coastal.com/sandy/abfe) and the FEMA Base Flood Elevation Map link at [www.msc.fema.gov](http://www.msc.fema.gov).

Owners of residential properties with bulkheads that sustained substantial damage will be issued grant awards. These awards will assist in the repair of damaged bulkheads. In order to receive a grant award the damaged structure:

- The removal and replacement must be of a functional and lawfully existing bulkhead (including returns and parallel capping boardwalks) and in the same location as the existing bulkhead.
- The bulkhead must (1) be designed and built to control long-term erosion and (2) have a reasonable probability of controlling erosion for at least 30 years (N.Y. Comp. Codes R. & Regs. tit. 6, § 505.9(b)). A permit application must include a long-term maintenance program and specifications for (1) maintenance of degradable materials and (2) periodic replacement of removable materials. Materials must be strong enough to withstand waves, weathering, and storm conditions (N.Y. Comp. Codes R. & Regs. tit. 6, § 505.9(c)).
- Constructing, modifying, or restoring the bulkhead structure must (1) not increase erosion and (2) minimize or prevent adverse effects to natural protective features, existing erosion protection structures, and natural resources such as significant fish and wildlife habitats. Variances from the requirements may be granted if certain criteria are met (N.Y. Comp. Codes R. & Regs. tit. 6, § 505.9(e)).

There are three primary purposes for this notice. First, people who may be affected by activities in floodplains and those who have an interest in the protection of the natural environment have an opportunity to express their concerns and provide information about these areas. Second, adequate public notice is an important public education tool. The dissemination of information about floodplains facilitates and enhances Federal efforts to reduce the risks associated with the occupancy and modification of these special areas. Third, as a matter of fairness, when the Federal government determines it will participate in actions taking place in floodplains, it must inform those who may be put at greater or continued risk.

It is preferred for written comments to be submitted via e-mail at [NYSCDBG\\_DR\\_ER@nyshcr.org](mailto:NYSCDBG_DR_ER@nyshcr.org). Please include “Nassau County Floodplain Work Comments” in the subject line. Written comments may also be sent to HCR at the following address: NYS Homes and Community Renewal, 38-40 State Street, 4th Floor, Hampton Plaza, Albany, NY 12207 and (518) 486-3379 Attention: Heather M. Spitzberg, Esq., Certifying Officer. All comments must be received on or before **Day, Month XX, XXX**. A full copy of the Floodplain Management Document can be viewed from Monday - Friday: 9:00 AM - 5:00 PM at NYS Homes and Community Renewal, 38-40 State Street, Hampton Plaza, Albany, NY 12207 or at <http://www.nyshcr.org/Programs/NYS-HCR-CDBG-DR/EnvironmentalReview>.

Heather M. Spitzberg, Esq., Certifying Officer  
New York State Homes & Community Renewal  
Hampton Plaza  
38-40 State Street Albany, NY 12207  
(518) 486-3379  
[NYSCDBG\\_DR\\_ER@nyshcr.org](mailto:NYSCDBG_DR_ER@nyshcr.org)

**Appendix W:**

**Combined Finding of No Significant Impact  
and Notice of Intent to Request Release of Funds  
(FONSI/NOIRROF)**

**PUBLIC NOTICE**  
**COMBINED NOTICE OF FINDING OF NO SIGNIFICANT IMPACT (FONSI) AND  
NOTICE OF INTENT TO REQUEST RELEASE OF FUNDS (NOIRROF)  
NY RISING BULKHEAD REPAIR PROGRAM FOR RESIDENTIAL PROPERTIES:  
NASSAU COUNTY, NY  
BY NEW YORK STATE HOUSING TRUST FUND CORPORATION  
APRIL 4, 2014**

*New York State Housing Trust Fund Corporation (HTFC)  
38-40 State Street  
Albany, NY 12207  
(518) 473-4732*

**Name of Responsible Entity and Recipient:** New York State Homes and Community Renewal (HCR) 38-40 State Street, Hampton Plaza, Albany, NY 12207, in cooperation with New York State Housing Trust Fund Corporation (HTFC), of the same address. Contact: Amy Zamenick.

This combined notice satisfies two separate procedural requirements for project activities to be undertaken.

Per 24 CFR Part 58.33, the combined Notice of Finding of No Significant Impact and Notice of Intent to Request Release of Funds (FONSI/NOIRROF) will be published simultaneously with the submission of the Request for Release of Funds (RROF). The funds are needed on an emergency basis due to a declared disaster resulting from the impacts of Hurricane Sandy, which made landfall on October 29, 2012. As a result, the comment periods for the FONSI/NOIRROF and the RROF have been combined.

**Project Description:** HTFC intends to undertake the following project, funded by United States Department of Housing & Urban Development's (HUD) 2013 Community Development Block Grant—Disaster Recovery (CDBG-DR) funds under the NY Rising Bulkhead Repair Program for Residential Properties in Nassau County.

The activities associated with the NY Rising Bulkhead Repair Program for Residential Properties for Nassau County described herein will address unmet recovery needs of homeowners and tenants for which CDBG-DR funding shall be made available to Nassau County residents who qualify. NY Rising Bulkhead Repair Program for Residential Properties activities to be funded by CDBG-DR have been designed to provide assistance for repairing or reconstructing bulkheads, seawalls, and revetments. This program is anticipated to help mitigate future storm damage.

The program may also provide reimbursements for owners of bulkheads that have started or completed storm-related rehabilitation work with personal resources, subject to restrictions in line with applicable laws, regulations, and the program requirements.

This is the first tier of review in a 2-tiered process. The specific addresses of properties with bulkheads are not known at this time because the participating property owner identification process is ongoing. Therefore, under 24 CFR Part 58.15 (Tiering) and 24 CFR Part 58.32 (Project Aggregation), HTFC will use a tiered approach and once specific sites are determined, each site will be reviewed in compliance with the instructions established in the Tier 1 Review. No physical work will begin on bulkheads until all levels of environmental review are complete and found to be in compliance. Tier 1 review addresses specific environmental factors for which compliance has been documented, regardless of specific site locations. It prevents repeating the same compliance factors on a Tier 2 site-specific basis, once all participating homeowners are known.

### **FINDING OF NO SIGNIFICANT IMPACT**

A Tier 1 Environmental Review Record (ERR) was established and is maintained on file. The ERR is incorporated by reference into this FONSI. A full copy of the ERR, including a completed National Environmental Policy Act of 1969 (NEPA) Environmental Assessment Checklist, an Environmental Assessment Worksheet, and area map, is available for public inspection during normal business hours in accordance with 24 CFR Part 58 at the offices listed below or at <http://www.HCR.org/Programs/NYS-CDBG-DR/EnvironmentalReview.htm>.

HTFC has determined that the ERR for the project identified herein complies with the requirements of HUD environmental review regulations at 24 CFR Part 58, et al.

HTFC has also determined that the project described herein, as proposed, will have no significant adverse environmental or socioeconomic impacts, either direct, indirect, or cumulative. There will be no significant impact on the human environment, and the action will not negatively impact the quality of the environment. Therefore, HTFC has determined that the project, as proposed, is not an action that will result in a significant impact on the quality of the human environment. Moreover, the project does not require an Environmental Impact Statement under NEPA.

**Public Review:** Public viewing of the ERR is available on the internet and is also available in person Monday – Friday, 9:00 AM - 5:00 PM at the following addresses:

*New York State Housing Trust Fund Corporation Care of Office of Community Renewal  
NYS Department of Homes and Community Renewal 38-40 State Street  
Albany, NY 12207  
Contact: Amy Zamenick (518) 473-4732*

&

*Recreate NY Smart Home Program Office  
4160 Industrial Place  
Island Park, NY 11558  
Contact: Sandra Crespo (516) 415-7939*

Further information may be requested at [NYSCDBG\\_DR\\_ER@HCR.org](mailto:NYSCDBG_DR_ER@HCR.org) or by calling HTFC at (518) 473-4732. This combined notice is being sent to individuals and groups known to be interested in these

activities, local news media, appropriate local, state, and federal agencies, the regional office of U.S. Environmental Protection Agency having jurisdiction, and to the HUD Field Office, and is being published in newspapers of general circulation in the affected community.

### **Public Comments on FONSI/Findings and NOIRROF**

Any individual, group, or agency may submit written comments on this project. Those wishing to comment should specify in their comments which distinct part(s) of this Combined Notice they intend their comments to address. Comments should be submitted via email, in the proper format, on or before Monday, April 21, 2014 at: [NYSCDBG\\_DR\\_ER@HCR.org](mailto:NYSCDBG_DR_ER@HCR.org). Written comments may also be submitted at the following address, or by mail, in the proper format, to be received on or before Monday, April 21, 2014.

*Ms. Amy Zamenick  
Certifying Officer Office of Community Renewal  
New York State Department of Homes & Community Renewal  
38-40 State Street  
Hampton Plaza Albany, NY 12207*

If modifications result from public comment, these will be made prior to proceeding with the expenditure of funds.

### **REQUEST FOR RELEASE OF FUNDS**

Written notice of environmental clearance will be required prior to the removal of any limitation on commitment of federal funds in accordance with regulations at 24 CFR Part 58.70.

On Friday, April 4, 2014, the HCR Certifying Officer will submit this request and certification to HUD for the release of CDBG-DR funds as authorized by related laws and policies for the purpose of implementing this part of the New York State CDBG-DR program.

HCR certifies to HUD that Ms. Amy Zamenick, acting in capacity as Certifying Officer, consents to accept the jurisdiction of the U.S. federal courts if an action is brought to enforce responsibilities in relation to the environmental reviews, decision-making, and action, and that these responsibilities have been satisfied. Moreover, HCR certifies that a Tier 1 environmental review for the project described herein has been completed and that additional Tier 2 site-specific review will occur once the specific sites are identified. HUD's approval of the certification satisfies its responsibilities under NEPA and related laws and authorities, and allows HTFC/HCR to use CDBG-DR funds.

**Objections to Release of Funds** - HUD will consider objections to the RROF and/or FONSI certification for a period of fifteen (15) days following the submission date or its actual receipt of the request (whichever is later). Potential objectors may contact HUD to verify the actual last day of the objection period.

The only permissible grounds for objections claiming a responsible entity's non-compliance with 24 CFR Part 58 are:

- (a) Certification was not executed by the responsible entity's Certifying Officer;
- (b) The responsible entity has omitted or failed to make a step, decision, or finding required by HUD regulations at 24 CFR Part 58;
- (c) The responsible entity has committed funds or incurred costs not authorized by 24 CFR Part 58 before release of funds and approval of environmental certification; or
- (d) Another federal agency acting pursuant to 40 CFR Part 1504 has submitted a written finding that the project is unsatisfactory from the standpoint of environmental quality.

Objections must be prepared and submitted in writing in accordance with the required procedures and format (24 CFR Part 58) and shall be addressed to:

*Tennille Smith Parker  
Acting Director/Assistant Director, Disaster Recovery and Special Issues Division  
Office of Block Grant Assistance  
U.S. Department of Housing & Urban Development  
451 7th Street SW  
Washington, DC 20410  
Phone: (202) 402-4649*



Amy Zamenick  
HCR Certifying Officer  
Friday, April 4, 2014

**NEWSDAY**  
**AFFIDAVIT OF PUBLICATION**

PROSOURCE TECHNOLOGIES, LLC  
9219 E. RIVER RD., NW  
MINNEAPOLIS , MN 55433-5722

STATE OF NEW YORK)  
SS.:  
COUNTY OF SUFFOLK)

Legal Notice No. 17241670

R. Lopes

of Newsday LLC, Suffolk County, N.Y., being duly sworn, says that such person is, and at the time of publication of the annexed Notice was a duly authorized custodian of records of Newsday LLC, the publisher of NEWSDAY, a newspaper published in the County of Suffolk, County of Nassau, County of Queens, and elsewhere in the State of New York and other places, and that the Notice of which the annexed is a true copy, was published in the following editions/ counties of said newspaper on the following dates:

FRIDAY                      APRIL                      04    2014                      Nassau

SWORN to before me this  
04 Day of April, 2014.

---

**Guy P. Wasser**  
**Notary Public, State of New York**  
**No. 01WA6045924**  
**Commission Expires 10/20/2014**  
**Qualified in Suffolk County**



**PUBLIC NOTICE  
COMBINED NOTICE OF  
FINDING OF NO  
SIGNIFICANT IMPACT  
(FONSI) AND NOTICE OF  
INTENT TO REQUEST  
RELEASE OF FUNDS  
(NOIRROF)  
NY RISING BULKHEAD  
REPAIR PROGRAM FOR  
RESIDENTIAL  
PROPERTIES:  
NASSAU COUNTY, NY  
BY NEW YORK STATE  
HOUSING TRUST FUND  
CORPORATION  
APRIL 4, 2014**

New York State Housing Trust Fund Corporation (HTFC) 38-40 State Street Albany, NY 12207 (518) 473-4732

**Name of Responsible Entity and Recipient:** New York State Homes and Community Renewal (HCR) 38-40 State Street, Hampton Plaza, Albany, NY 12207, in cooperation with New York State Housing Trust Fund Corporation (HTFC), of the same address. Contact: Amy Zamenick.

This combined notice satisfies two separate procedural requirements for project activities to be undertaken. Per 24 CFR Part 58.33, the combined Notice of Finding of No Significant Impact and Notice of Intent to Request Release of Funds (FONSI/NOIRROF) will be published simultaneously with the submission of the Request for Release of Funds (RRF). The funds are needed on an emergency basis due to a declared disaster resulting from the impacts of Hurricane Sandy, which made landfall on October 29, 2012. As a result, the comment periods for the FONSI/NOIRROF and the RRF have been combined.

**Project Description:** HTFC intends to undertake the following project, funded by United States Department of Housing & Urban Development's (HUD) 2013 Community Development Block Grant-Disaster Recovery (CDBG-DR) funds under the NY Rising Bulkhead Repair Program for Residential Properties in Nassau County. The activities associated with the NY Rising Bulkhead Repair Program for Residential Properties for Nassau County described herein will address unmet recovery needs of homeowners and tenants for which CDBG-DR funding shall be made available to Nassau County residents who qualify. NY Rising Bulkhead Repair Program for Residential Properties activities to be funded by CDBG-DR have been designed to provide assistance for repairing or reconstructing bulkheads, seawalls, and revetments. This program is anticipated to help mitigate future storm damage. The program may also provide

reimbursements for owners of bulkheads that have started or completed storm-related rehabilitation work with personal resources, subject to restrictions in line with applicable laws, regulations, and the program requirements.

This is the first tier of review in a 2-tiered process. The specific addresses of properties with bulkheads are not known at this time because the participating property owner identification process is ongoing. Therefore, under 24 CFR Part 58.15 (Tiering) and 24 CFR Part 58.32 (Project Aggregation), HTFC will use a tiered approach and once specific sites are determined, each site will be reviewed in compliance with the instructions established in the Tier 1 Review. No physical work will begin on bulkheads until all levels of environmental review are complete and found to be in compliance. Tier 1 review addresses specific environmental factors for which compliance has been documented, regardless of specific site locations. It prevents repeating the same compliance factors on a Tier 2 site-specific basis, once all participating homeowners are known.

**FINDING OF NO SIGNIFICANT IMPACT**  
A Tier 1 Environmental Review Record (ERR) was established and is maintained on file. The ERR is incorporated by reference into this FONSI. A full copy of the ERR, including a completed National Environmental Policy Act of 1969 (NEPA) Environmental Assessment Checklist, an Environmental Assessment Worksheet, and area map, is available for public inspection during normal business hours in accordance with 24 CFR Part 58 at the offices listed below or at <http://www.HCR.org/Programs/NYS-CDBG-DR/EnvironmentalReview.htm>. HTFC has determined that the ERR for the project identified herein complies with the requirements of HUD environmental review regulations at 24 CFR Part 58, et al.

HTFC has also determined that the project described herein, as proposed, will have no significant adverse environmental or socioeconomic impacts, either direct, indirect, or cumulative. There will be no significant impact on the human environment, and the action will not negatively impact the quality of the environment. Therefore, HTFC has determined that the project, as proposed, is not an action that will result in a significant impact on the quality of the human environment. Moreover, the project does not require an Environmental Impact Statement under NEPA.

**Public Review:** Public view-

ing of the ERR is available on the internet and is also available in person Monday-Friday, 9:00 AM - 5:00 PM at the following addresses: New York State Housing Trust Fund Corporation Care of Office of Community Renewal NYS Department of Homes and Community Renewal 38-40 State Street Albany, NY 12207 Contact: Amy Zamenick (518) 473-4732 & Recreate NY Smart Home Program Office 4160 Industrial Place Island Park, NY 11558 Contact: Sandra Crespo (516) 415-7939

Further information may be requested at [NYSCDBG\\_DR\\_ER@HCR.org](mailto:NYSCDBG_DR_ER@HCR.org) or by calling HTFC at (518) 473-4732. This combined notice is being sent to individuals and groups known to be interested in these activities, local news media, appropriate local, state, and federal agencies, the regional office of U.S. Environmental Protection Agency having jurisdiction, and to the HUD Field Office, and is being published in newspapers of general circulation in the affected community.

**Public Comments on FONSI/Findings and NOIRROF**  
Any individual, group, or agency may submit written comments on this project. Those wishing to comment should specify in their comments which distinct part(s) of this Combined Notice they intend their comments to address. Comments should be submitted via email, in the proper format, on or before Monday, April 21, 2014 at: [NYSCDBG\\_DR\\_ER@HCR.org](mailto:NYSCDBG_DR_ER@HCR.org). Written comments may also be submitted at the following address, or by mail, in the proper format, to be received on or before Monday, April 21, 2014. Ms. Amy Zamenick Certifying Officer Office of Community Renewal New York State Department of Homes & Community Renewal 38-40 State Street Hampton Plaza Albany, NY 12207

If modifications result from public comment, these will be made prior to proceeding with the expenditure of funds.

**REQUEST FOR RELEASE OF FUNDS**  
Written notice of environmental clearance will be required prior to the removal of any limitation on commitment of federal funds in accordance with regulations at 24 CFR Part 58.70. On Friday, April 4, 2014, the HCR Certifying Officer will submit this request and certification to HUD for the release of CDBG-DR funds as authorized by related laws

and policies for the purpose of implementing this part of the New York State CDBG-DR program. HCR certifies to HUD that Ms. Amy Zamenick, acting in capacity as Certifying Officer, consents to accept the jurisdiction of the U.S. federal courts if an action is brought to enforce responsibilities in relation to the environmental reviews, decision-making, and action, and that these responsibilities have been satisfied. Moreover, HCR certifies that a Tier 1 environmental review for the project described herein has been completed and that additional Tier 2 site-specific review will occur once the specific sites are identified. HUD's approval of the certification satisfies its responsibilities under NEPA and related laws and authorities, and allows HTFC/HCR to use CDBG-DR funds.

**Objections to Release of Funds** - HUD will consider objections to the RROF and/or FONSI certification for a period of fifteen (15) days following the submission date or its actual receipt of the request (whichever is later). Potential objectors may contact HUD to verify the actual last day of the objection period.

The only permissible grounds for objections claiming a responsible entity's non-compliance with 24 CFR Part 58 are:

- (a) Certification was not executed by the responsible entity's Certifying Officer;
  - (b) The responsible entity has omitted or failed to make a step, decision, or finding required by HUD regulations at 24 CFR Part 58;
  - (c) The responsible entity has committed funds or incurred costs not authorized by 24 CFR Part 58 before release of funds and approval of environmental certification; or
  - (d) Another federal agency acting pursuant to 40 CFR Part 1504 has submitted a written finding that the project is unsatisfactory from the standpoint of environmental quality.
- Objections must be prepared and submitted in writing in accordance with the required procedures and format (24 CFR Part 58) and shall be addressed to: Tennifer Smith Parker Acting Director/ Assistant Director, Disaster Recovery and Special Issues Division Office of Block Grant Assistance U.S. Department of Housing & Urban Development 451 7th Street SW Washington, DC 20410 Phone: (202) 402-4649 Amy Zamenick HCR Certifying Officer Friday, April 4, 2014

**NEWSDAY PROOF**

Customer: PROSOURCE TECHNOLOGIES, LLC Contact: MICAELA Phone: 7637861445

Ad Number: 17241670 Start Date: 04/04/2014 End Date: 04/04/2014 Times: 1

Price: \$1572.00 Size: 4 x 99 Section: CL Class: 11100

Printed By: L003 Date: 04/02/2014

Signature of Approval: \_\_\_\_\_ Date: \_\_\_\_\_

Zones:

## **Appendix X:**

### **Response to EPA Comments**

Amy Zamenick  
Certifying Officer Office of Community Renewal  
New York State Department of Homes & Community Renewal  
38-40 State Street  
Hampton Plaza Albany, NY 12207

Dear Ms. Zamenick:

The Environmental Protection Agency has reviewed the Tier 1 Programmatic Environmental Review Record (ERR) - Community Development Block Grant-Disaster Recovery (CDBG-DR) Program NY Rising Bulkhead Repair Program: Environmental Assessment for Residential Properties in Nassau County, New York. In response to the April 4, 2014 Combined Notice of Finding of No Significant Impact and Notice of Intent to Request Release of Funds, the U.S. Environmental Protection Agency (EPA) offers the following comments with regard to the Bulkhead Repair Program.

First, EPA acknowledges that the State of New York Action Plan for Community Development Block Grant Program Disaster Recovery guides the programs and projects that are being implemented. Second, we understand that the alternatives considered are of an administrative nature, i.e., No Action Alternative, Limited Action Alternative – No Reimbursement Funding, and Limited Area Options, rather than technical. However, given that one of the State Plan's key principles is "Building back better and smarter" by using this as an opportunity not only to replace structures, but to invest in measures to prevent similar damage from recurring, we recommend that different options/technologies that might deliver similar and/or better services than the existing bulkhead structures be considered. Natural-based features as well as non-structural measures should be included. We recognize that Tier 2 will provide the opportunity to analyze site specific options and offer particular alternatives for each unique location, but believe the programmatic document is the place to have a general discussion of options.

The purpose of bulkhead structures is to hold land in place through protecting high ground (immediately behind the structure) from wave action. Bulkheads do not address what is causing the erosion problem, but rather accelerate and convert the problem (reflects wave energy/backwash) into vertical erosion in front of the structure (bulkhead). Additionally, bulkheads eliminate natural processes and cannot provide an appropriate habitat for estuarine species. This erosion in front of the bulkhead creates its own impacts and the environmental analysis should consider the connection between bulkheads and their domino effect on plants, fish, etc. Additionally, bulkheads/seawalls are only recommended when beach front does not exist or when the structure will be located far from the beach as a protection from rare events where the everyday wave action is not present. (For more information on these impacts: <http://www.habitat.noaa.gov/restoration/techniques/livingshorelines.html>, <http://chl.erdc.usace.army.mil/library/publications/chetn/pdf/cetn-iii-8.pdf>).

In addition to the definitions, descriptions, types, and designs of bulkheads and potential causes of damage to these structures, include the advantages and disadvantages associated with each design and with the materials used to construct these structures; the document should also address the changes in wave action, sand suspension, beach front, etc., that bulkheads cause.

The impacts analysis should evaluate the impacts during construction as well as from operation such as short-term and long-term impacts from the type of construction materials (wood, metal, etc.) used. Further, the effects of sea level rise on the bulkheads (by using well known FEMA products) should be discussed.

The short-term/fast solution to the risk problem might be bulkheads, but the document should also address long-term solutions with better alternatives that can be both, holistic and climate resilient. Further, several States have banned the construction of bulkheads completely, and states such as Pennsylvania and Rhode Island and communities such as Southampton, Suffolk County, NY have imposed strict guidelines on them:

[http://coastalmanagement.noaa.gov/initiatives/shoreline\\_ppr\\_eros\\_control.html](http://coastalmanagement.noaa.gov/initiatives/shoreline_ppr_eros_control.html)

For additional information on nature-based infrastructure in reducing the impacts of coastal storm flooding, as well as other impacts at a larger scale and as a system:

<http://www.nad.usace.army.mil/CompStudy.aspx>

Thank you for the opportunity to comment. If you have any questions please contact Maria Clark at 212-637-3789 or [clark.maria@epa.gov](mailto:clark.maria@epa.gov).

Sincerely,

Grace Musumeci, Chief  
Environmental Review Section

Cc: R. Steffen, ProSource

T.S. Parker, HUD

This attachment provides responses to comments on the Nassau County Bulkhead Repair Initiative Tier 1 Programmatic Environmental Assessment (Nassau Bulkhead Tier 1 PEA) provided by the United States Environmental Protection Agency (EPA) on April 16, 2014.

**EPA COMMENTS AND RESPONSES**

**Comment 1:** We understand that the alternatives considered are of an administrative nature, i.e., No Action Alternative, Limited Action Alternative—No Reimbursement Funding, and Limited Area Options, rather than technical. However, given that one of the State’s key plan principles is “Building back better and smarter” by using this as an opportunity not only to replace structures, but to invest in measures to prevent similar damage from recurring, we recommend that different options/technologies that might deliver similar and/or better services than the existing bulkhead structures be considered. We recognize that Tier 2 will provide the opportunity to analyze site specific options and offer particular alternatives for each unique location, but believe the programmatic document is the place to have a general discussion of options.

**Response:** As discussed in the Nassau Bulkhead Tier 1 PEA, the proposed initiative would provide assistance for repair, rehabilitation, replacement and reimbursement for completed repairs to owners and renters of residential properties in Nassau County whose bulkheads were damaged or destroyed by Hurricane Irene and Superstorm Sandy. The initiative is needed to help maintain or restore properties impacted by these storms through repair and replacement of damaged bulkhead structures, and to help prevent future damage. Another goal of the initiative is to facilitate the provision of safe and adequate housing for residents of these communities, retain neighborhood character over the long-term, and improve the communities’ resiliency to future storms.

While the alternatives considered in the Nassau Bulkhead Tier 1 PEA are limited to various funding programs for bulkheads, soft edge options such as natural based features and nonstructural measures are not precluded by the Tier 1 analysis. NYS Homes and Community Renewal (HCR) and the Governor’s Office of Storm Recovery (GOSR) agree that non-structural interventions may be more appropriate in certain situations. Therefore, as discussed in Section 1.10 of the Nassau Bulkhead Tier 1 PEA, the initiative would allow for nonstructural alternatives when recommended by a licensed engineer. These approaches to bulkhead repair would need to be considered by the Applicant, the Applicant’s

**NY Rising Bulkhead Repair Initiative: Environmental Assessment for Residential Properties in Nassau County, NY**

---

licensed engineer, regulatory government agencies, and the local municipality, and may require additional and/or lengthy permitting processes.

As discussed in Section 3.0 of the Nassau Bulkhead Tier 1 PEA, the proposed initiative incorporates conditions for approval and mitigation of specific sites in order to avoid significant adverse impacts to the environment, including conditions related to water quality. These conditions will be reviewed as part of the Tier 2 site-specific reviews to ensure that Applicants to the proposed initiative would comply. Therefore, the proposed initiative has been designed to avoid impacts to the environment, and the consideration of additional alternatives is not required as part of this environmental review but could be considered by individual Applicants as they move forward with bulkhead repair activities.

**Comment 2:** Erosion in front of the bulkhead creates its own impacts and the environmental analysis should consider the connection between bulkheads and their domino effect on plants, fish, etc. Additionally, bulkheads/seawalls are only recommended when beach front does not exist or when the structure will be located far from the beach as a protection from rare events where the everyday wave action is not present. (For more information on these impacts: <http://www.habitat.noaa.gov/restoration/techniques/livingshorelines.html>, <http://chl.erdc.usace.army.mil/library/publications/chetn/pdf/cetn-iii-8.pdf>)

**Response:** As discussed in the Nassau Bulkhead Tier 1 PEA, the proposed initiative would provide assistance for repair, rehabilitation, replacement and reimbursement for completed repairs to owners and renters of residential properties in Nassau County whose bulkheads were damaged or destroyed by Hurricane Irene and Superstorm Sandy. Because the affected bulkheads already exist, there would be no new impacts on plants, fish, etc. Furthermore, consultation with NYSDEC NY Natural Heritage Program, the United States Fish and Wildlife Service (USFWS), and the NOAA National Marine Fisheries Service (NMFS) has been undertaken for the Bulkhead Repair Initiative compliance with state and federal threatened and endangered species laws, and consultation with the United States Army Corps of Engineers has been undertaken with respect to permitting requirements and compliance with the Clean Water Act and the Rivers and Harbors Act of 1899, as applicable (see consultation letters provided in the appendices of the Nassau Bulkhead Tier 1 PEA). In accordance with the consultation letters provided by USFWS and NMFS, each site will be evaluated in the Tier 2 review to determine the potential level of effect on state and federal threatened and endangered species. As stated in the USACE consultation letter, USACE's Nationwide Permit 3 (NWP3) is available in order to ensure compliance with Section 404 of the CWA for projects involving generally minor and less complex reviews, provided the project complies with all of the General Conditions outlined by NWP3. A component of this permit is the identification

and implementation of measures to avoid and minimize adverse effects to essential fish habitat and other trust resources. As discussed in Section 1.9 of the Nassau Bulkhead Tier 1 PEA, program sites that do not qualify for NWP3 would need to obtain both an individual permit and Section 401 Water Quality Certification, which would also identify and implement measures to avoid and minimize adverse effects.

**Comment 3:** In addition to the definitions, descriptions, types, and designs of bulkheads and potential causes of damage to these structures, include the advantages and disadvantages associated with each design and with the materials used to construct these structures; the document should also address the changes in wave action, sand suspension, beach front, etc., that bulkheads cause.

**Response:** As discussed in the Nassau Bulkhead Tier 1 PEA, the proposed initiative would provide assistance for repair, rehabilitation, replacement and reimbursement for completed repairs to owners and renters of residential properties in Nassau County whose bulkheads were damaged or destroyed by Hurricane Irene and Superstorm Sandy. Because the affected bulkheads already exist, there would be no change to wave action, sand suspension, beach front, etc. as a result of the proposed initiative. The advantages and disadvantages of each bulkhead design relate primarily to whether it is a vertical bulkhead or a riprap revetment and in most cases it is likely that an Applicant would be required to replace their bulkhead in kind. Changes to the materials of a bulkhead (rather than its design as a vertical structure or rip rap revetment) would not be likely to substantially affect its effects on wave action, sand suspension, beach front, etc. Individual Applicants may consider the implementation to improvements in the design or materials of their bulkheads as they move forward with bulkhead repair activities facilitated by the proposed initiative, especially if the improvements can be accomplished within the same footprint.

**Comment 4:** The impacts analysis should evaluate the impacts during construction as well as from operation such as short-term and long-term impacts from the type of construction materials (wood, metal, etc.) used. Further, the effects of sea level rise on the bulkheads (by using well known FEMA products) should be discussed.

**Response:** As discussed in Section 3.0 of the Nassau Bulkhead Tier 1 PEA, the proposed program incorporates conditions for approval and mitigation of specific sites in order to avoid significant adverse impacts to the environment, including conditions related to water quality. These conditions will be reviewed as part of the Tier 2 site-specific reviews to ensure that Applicants to the proposed initiative would comply.

As noted in the Nassau Bulkhead Tier 1 PEA, a United States Army Corps of Engineers (USACE) Nationwide Permit 3, which covers maintenance, repair, and replacement of existing serviceable bulkheads would be the appropriate

**NY Rising Bulkhead Repair Initiative: Environmental Assessment for Residential Properties in Nassau County, NY**

---

permit for many Applicants to the proposed initiative. This permit covers activities already determined to have minimal individual and cumulative adverse effects on the aquatic environment.

In recognition of the potential effects of sea level rise, the proposed initiative would allow bulkheads to be constructed up to 18 inches higher than the currently existing bulkhead.

**Comment 5:** The short-term/fast solution to the risk problem might be bulkheads, but the document should also address long-term solutions with better alternatives that can be both holistic and climate resilient. Further, several States have banned the construction of bulkheads completely, and states such as Pennsylvania and Rhode Island and communities such as Southampton, Suffolk County, NY have imposed strict guidelines on them: [http://coastalmanagement.noaa.gov/initiatives/shoreline\\_ppr\\_eros\\_control.html](http://coastalmanagement.noaa.gov/initiatives/shoreline_ppr_eros_control.html)

**Response:** The proposed initiative would not facilitate the construction of new bulkheads throughout Nassau County. As discussed in the Nassau Bulkhead Tier 1 PEA, the proposed initiative would facilitate the repair, rehabilitation, and reimbursement for completed repairs to bulkheads on residential properties. The purpose of the proposed initiative is to assist owners of residential properties in Nassau County whose bulkheads were damaged or destroyed by Hurricane Irene and Superstorm Sandy. The NY Rising Bulkhead Repair Initiative is needed to help provide adequate protection to the homes of these residents through the repair of damaged bulkheads but is not intended to facilitate construction of new bulkheads that did not exist previously.