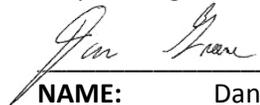


<b>MULTI AQUACULTURE SYSTEMS INC. - SMALL BUSINESS GRANT PROGRAM PROJECT #103-ED-147-13 ENVIRONMENTAL ASSESSMENT &amp; ERR PROJECT SUMMARY</b>	
<b>Responsible Entity:</b>	New York State Homes & Community Renewal – Housing Trust Fund Corporation Cooperating with Governor’s Office of Storm Recovery (GOSR)
<b>Certifying Officer:</b>	Daniel Greene, Esq., Certifying Officer, GOSR
<b>Project Name:</b>	Multi Aquaculture Systems Inc.– CDBG-DR Small Business Grant Program Project
<b>Federal Agency:</b>	U.S. Department of Housing & Urban Development (HUD)
<b>Project #:</b>	103-ED-147-13
<b>Project Sponsor:</b>	New York State Housing Trust Fund Corporation
<b>Program Name:</b>	New York State Community Development Block Grant-Disaster Recovery Small Business Grant Program (April 2013)
<b>Project Address:</b>	429 Cranberry Hole Rd, East Hampton NY 11930 (land location); 0.33 miles southwest of Plum Island, N41.171944 W72.183611 (ocean cage location)
<b>Project County:</b>	Suffolk County, NY
<b>Estimated Project Cost:</b>	\$9,600 Reimbursement and \$40,400 Future Work
<b>Project Sponsor Address:</b>	Governor’s Office of Storm Recovery 25 Beaver Street, 5th Floor New York, New York 10004
<b>Primary Contact:</b>	Daniel Greene, Esq., Deputy General Counsel and Certifying Officer, Governor’s Office of Storm Recovery
<b>E-Mail address:</b>	<i>Daniel.Greene@stormrecovery.ny.gov</i>
<b>Telephone Number:</b>	(212) 480-4644
<b>Project NEPA Classification:</b>	24 CFR 58.36
<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 at 24 CFR Part 58.</p> <p>Preparer Signature:    NAME: Daniel Greene, Esq.  Title/Agency: Deputy General Counsel &amp; Certifying Officer  Governor’s Office of Storm Recovery  Date: 12/19/2014</p>
<b>Environmental Assessment Prepared By:</b>	Tectonic Engineering & Surveying PO Box 37, 70 Pleasant Hill Road Mountainville, NY 10953

**NEPA Environmental Assessment Checklist**  
Multi Aquaculture Systems Inc. - #103-ED-147-13  
December 19, 2014

**Project Name and Description:**

**Project Name:** Multi Aquaculture Systems, Inc.

**Location:** 429 Cranberry Hole Road, Amagansett, Suffolk County, NY 11930 (location of existing land-based operations) along with a 12.4 acre sub-plot of a 200 acre lease assignment within Gardener's Bay centered 0.33 miles southwest of Plum Island, N41.171944 W72.183611 (ocean cage culture location).

Multi Aquaculture Systems, Inc. is a fin fish farm growing Striped Bass (*Morone saxatilis*) from fingerlings to 1.5lbs. This unique business has been in existence for a number of years and operates in the two (2) locations defined above:

- Land-based operations consist of extensive infrastructure, including fish pens and appurtenant culturing equipment, along with multiple buildings on 2.4 acres. Used for office operations and a finfish hatchery/ incubator and accessory functions, this water dependent business is located at the shore of Napeague Bay adjacent to a former fish factory. We have consulted with DEC Region 1 and they have confirmed that this work is permissible under the scope of their existing permits, such as for an industrial State Pollution Discharge Elimination System (SPDES) permit, and the operations here do not require any permit or approval updates since there is no change in operations or capacity and the activity occurring on-land is the temporary and necessary in-kind repair of marine pens, which is a normal aspect of activity occurring on the land here.
- Concerning sea-based operations, once younglings reach an appropriate age, they are sized-up in two marine floating net cages. The pen dimensions are 50 feet diameter by 157 feet circumference by 17 feet vertical. These are constructed of HDPE frames with steel brackets and netting. As part of broader assignments by New York State not exclusive to just this business, and covering extensive areas within Gardener and Peconic Bays, the business entered into a Lease for use of the above specified off-shore location, contingent upon continued validity of NYS Department of Environmental Conservation (DEC) permits, including an industrial SPDES permit and others. Confirmation that this activity is lawfully existing is contained in a November 5, 2014 email from John Wieland, Permit Administrator, DEC Region 1. All applicable permits or approvals are up to date, operations here also do not change since the activity consists of in-kind repairs to marine pens as described in more detail below, which do not require any permit updates since there is no change in operations or capacity.

**Activities included in the project:** Multi Aquaculture Systems suffered damages to its pens due to Hurricane Sandy. Proposed funding is for reimbursement of past work, and for future expenses associated with in-ocean cage repairs as follows:

Reimbursement (\$9,600) -

1. Commercial diving company to retrieve/ secure damaged cages from ocean.

Future Proposed Work (\$40,400) -

1. Repairing in-ocean cages, currently located on the applicant's terrestrial property/land. Pieces of the cage need to be welded back together, or need to be welded into proper shape/form while the cages are on land. The cage handrails and some floats need to be repaired.
2. Repairing/replacing the ropes and chains that hold the cages in place when they are in-place in the ocean.
3. Repairing/replacing the nets for the cages and the bird stands on the cages.
4. Bring the repaired cages back out to location in the ocean and anchor the cages to the concrete blocks on the ocean floor, which are already in-place.

**Background & Context:** Proof of damage is supported by a site visit and photographs, as well as invoicing for the retrieval of the damaged in-ocean cages.

The location of the proposed action, land-side, is within 100-year floodplain (SFHA-VE and AE Zones), with a base flood elevation of between 10-14 feet across the property. The in-water cages are currently on the property, located within floodplain, where work will occur on the cages before they are brought back out into the ocean. No ground disturbance is proposed.

A previous environmental review for separate activities categorized under 24 CFR 58.35(b)(4) for this applicant was completed on September 9, 2014 and is included in the environmental review record.

**Purpose & Need for Project:** The continued operations and in-kind repair and rehabilitation sustains a marine business and functionally dependent activity. It enables continued viability of this small maritime aquaculture business, which might otherwise degrade, or cease to exist, without support in rehabilitating equipment, restarting business operations, and/or recouping some revenue lost as a result of the disaster. Similarly, the proposed investment supports the area by sustaining a commercial/industrial fishing business. Support to sustain this business also helps ensure a diverse economic base. If this project/activity were not funded, there probably would be other undefined, undesirable indirect impacts to lives and the area economy, on a short-and long-term basis, such as relating to economic multipliers and support that this business provides to surrounding businesses, as it purchases products and services.

## ENVIRONMENTAL ASSESSMENT FACTORS/SCREENING

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

Evaluate the significance of the effects of the proposal on the character, features and resources of the project area. Enter relevant base data and verifiable source documentation to support the finding. Then enter the appropriate impact code from the following list 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. Note names, dates of contact, telephone numbers and page references. Attach additional material as appropriate. Note conditions or mitigation measures required.

Land Development	Code	Source or Documentation
Conformance with Comprehensive Plans and Zoning	1	The project involves in-kind rehabilitation at an existing marine industrial aquaculture business and would not result in land use change.
Compatibility and Urban Impact	1	The project would be compatible with existing land use on the project site as it involves in-kind replacement at this existing business in order for it to continue existing operations. Considering the adjacent former fish factory, extensive maritime natural resource-based industry on the east end of Long Island, and that a maritime industrial land use has existed at this site since at least the mid-1980s, the activity is considered compatible.
Slope	1	The project involves in-kind replacement and repair of fish farm cages at an existing business and does not involve any land development or alteration activity with no impact on slope.
Erosion	1	The project involves in-kind replacement at an existing business and does not involve any land development or alteration activity and would therefore cause no erosion to occur.
Soil Suitability	1	The project would not result in any ground disturbance. As such, the suitability of the soil is not relevant to the project.
Hazards and Nuisances including Site Safety	1	The project involves in-kind rehabilitation of fish farm cages at this existing business. Normal construction hazards will be present during their repair, movement and placement in the ocean. Construction practices management to promote safety would be addressed under existing applicable Federal, State, and local policies.  According to Case 103-ED-147-13 <u>HUD Environmental Standards Review</u> , annexed hereto as Attachment 2, the land-based part of

		<p>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, and is not located within 3,000 feet of a toxic or solid waste landfill site. Based on review of Suffolk County records, the Property does not have an underground storage tank, and is not known or suspected to be contaminated by toxic chemicals or radioactive materials. A review of EPA Resource Conservation and Recovery (RCRA) and NYSDEC Environmental Remediation databases provide no indication of past uses of the Property that could contaminate the Property or potentially adversely affect the occupants of the Property. The Property is listed on NY Spills Incidents database as having a spill of gasoline in early 1992, which is reported closed by the NYSDEC as of September 15, 1995. Therefore, the Property is not suspected to remain contaminated by this spill and a Phase I Environmental Site Assessment (ESA) or Phase II ESA is not warranted. As such, no further action is required at this time.</p>
Energy Consumption	1	<p>The project involves in-kind repair and replacement at an existing business and would not significantly increase energy generation. The project will not expand existing business relative to conditions prior to Hurricane Sandy or increase long-term energy consumption.</p>
Noise - Contribution to Community Noise Levels	1	<p>The proposed use is not a noise sensitive use, and funded rehabilitation is not substantial. This project involving in-kind physical rehabilitation repairs at an existing business (and related economic development support) will not generate excessive noise during the short-term period of physical work and work will adhere to local municipal noise control standards.</p>
Air Quality Effects of Ambient Air Quality on Project and Contribution to Community Pollution Levels	1	<p>The project involves in-kind repair at an existing business and related economic development support does not involve physical work that would substantively affect a NYSDEC Air Quality State Implementation Plan (SIP). No significant impacts on air quality will result.</p>

Environmental Design Visual Quality - Coherence, Diversity, Compatible Use and Scale	1	The project involves in-kind rehabilitation of equipment at an existing maritime industrial business that will be deployed underwater. The action is not expected to impact the visual environment or induce growth, annexed hereto as Attachment 3, pursuant with the applicable Programmatic Agreement (concerning historic and cultural resources), there is a determination by a Secretary of the Interior qualified individual that the project has limited or no effect on historic properties or cultural resources.
--	---	---

<b>Socioeconomic</b>	<b>Code</b>	<b>Source or Documentation</b>
Demographic Character Changes	1	The project involves in-kind repair and replacement at an existing business. It will not induce change in area demographic character.
Displacement	2	The project involves in-kind repair and replacement at an existing business and has no potential to displace individuals or families, destroy jobs, local businesses or community facilities, or disproportionately affect particular populations. Rehabilitation of storm damaged business provides stability to Suffolk County.
Employment and Income Patterns	2	The project involves in-kind repair and replacement at an existing business and has no potential to affect employment opportunities or income patterns. Allowing businesses to return to conditions that existed prior to the storm would benefit the affected area.

<b>Community Facilities &amp; Services</b>	<b>Code</b>	<b>Source or Documentation</b>
Educational Facilities	1	The project involves the in-kind repair and replacement at an existing business and would not introduce any new populations that would increase the student population of the area. As a result, the project has no potential to affect educational facilities.
Commercial Facilities	1	The proposal involves in-kind repair at an existing business and would not introduce any new development that would demand additional retail services or other commercial facilities.
Health Care	1	The project involves in-kind rehabilitation at an existing facility and would not introduce new development that would require the availability of routine or emergency health services.

Social Services	1	The project involves in-kind repair at an existing business and would not impact social services. Social services are provided by a range of non-profit and government agencies.
Solid Waste	1	The in-kind equipment rehabilitation at this existing business may require disposal of aspects of pens/nets. Considering these materials will likely consist of uncontaminated metal, HDPE and nylon, it would be disposed of as solid waste and within associated recycling streams.
Waste Water	1	The project involves in-kind repair at an existing business and would not introduce any new development that would generate wastewater.
Storm Water	1	The project involves in-kind repair and replacement at an existing business and would not adversely affect stormwater runoff.
Water Supply	1	Project is for in-kind repair at existing business that would not generate new water demand
Public Safety - Police	1	The project involves in-kind repair and replacement at an existing business that would not generate any new development that would generate demand for police services.
- Fire	1	The project involves in-kind repair and replacement at an existing business that would not generate any new development that would generate demand for fire services.
- Emergency Medical	1	The project involves in-kind repair at an existing business that would not generate any new development that would generate demand for emergency medical services.
Open Space and Recreation - Open Space	1	The project involves in-kind repair and replacement at an existing business that would not generate any new development that would generate demand for open space resources.
- Recreation	1	The project involves in-kind repair at an existing business that would not generate any new demand for recreational resources.
- Cultural Facilities	1	The project would not adversely affect cultural resources, annexed hereto as Attachment 3, there is a determination that the project would have limited or no effect on historic/ cultural resources.
Transportation	1	The project would not introduce any new development that would require new or improved transportation connections and would not add any new demand on transportation services.

**Natural Features****Source or Documentation**

Water Resources	1	The project would not introduce any new development and would not generate any new demand for water supply nor would the project introduce new septic system flows that may affect groundwater in the area. While it is recognized that there is wetland and floodplain on and adjacent to the site, annexed hereto as Attachment 4, nor would the funded action for in-kind rehabilitation at an existing business introduce any new change in ocean wetlands or introduce an impact to wetland buffer as the activity is conducted within the activity zone of the existing business operation.
Surface Water	1	The project would not introduce new development that would impact water resources, including groundwater, surface water or ocean.
Unique Natural Features and Agricultural Lands	1	Both project components are identified as being in a NY State Critical Environmental Area (CEA) - identified as Peconic Bay and Environs, designated by Suffolk County in 1988, annexed hereto as Attachment 5. The project involves in-kind repair at an existing business and would not have any impact to this CEA nor upon any unique natural features, including agricultural land.
Vegetation and Wildlife	1	The project involves in-kind repair and replacement at an existing business with no ground disturbance and would not have any impact on any vegetation or wildlife.

## Environmental Assessment Work Sheet

**Directions:** *The Responsible Entity (RE) must make a determination as to 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. You may consult guidance by clicking on links in each box below which also will take you to information from agency web sites. If the activity affects the resource, indicate (A) in the Status Determination Column below. Or indicate (B) in that column if the activity does not affect the resources under consideration. The compliance documentation column should indicate what source documentation was used to make the compliance determination and copies of all necessary documentation should be attached to the completed form for inclusion in the Environmental Review Record (ERR).*

<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>
Wetland Protection [Executive Order 11990]	B	<p>There are mapped wetlands, based on US Fish &amp; Wildlife Service (USFWS) National Wetlands Inventory maps, on or immediately adjacent to the site. NYS DEC Environmental Resource Mapper and/or NYS DEC Tidal Wetlands Maps indicate the site is within 300' tidal wetland buffer, annexed hereto as Attachment 5. The proposed scope of work includes in-kind rehabilitation to existing, already permitted hand rail, floats and stanchion, net replacement, rope and chain repair and replacement of mooring floats and grid plates. To document compliance with State and Federal policies, the applicant provided copies of pertinent permits including NYSDEC Article 15 Protection of Waters Permit; Section 401 Water Quality Certification; and Article 17 SPDES permit for installation of two net pens in water (expires April 10, 2016). Through consultation with DEC Region 1 they have confirmed that this work is permissible under the scope of their existing permits in a November 5, 2014 email from John Wieland, Permit Administrator, DEC Region 1. Also included, were marine hatchery permit and off bottom culture permits for the 2014, annexed hereto as Attachment 6. Based on review of provided permits, and the fact that work is in-kind rehabilitation, the associated in-water work</p>

		(ropes/chains/mooring floats/grid plates) is in compliance with the DEC permit # 1-4738-01255/00001 and work on “in-water” cages that are currently on land at the property do not trigger the need for any additional environmental permits. Since there is no new construction directly in wetlands, Executive Order 11990 analysis is not necessary.
Coastal Zone Management [Coastal Zone Management Act, 1972, sec. 307 (c ) and (d)]	B	See General Consistency Determination, annexed hereto as Attachment 7.
Historic Preservation [36 CFR Part 800]	B	In accordance with the (Sect 106, et al) Programmatic Agreement and Letter to Environmental Review Record on Historic Properties Compliance, annexed hereto as Attachment 3, the proposed activity would have no or limited effect on historic properties or cultural resources, as funding for construction solely involves repairs to existing equipment and there is no adverse effect on tribal resources, and consultation with Tribal Historic Preservation Officer(s) is not required.
Floodplain Management [Executive Order 11988; 24 CFR 55]	A	See Case 103-ED-147-13 EO11988 Floodplain Management Determination, annexed hereto as Attachment 8.
Sole Source Aquifers [40 CFR 149]	B	The total impervious area of a parcel will not be increased significantly, which is considered to be 30% for Safe Drinking Water Act purposes in Region II. This authority will not be triggered since these activities will not increase the preexisting footprint of structures, sidewalk, driveway, parking lot, or other developed area.
Endangered Species Act [50 CFR 402]	B	According to information on New York State Environmental Resource Mapper, <a href="http://www.dec.ny.gov/imsmaps/ERM/viewer.htm">http://www.dec.ny.gov/imsmaps/ERM/viewer.htm</a> , the Site is within NYSDEC’s designated rare, threatened or endangered species generalized review area per NYS Natural Heritage Program.

		<p>Information has been received from the NYS Natural Heritage Program identifying two Vascular Plants the Seabeach Knotweed and Northern Blazing-star potentially within the area of proposed activity. The work is in-kind replacement with no ground disturbance and thus no impacts should ensue. USFWS/NMFS also lists several rare species for Suffolk County. Yet, the action at this existing, already permitted maritime industrial business includes in-kind replacement/repairs to mooring floats, grid plates and in-water cages, without substantial change proposed in terms of ground disturbance or general operating conditions. Confirmation that this activity is lawfully existing is contained in a November 5, 2014 email from John Wieland, Permit Administrator, DEC Region 1, annexed hereto as Attachment 9. The business must maintain adherence to comply with all relevant existing regulatory and permit requirements, including specific stipulations in all permits and approvals, inclusive of ones intended to protect existing resources and area ecology, including species subject to the Act. Thus, the project would not affect any natural habitats containing such species or designated or proposed critical habitat.</p>
<p>Wild and Scenic Rivers [16 U.S.C. 1271, Sec. 7(b), (c)]</p>	<p>B</p>	<p>The US Department of the Interior and NYSDEC designate Carmans, Peconic and Nissequoque Rivers as scenic rivers within Suffolk County. The proposed project is not located adjacent to such watercourses. Further, based on the project scope of in-kind replacement at an existing, permitted business, no impacts would result and further assessment is not required.</p>
<p>Clean Air Act [40 CFR Parts 6, 51, 93]</p>	<p>B</p>	<p>This project involves in-kind rehabilitation at an existing business and economic support does not involve physical work that would substantively affect NYSDEC Air Quality State Implementation Plans (SIPs). No significant air quality impacts would result.</p>
<p>Farmland Policy Act [7 CFR Part 658]</p>	<p>B</p>	<p>This project does not involve new construction or rehabilitation external to subject building(s) that generate site disturbance and it occurs in</p>

		Urban Area on a USGS topographic map, annexed hereto as Attachment 1.
Environmental Justice [Executive Order 12898]	B	This rehabilitation/ economic development project does not occur in a State-EJ area. Moreover, the project is intended to provide in-kind repair at a damaged business and support business continuity. The project does not contribute to or promote environmental injustice. <a href="http://www.dec.ny.gov/docs/permits_ej_operations_pdf/suf_folkejeast.pdf">http://www.dec.ny.gov/docs/permits_ej_operations_pdf/suf_folkejeast.pdf</a>
Noise Abatement and Control [24 CFR Part 51, Subpart B]	B	The proposed use is not a noise sensitive use, and funded rehabilitation is not defined as substantial. This project involving in-kind physical rehabilitation at an existing business (and related economic development support) will not generate excessive noise during the short-term period of physical work and work will adhere to local municipal noise control services.
Explosive and Flammable Operations [24 CFR Part 51 C]	B	Acceptable separation distance requirements do not apply to this rehabilitation and economic development case project because the definition for HUD assisted projects in 24 CFR Part 51.201 is predicated on whether the project increases the number of people exposed to hazardous operations. This activity involves a pre-existing nonresidential development that existed prior to the disaster. Pursuant to Part 51 Subpart C 'HUD-assisted project' Definition (in 51.201), it does not involve increasing residential densities, converting the type of use of a building to habitation, or making a vacant building habitable; therefore, there is not a requirement to comply under 24 CFR Part 51 Subpart C.
Airport Clear Zones and Accident Potential Zones [24 CFR Part 51 Subpart D]	B	The project does not involve acquisition; therefore, airport clear zone requirements are not applicable (also confirming compliance with 58.6).

Statutes, Executive Orders, and	Status Determ	Compliance Documentation
---------------------------------	---------------	--------------------------

Regulations listed at 24 CFR Sec. 58.6	ination (A or B)	
Flood Disaster Protection Act [Flood Insurance] [§58.6(a)]	A	Based on Flood Insurance Rate Map (FIRM) 36103C0577H, property IS located within a Special Flood Hazard Area. Proof of National Flood Insurance Program (NFIP) insurance is Required as shown on the Firmette, annexed hereto as Attachment 4. Applicant shall be required to show proof of current flood insurance prior to closeout, and when received, proof of current flood insurance shall be appended to the ERR. It is construed that construction specifications for cages are intended to withstand velocity-zone type wave force.
Coastal Barrier Resources Act/ Coastal Barrier Improvement Act [§58.6(c)]	B	Based on the attached FEMA Firmette, annotated to show project location, the land site is NOT in or immediately adjacent to (within 150 feet) of a Coastal Barrier Resource Area System Unit, determination annexed hereto as Attachment 10. The CBRA is to the south and east and such as overlapping Cranberry Hole Road and it determined that the activity is not in buffer and is an allowable one which may proceed.
Airport Runway Clear Zone/ Disclosure [§58.6(d)]	B	The proposed activity does not involve acquisition of property; therefore, this standard is NOT applicable.
New York State Environmental Quality Review Act (6 NYCRR Part 617)	B	A completed SEQRA Short Environmental Assessment Form for has been developed for both the terrestrial site and in-ocean site and is contained within this ERR as is a Negative Declaration by GOSR, annexed hereto as Attachment 11. GOSR, acting as an involved agency with uncoordinated review determines that there will be no adverse impacts from the action and an EIS will not be required.

### Summary of Findings and Conclusions

Reimbursement for completed repairs and funding for proposed water-dependent work supports recovery of the business and the surrounding community. The repair and replacement of in-ocean cages in their pre-storm location is vital for the sustained operation of this functionally dependent water-based business. The in-kind action at this existing, already permitted maritime industry is determined permissible according to applicable regulatory standards and it includes in-kind replacement/repairs to mooring floats, grid plates and in-water cages, without substantial change

proposed in terms of ground disturbance or general operating conditions. The work occurs in floodplain, including velocity zone, and the business specializes in this form of maritime industry and aquaculture, so it is presumed that in the event of a severe storm during the brief period of cage equipment reconstruction, that the equipment/materials will be adequately tied down and anchored on land and managed in a such a way such that the investment is sustained and materials are unlikely to be liberated and provide potential harm to public health or the environment. Likewise, it is recognized that in-water cages and aspects of the infrastructure at this unique maritime business are not insurable and not subject to substantial damage convention. The cages are not expected to be substantially changed as these are rebuilt, but it is expected that business leadership has learned lessons from storm damage it experienced and it does seem appropriate for the business, if applicable, consistent with the permits and approvals it maintains, to reinforce the pen's framework and associated equipment/ fixtures so that it is more likely to sustain severe wave forces if these are encountered in the future within the open ocean. Overall, the business shall maintain adherence to comply with all relevant existing regulatory and permit requirements, including specific stipulations in all permits and approvals, inclusive of ones intended to protect existing resources and area ecology, including species subject to the Endangered Species Act. Also, as shown in the Environmental Assessment Checklist, no land development, neighborhood, socioeconomic, natural resources, community facility or other direct or cumulative impacts would result from the proposed project.

## **ALTERNATIVES TO THE PROPOSED ACTION**

### **Alternatives and Project Modifications Considered [24 CFR 58.40(e), Ref. 40 CFR 1508.9]**

One potential alternative is to relocate the business out of 100-year floodplain. However, this business is a predominantly functionally dependent water-based use. The location within floodplain is essential for both business parts and locations. For one, this fish farm requires an in-water location where pens are maintained with stocked of fish as they are seasonally sized-up in open water cages. The land-based operation has tanks where younglings are cultivated and sized prior to their positioning in sea-based pens. Thus the operation on land requires specialized access to the water and the existing location does appear to generate business operating benefits. For instance, the business has a salt water well that it uses to derive and maintain a high quality ambient environment within the tanks (a waterside location is also a critical part of efficiently exchanging these waters in the tanks to obtain a fresh supply in accordance with the existing NPDES Permit established for the Amagansett site). Likewise, given that pens require constant attention and access, including when fish are harvested and brought to the marine hatchery, there is a benefit of a waterside location, such as if there is a need to quickly transport equipment in stock at the land facility to open water cages. Therefore, relocation is not considered a viable option for this business. There do not appear to be significant amounts of ancillary non-floodplain-dependent activities that appear to be conducted at this location and it is not assumed that there is a vast supply of appropriately located and equipped marine industrial zoned sites available within this region.

A second alternative would be to relocate in-ocean cages to an area where they are less likely to be damaged by storm wave action. The location of the in-ocean cages is subject to a Lease Assignment and Assumption Agreement executed by the Commissioner of New York State's Office of General Services and associated New York State Department of Environmental Conservation Industrial SPDES Permit as well as other permits. The selection of a site for the cages appears based on multiple highly complex and inter-related factors and it is inferred from consideration of the materials within this ERR, including DEC support for re-starting at this location, that a science-based approach has been used in reaffirming the optimized benefits of reusing the existing site. The in-ocean cages require marker buoys for which there is associated permitting. Relocating the cages could cause the business to incur substantial cost with modifications to associated permits, including extensive additional time delay, possibly causing irreparable impact to this business and to this economic sector. The business relies on the in-ocean cages to function and the time it would take along with the cost of relocating them could be detrimental to the recovery of the business from the storm. Therefore, this is not a viable option.

**No Action Alternative [24 CFR 58.40(e)]**

The "no action" alternative means there would be no reimbursement for work performed, and no funding for proposed work to repair in-ocean cages currently located on the applicant's land, including pieces of cage that need to be welded back together, or welded into proper shape/form while the cages are on land, including cage handrails and floats that need repair. A lack of funding also reduces the feasibility for this business to repair/replace: ropes and chains that hold cages in place; nets for and bird stands on the cages; as well as bring repaired cages back out to sea and anchor them to concrete blocks on the ocean floor (already in-place). "No action" would greatly affect the business, as sustained recovery would be greatly impaired due to lack of financial support. This alternative would not recovery of the surrounding community. It is inconsistent with regional economic development, including coastal fishing industry development and redevelopment, including of existing maritime and fishing activities, as well as the moderate, orderly sustained and sustainable growth of this particular industry as well as maritime industry and trade overall.

**Mitigation Measures Recommended [24 CFR 58.40(d), 40 CFR 1508.20]**

Given that proposed rehabilitation funded by this Program is limited and is not defined as substantial reconstruction, and considering the individual property and business scale, it is not financially feasible to specify mitigation measures, such as: elevating structures/ buildings, dry flood proofing them, or promoting strategic retreat, such as through government acquisition. It is necessary that equipment stored or fabricated in velocity flood zone be adequately managed and anchored in the event of a flood or wind or other hazard event. Additionally, the rehabilitation of in-water cages, even though these are susceptible to damage from severe storms, is warranted as this business is functionally dependent upon location in the water/ floodplain. It is reasonably expected, notwithstanding any contrary existing permit or approval standards, that during rehabilitation/ reconstruction, aspects of this equipment may receive some fortification or redesign in order to more likely be able to withstand a comparable future flood and/or wind event. It is also determined

reasonable to promote business owner awareness of future risks of natural hazards, including flooding, plus the physical, social and economic impacts that potential events could convey, including through potential for future physical damage to property, buildings, supplies, and equipment. Overall, the business shall maintain compliance with all relevant existing regulatory and permit requirements, including specific stipulations in all permits and approvals, inclusive of ones intended to protect existing resources and area ecology, including species subject to the Endangered Species Act, and it is confirmed that the DEC's specific management of importation of stock at this business is one example of a standard imposed in order to ensure that there are not undesirable impacts from the activity. This NEPA determination is carried out in alignment with the aligned SEQRA Determination which is incorporated within the ERR developed for this project.

**ADDITIONAL STUDIES PERFORMED &/OR LIST OF SOURCES, AGENCIES AND PERSONS CONSULTED [40 CFR 1508.9(b)] (With studies or summaries attached)**

- *Attachment 1:* Location Map & USGS Topographic Map
- *Attachment 2:* Case 103-ED-147-2013 HUD Environmental Standards Review
- *Attachment 3:* Section 106/ Historic Laws & Authorities/ SHPO Documentation, including Applicable Programmatic Agreement (PA) and Type II SHPO Determination
- *Attachment 4:* NYSDEC Environmental Resource Map; USFWS NWI Map; Coastal Map; and FEMA Firmette.
- *Attachment 5:* NY State DEC Map of Critical Environmental Area for Peconic Bay and Environs
- *Attachment 6:* NYSDEC Permits and Compliance Documentation
- *Attachment 7:* General Consistency Determination Coastal Zone Management
- *Attachment 8:* Floodplain Management (EO11988) Determination
- *Attachment 9:* NYSNHP Consultation
- *Attachment 10:* USFWS Consultation
- *Attachment 11:* SEQR Compliance Documentation
- *Attachment 12:* Other Supporting Documentation
- *Attachment 13:* FONSI/NOIRROF

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

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

**PREPARER SIGNATURE:**



---

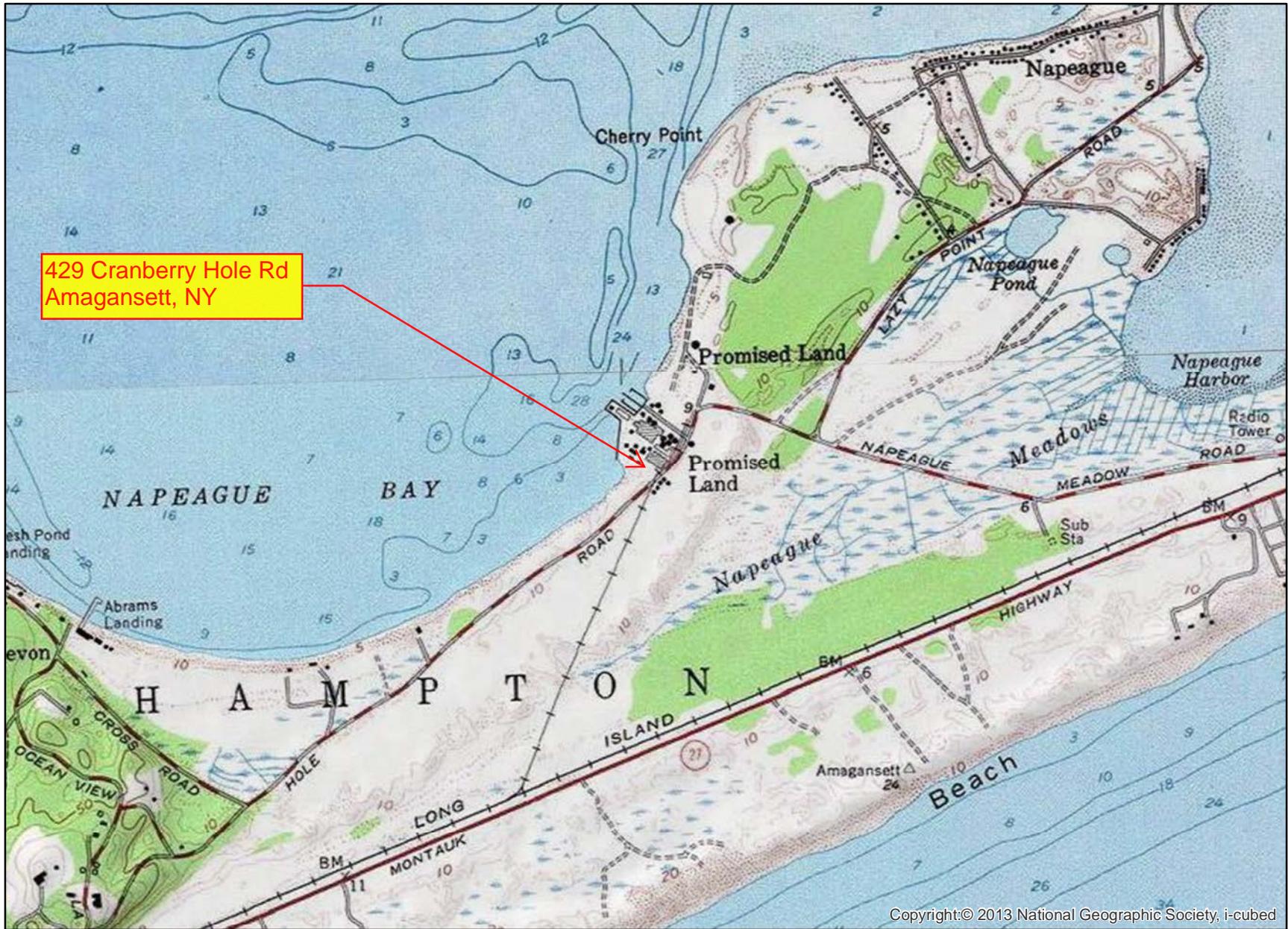
**DATE:**

December 19, 2014

# Attachment 1

Location Map & USGS Topographic Map





Copyright: © 2013 National Geographic Society, i-cubed



Topographic Map  
429 Cranberry Hole Road  
Amagansett, NY



# Attachment 2

HUD Environmental Standards Review

## Case 103-ED-147-13 HUD Environmental Standards Review

**Property Address: 429 Cranberry Hole Road, Amagansett, New York**

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

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

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

### **Summary of Findings:**

*Subject Property:* 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, and is not located within 3,000 feet of a toxic or solid waste landfill site. Based on review of the Suffolk County Records, the Property does not have an underground storage tank, and is not known or suspected to be contaminated by toxic chemicals or radioactive materials. A review of the Bulk Storage records reveals that there are not underground storage tanks present on the Property. A review of the EPA Resource Conservation and Recovery (RCRA) and NYSDEC Environmental Remediation databases provide no indication of past uses of the Property that could contaminate the Property or potentially adversely affect the occupants of the Property. The property is listed on the NY Spills Incidents database as having a spill of gasoline happening in early 1992. This spill is reported closed by the NYSDEC as of September 15, 1995. Therefore, the Property is not suspected to remain contaminated by this spill.

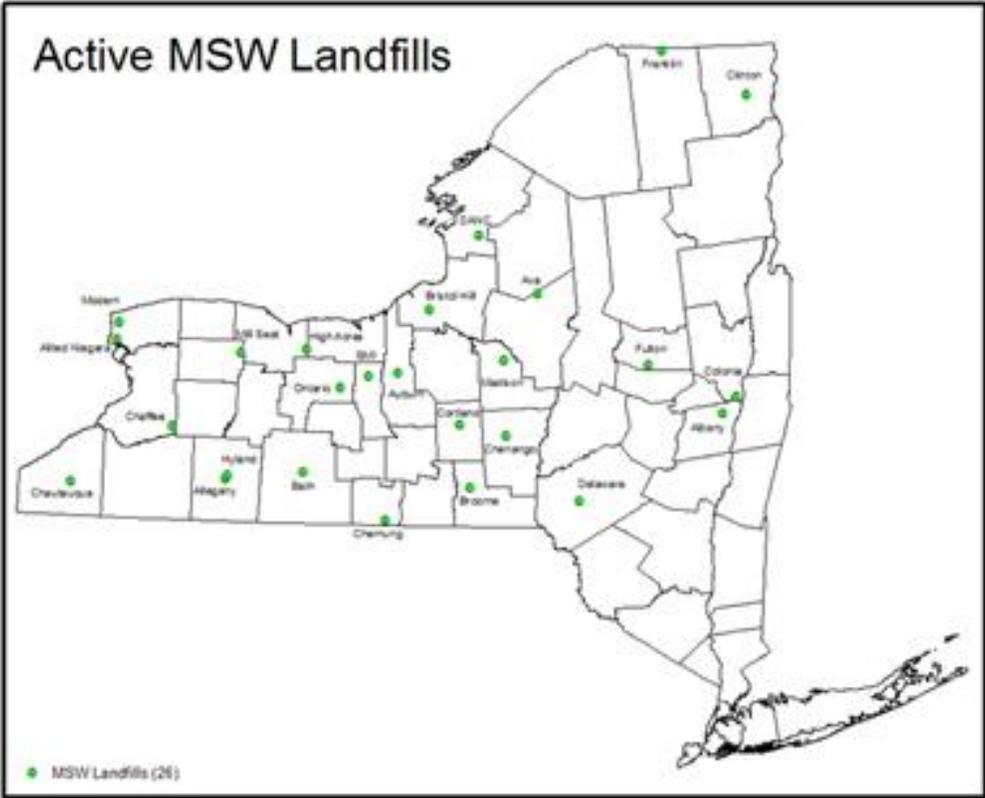
*Surrounding Properties:* There are no environmental remediation sites reported on the EPA or NYS DEC databases within 3000 feet of the Subject Property. A review of Suffolk County records indicates that the property adjacent to the northern border of the Subject Property was once the site of the Smith Meal Company. Illegal dumping of asbestos occurred at this property and there were tanks for oil and acid on this site. The NYS DEC ordered the cessation of illegal dumping at the site and the asbestos and tanks that were on this site were subsequently removed from the property in the 1980s under the supervision of the New York State Parks Department. The possible sources of contamination have been removed from this site, and so it is not expected to pose a continuing environmental threat to the Subject Property.

*Conclusion:* The project work is not expected to have disturbed contaminated soils or groundwater, and there are no active environmental or bulk storage sites near the Subject Property. Therefore, a Phase I Environmental Site Assessment (ESA) or Phase II Environmental Site Assessment is not warranted. As such, no further action is required at this time. Maps, DEC, and EPA reports are provided at the end of this report.

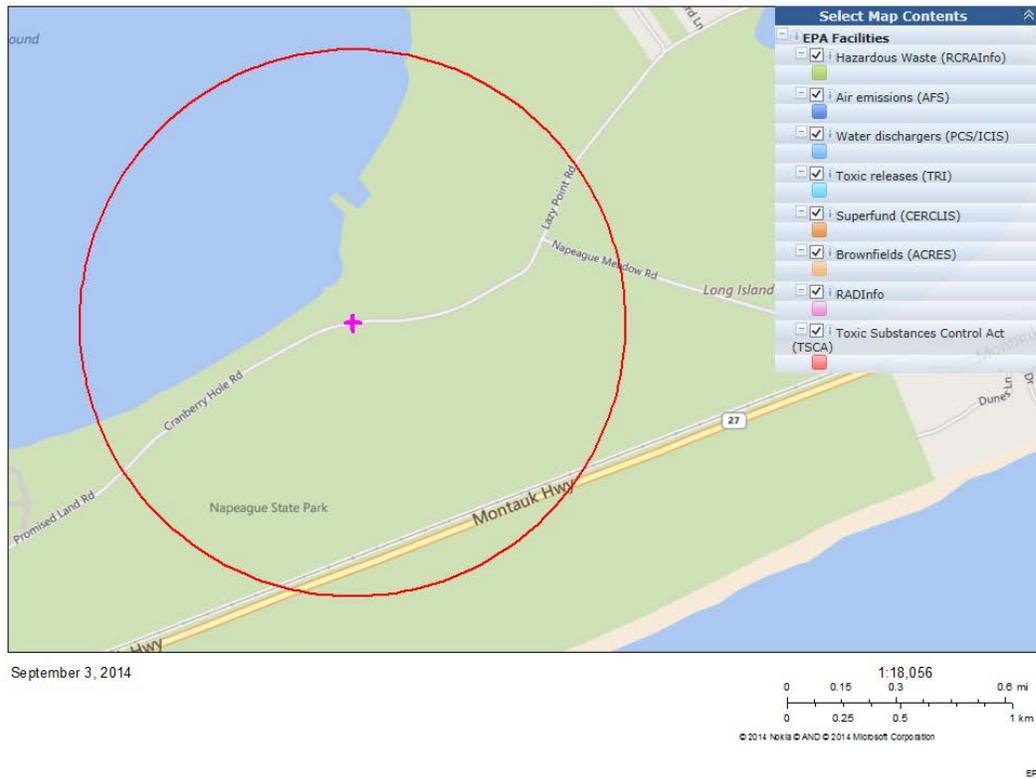
**Data Sources:** Tectonic has reviewed the following sources to make the above determinations: Hazardous Waste records contained in the Resource Conservation and Recovery Act Information (RCRA), the Comprehensive Environmental Response, Compensation, and Liability Information System (CERCLIS) for sites listed under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA (otherwise known as Superfund)), EPA's Toxic Release Inventory database (TRI), and the EPA Radiation Information Database (RADInfo). RCRA includes data on small and large quantity hazardous waste material generators and handlers. EPA's Toxic Release Inventory provides information on toxic chemical releases and waste management activities by certain industries. The RADInfo database provides information about facilities that are regulated by the U.S. EPA for radiation and radioactivity.

Tectonic reviewed the NYS DEC Remedial Site Database to assess whether the site is registered as a NYS Superfund or Environmental Restoration site. The DEC Remedial Database includes records of sites that are part of the NYS Superfund, Brownfield Cleanup, Environmental Restoration, and Voluntary Cleanup Programs. The database also includes a Registry of Inactive Hazardous Waste Disposal Sites. Tectonic reviewed Suffolk County records to identify if the property had underground storage tanks (which is not a residential fuel tank), or other registered storage tanks. The NYSDEC Bulk Storage Database was reviewed for records of facilities that are or have been regulated according to one of the Bulk Storage Programs- Petroleum Bulk Storage, Chemical Bulk Storage, or Major Oil Facility. The NYSDEC Spill Incident Database was used to determine the potential effects of spills on or near the Property. A desktop review of Google Earth was used in conjunction with a map of active municipal landfills (provided by the DEC), and a list of landfills provided by the DEC to determine whether a non-active or active landfill is located within 3000 feet of the Property.

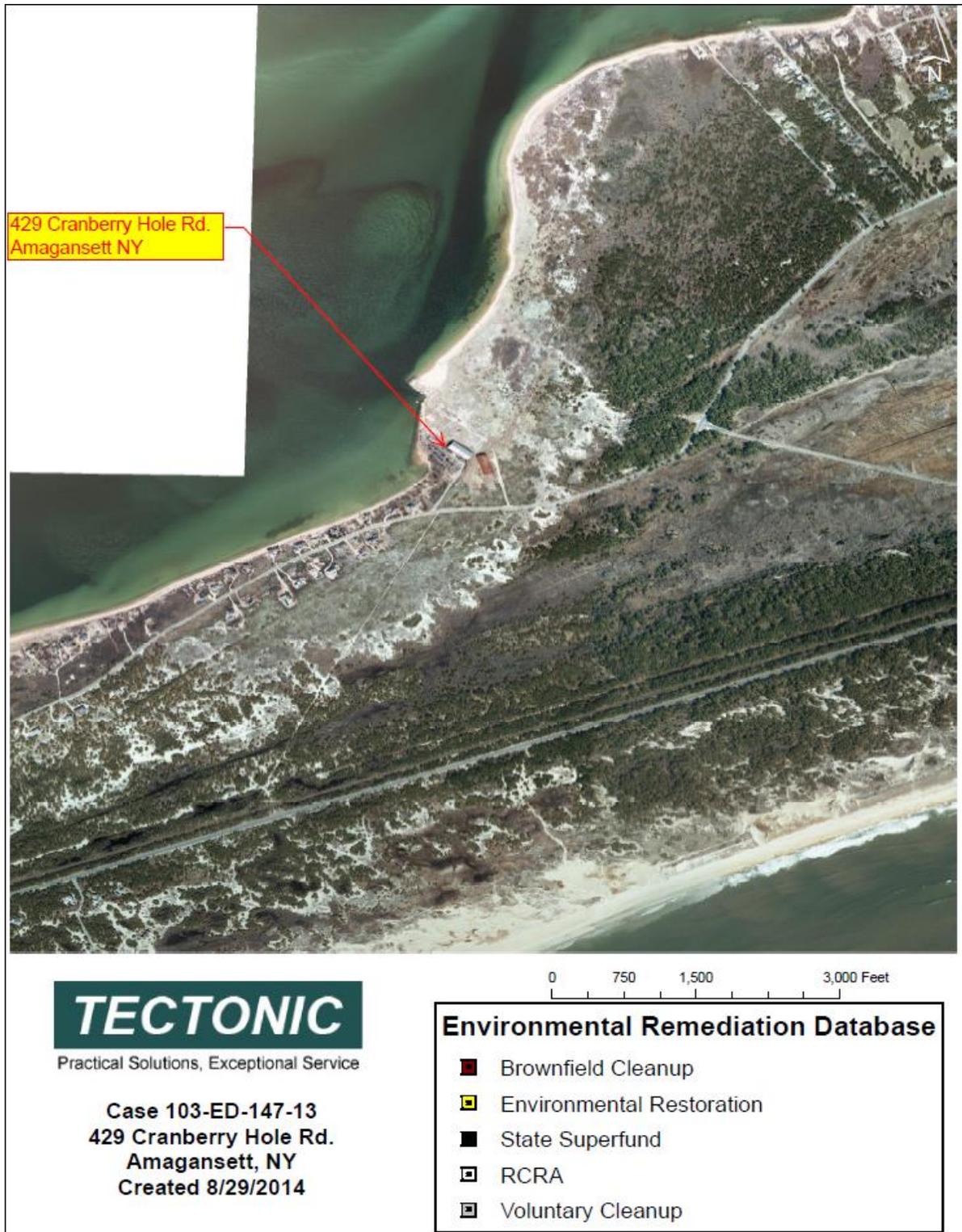
# **Maps**



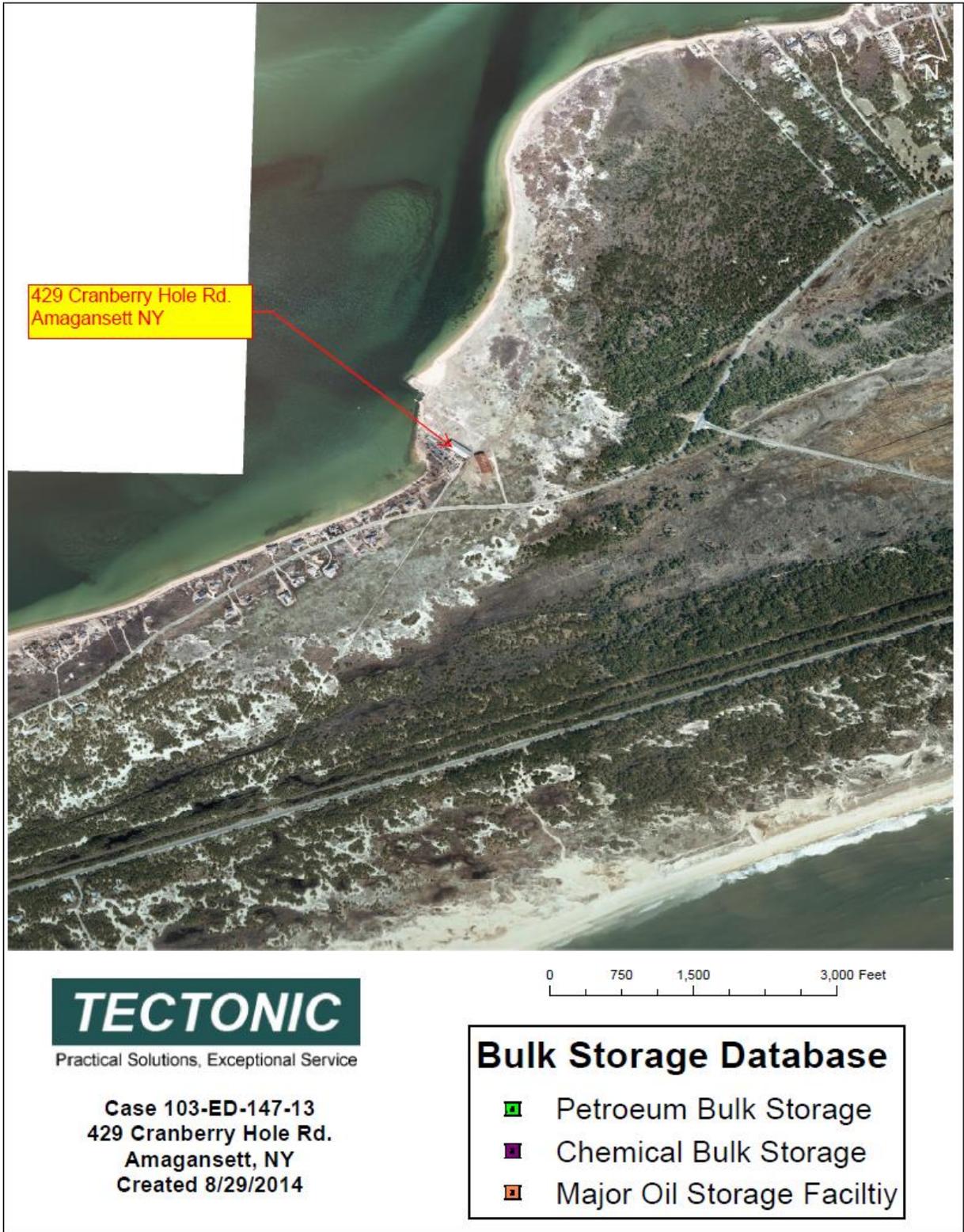
**Figure 1:** Active municipal solid waste landfills in New York (map provide by NYSDEC).



**Figure 2:** Hazardous waste sites and handlers (green marker), toxic release sites (blue marker), Superfund and brownfield sites (orange markers), and facilities regulated by the U.S. EPA for radiation and radioactivity (pink marker). The project property is indicated by a purple cross symbol, and a 3000 foot buffer around the Property is represented by the red circle.



**Figure 3:** Environmental remediation sites listed in the NYSDEC Environmental Remediation Database. Brownfield cleanups are depicted by dark red symbols, Environmental Restoration Programs by yellow symbols, State Superfund sites by black symbols, RCRA sites by white symbols, and Voluntary Cleanup sites by gray symbols. (Note: White spaces on the map are due to missing orthoimages over water bodies. There are no sites located in these areas on this map).



**Figure 4:** Properties listed on the NYSDEC Bulk Storage Database. Petroleum Bulk Storage is represented by green markers, Chemical Bulk Storage by purple markers, and Major Oil Storage Facilities by red markers. (Note: White spaces on the map are due to missing orthoimages over water bodies. There are no sites located in these areas on this map).

**New York State Department of Environmental  
Conservation (NYSDEC)**  
**Reports**



## Spill Incidents Database Search Details

### Spill Record

#### Administrative Information

DEC Region: 1  
Spill Number: 9414720

#### Spill Date/Time

Spill Date: 02/07/1995 Spill Time: 12:30:00 PM  
Call Received Date: 02/08/1995 Call Received Time: 01:00:00 PM

#### Location

Spill Name: MULTI AQUACULTURE SYSTEMS  
Address: CRANBERRY HOLE ROAD  
City: AMAGANSETT County: SUFFOLK

#### Spill Description

Material Spilled	Amount Spilled	Resource Affected
Gasoline	UNKNOWN	Soil

Cause: Equipment Failure  
Source: Commercial Vehicle  
Waterbody:

#### Record Close

Date Spill Closed: 09/15/1995

# Attachment 3

SHPO Programmatic Agreement (PA) and Type II  
SHPO Determination

PO Box 37, 70 Pleasant Hill Road  
Mountainville, NY 10953

(845) 534-5959 FAX: (845) 534-5999  
www.tectonicengineering.com

September 18, 2014

**Letter to Environmental Review Record (ERR) on Historic Properties Compliance Determination Per CFR 58.5(a)(1)-(4) for CDBG-DR Economic Development Program Case Fitting with Tier II Standards in the ‘Programmatic Agreement Among FEMA, the NY State Historic Preservation Officer, NY State Office of Emergency Management, Advisory Council on Historic Preservation, Et Al, As a Result of Hurricane Sandy’**

**Overview** – This letter describes the environmental compliance determination and associated findings for case 103-ED-147-13 titled Multi Aquaculture Systems, Inc. Such findings are consistent with federal laws and authorities in Code of Federal Regulations (CFR) Section 58.5(a)(1)-(4). Based on the Responsible Entity’s, the NY State Division of Housing & Community Renewal’s (DHCR) analysis and descriptions herein, this project fits within an assigned standard of no effect or limited effect on “Historic Properties.” This is because the activities, when implemented, will correspond with the Programmatic Agreement among the FEMA, the NY State Historic Preservation Officer, the NY State Office of Emergency Management, the Advisory Council on Historic Preservation, Et Al, As a Result of Hurricane Sandy, 58 pages, February 2013 (hereafter SHPO PA).

**Appendix B. ‘Programmatic Allowances’** - A 10-page SHPO PA Attachment, Appendix B, defines activities that will not disrupt historic resources. This Environmental Review Record (ERR) Determination documents how the proposed scope of work corresponds with Tier II allowances.

**Assigned Allowances** - Case 103-ED-147-13 at 429 Cranberry Hole Road, Town of East Hampton, Suffolk County, New York, Section 128, Block 1, Lot 32.3. The age of structures is circa 1972 (42 years) per assessment data. The proposed scope of work: Applicant has received a proposal to carry out the following activities: Hand Rail, Floats & Stanchion repairs/Bird Net & Production Net/Predator Net Replacement/Repair Labor MAS/Tow charges to bring cages inshore/Rope & Chain repair and replace/Mooring floats & grid plates. Applicant has been approved for \$40,400 to cover these expenses. The invoice is for \$43,700, but the applicant will cover the difference with other uses of funds. A photo of the property is included at the end of this document. The specific Programmatic SHPO PA Appendix B. Allowances assigned are as follows:

**Tier I Allowances II. Buildings A.** Repair or retrofit of buildings less than 45 years old.

**Tier II Allowances II. Buildings G. 1.** The installation of the following retrofits/upgrades, provided that such upgrades are not visible on the exterior: concealed anchoring of furniture.

PO Box 37, 70 Pleasant Hill Road  
Mountainville, NY 10953

(845) 534-5959 FAX: (845) 534-5999  
www.tectonicengineering.com

**Conclusion** – Through coordination with DHCR, Tectonic Engineering & Surveying has documented the rationale for assigning Tier II SHPO compliance determinations for case 103-ED-147-13. This determination is provided consistent with applicable requirements and this case achieves the necessary level of historic preservation compliance. This case does not require review by SHPO and it is not necessary to provide SHPO with notification of the Determination. This documentation will be placed in the ERR for reference. Moreover, it is DHCR’s responsibility to ensure that its agents, assisted owners, and involved contractors are aware of limitations on work prompted by invoking the Allowance(s). Should any potential change occur in a scope, or a major change be necessitated during construction which may cause permissible allowance(s) to be exceeded, this may require further environmental review. Work may need to be halted until there is Responsible Entity confirmation that such review is completed, or is not required according to Section 106 or other applicable laws and authorities.

Additionally, there is no need to engage in consultation with Tribal Historic Preservation Officers given the limited scope of the reimbursable construction work, consisting of in-kind repairs of an site work involving facilities that existed in the same location prior to the Disaster. Thus, as there is no new ground disturbance in previously undisturbed areas associated with these activities, there is no reasonable expectation to affect tribal resources.

Because Tier II Allowances must be applied by a person possessing Secretary of the Interior Professional Qualifications, I certify that I meet that standard.



Mary Ann Colopy  
Project Historian  
Tectonic Engineering & Surveying

PO Box 37, 70 Pleasant Hill Road  
Mountainville, NY 10953

(845) 534-5959 FAX: (845) 534-5999  
www.tectonicengineering.com

Photo of Property:



End of Document.

**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.nycnet/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

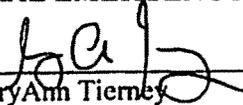
1. Unless terminated in accordance with Stipulation IV.C.2 or IV.C.4, Severability and Termination, this Agreement shall remain in effect until FEMA, in consultation with all other signatories, determines that all undertakings related to 4085-DR-NY have been completed.
2. If another federally-declared 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

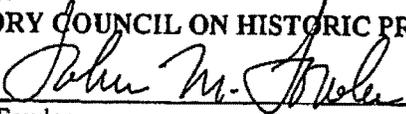
New York Deputy Commissioner/New York Deputy State Historic Preservation Officer

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  
Executive Director

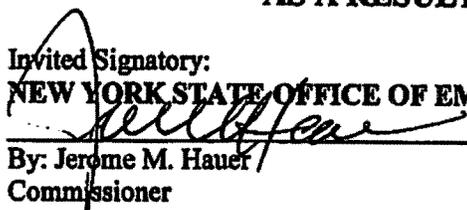
Date:

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

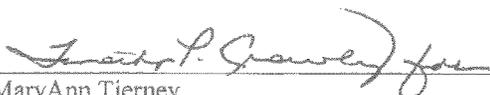
**WHEREAS**, NYS HCR will ensure that staff who meet the Secretary's Professional Qualification Standard will review Tier II projects and will provide resumes of such staff to the signatories to this Addendum;

**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**

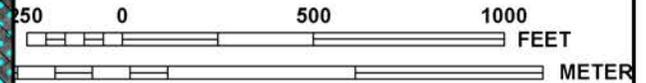
Removal of stumps will be accomplished by attaching a chain to the stump and a piece of heavy equipment which will then pull the unexposed portion of the stump from the ground. If this method is not practicable, then the bucket of the machine will be used to grab and pull the stump out. Additional excavation 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.

# Attachment 4

NYSDEC Environmental Resource Map; USFWS  
NWI Map; Coastal Map; and FEMA Firmette



MAP SCALE 1" = 500'



LIMIT OF MODERATE WAVE ACTION

JOINS PANEL 023

429 Cranberry Hole Rd  
Amagansett, NY

ZONE AE  
(EL 11)

ZONE VE  
(EL 14)

KU0039

AGUE  
AY

ZONE VE  
(EL 12)

CRANBERRY HOLE ROAD

ZONE AE  
(EL 10)

ZONE X

CBRS AREA  
ESTABLISHED 11-15  
(SEE CBRS LEGEN

NFIP

PANEL 0577H

**FIRM**

FLOOD INSURANCE RATE MAP

for SUFFOLK COUNTY, NEW YORK  
(ALL JURISDICTIONS)

CONTAINS:

COMMUNITY	NUMBER
EAST HAMPTON, TOWN	360794
OF	

- NOTE -

THIS MAP INCLUDES BOUNDARIES OF THE COASTAL BARRIER RESOURCES SYSTEM ESTABLISHED UNDER THE COASTAL BARRIER RESOURCES ACT OF 1982 AND/OR SUBSEQUENT ENABLING LEGISLATION.

PANEL 577 OF 1026

MAP SUFFIX: H

(SEE MAP INDEX FOR FIRM PANEL LAYOUT)

Notice to User: The Map Number shown below should be used when placing map orders; the Community Number shown above should be used on insurance applications for the subject community.



MAP NUMBER  
36103C0577H

MAP REVISED  
SEPTEMBER 25, 2009

Federal Emergency Management Agency

This is an official copy of a portion of the above referenced flood map. It was extracted using F-MIT On-Line. This map does not reflect changes or amendments which may have been made subsequent to the date on the title block. For the latest product information about National Flood Insurance Program flood maps check the FEMA Flood Map Store at www.msc.fema.gov

# Welcome to the NYS Coastal Boundary Map

Home Settings Help

Search

Address:

Enter Address Here

Find Address

Please note that the address marker is automatically placed along the street while certain activities may take place along the waterward property boundary. Please make sure to click and drag the marker to the exact location of the proposed activity for an accurate assessment of whether or not the activity would be located within any DOS Special Management Areas.

Layers

- Landward Coastal Boundary
- Scenic Areas \*
- Local Waterfront Revitalization Areas
- Local Waterfront Revitalization Program Communities
- Significant Coastal Fish and Wildlife Habitats
- DOS Identified Canals
- Long Island Sound CMP (excludes LWRP communities)
- Federally Owned Lands
- Native American Lands

\* GIS coverage is currently unavailable for the Scenic Areas designated in the Town of East Hampton. Please click [here](#) for information pertaining to these areas.

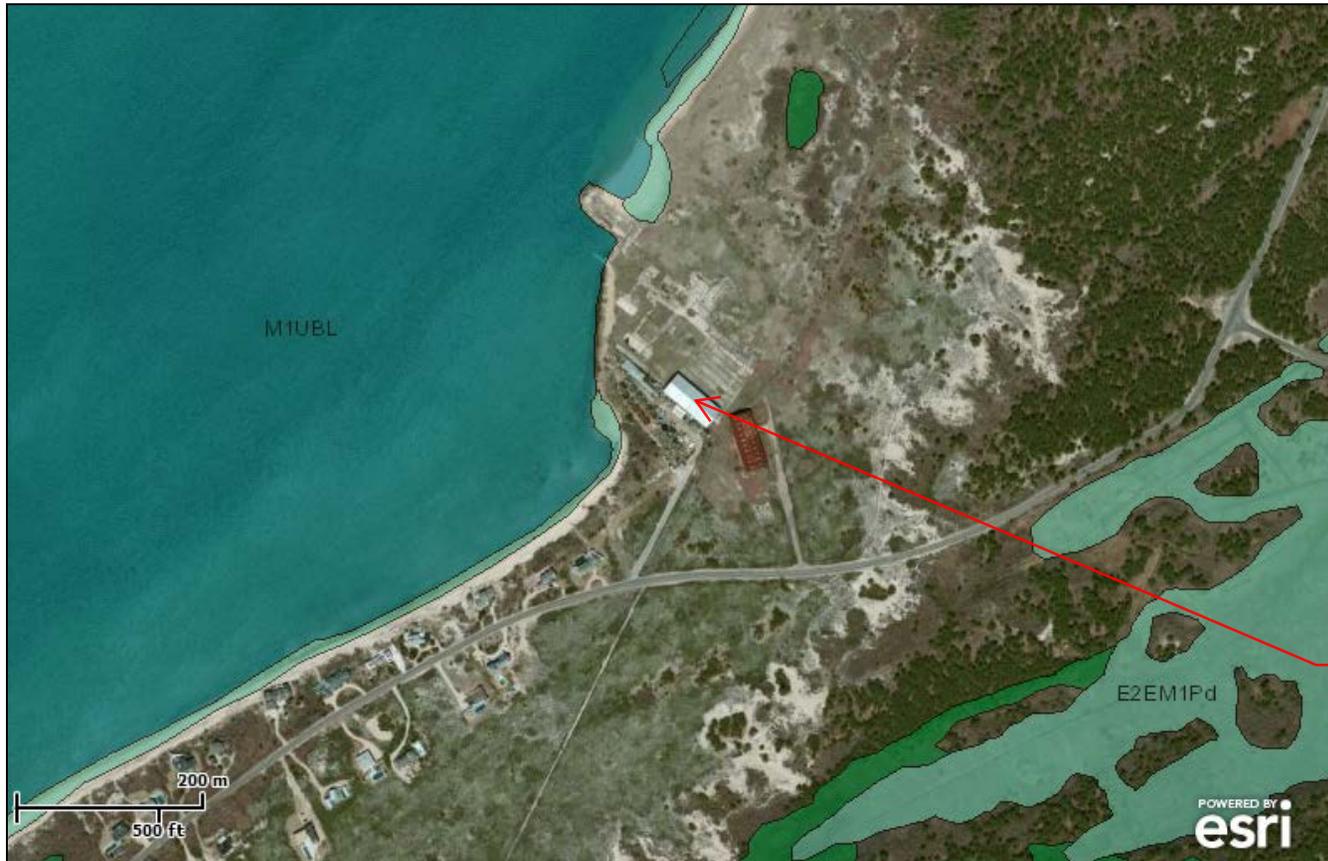




# U.S. Fish and Wildlife Service National Wetlands Inventory

103-ED-147-13

Sep 2, 2014



## Wetlands

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

## Riparian

- Herbaceous
- Forested/Shrub

## Riparian Status

- Digital Data

429 Cranberry Hole Rd  
Amagansett, NY

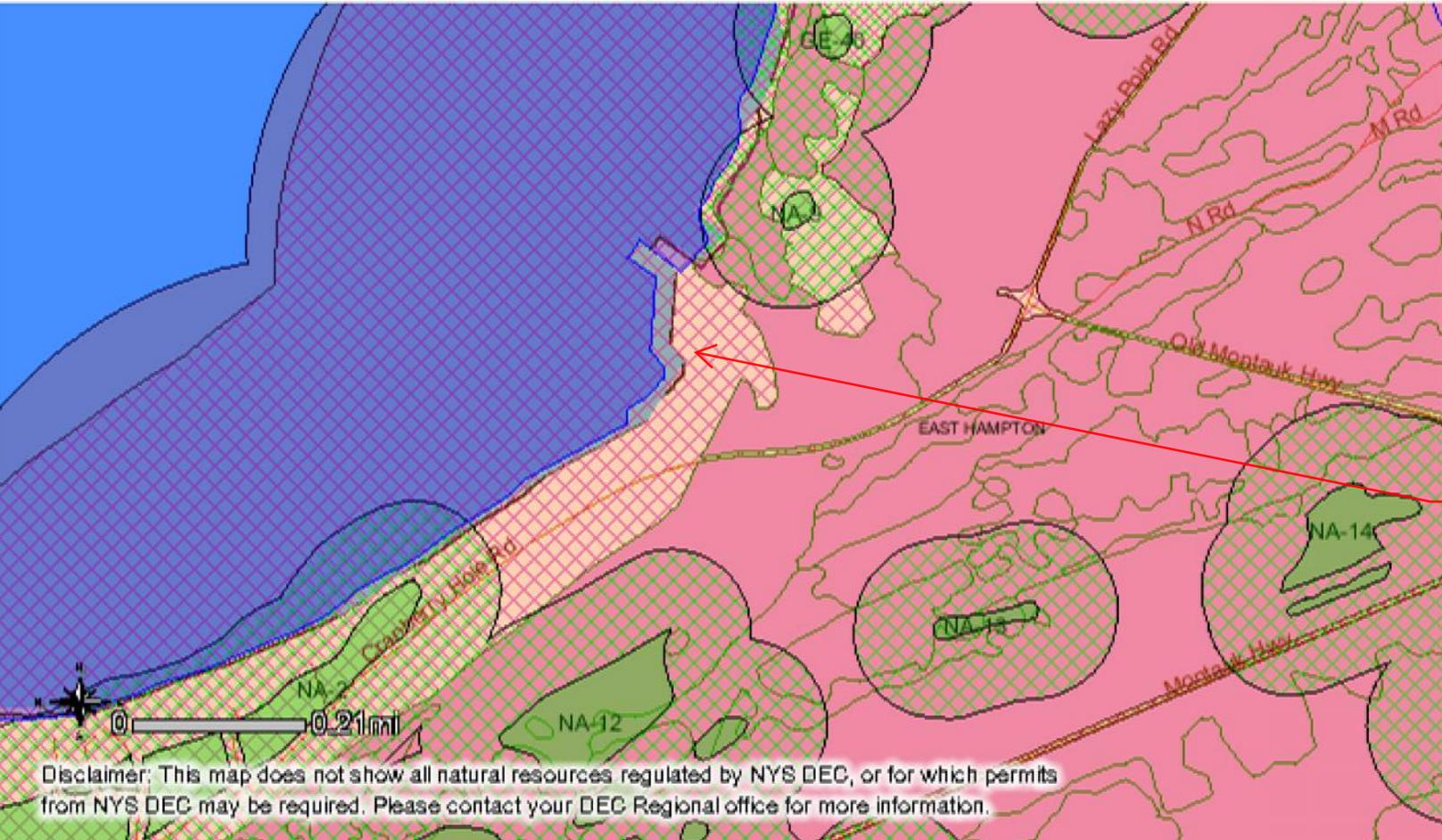
This map is for general reference only. The US Fish and Wildlife Service is not responsible for the accuracy or currentness of the base data shown on this map. All wetlands related data should be used in accordance with the layer metadata found on the Wetlands Mapper web site.

User Remarks:

**Visible Layers**

-  Classified Streams
-  Classified Ponds
-  State-Regulated Freshwater Wetlands
-  Wetland Checkzone
-  State-Regulated Freshwater Wetlands
-  Rare Plants and Rare Animals
-  Significant Natural Communities Buffered
-  Natural Communities Nearby
-  Significant Natural Communities
-  Interstate Highways
-  Towns
-  Counties

429 Cranberry Hole Rd  
Amagansett, NY



Disclaimer: This map does not show all natural resources regulated by NYS DEC, or for which permits from NYS DEC may be required. Please contact your DEC Regional office for more information.

MinX: 744045, MaxX: 746819, MinY: 4543055, MaxY: 4541736

# Attachment 5

NY State DEC Map of Critical Environmental Area  
for Peconic Bay and Environs

# Peconic Bay and Environs Critical Environmental Area (CEA)

Effective Date of Designation: 11-13-1988

Designating Agency: Suffolk County

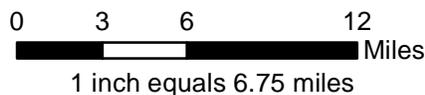


## Legend

- Peconic Bay and Environs CEA
- Adjacent CEA

Base Map: DOT 1:250,000 Atlas Images

Disclaimer: This map was prepared by the New York State Department of Environmental Conservation using the most current data available. It is deemed accurate but is not guaranteed. NYS DEC is not responsible for any inaccuracies in the data. Please contact the designating authority for additional information regarding legal boundary descriptions.



For Adjacent CEAs see map:  
Suffolk County CEAs  
Southold County CEAs  
Village of Lloyd Harbor CEA  
Town of Brookhaven CEAs  
Long Island Regional Planning CEAs



# Attachment 6

NYSDEC Permits and Compliance Documentation



DEPARTMENT OF THE ARMY  
NEW YORK DISTRICT, CORPS OF ENGINEERS  
JACOB K. JAVITS FEDERAL BUILDING  
NEW YORK, N.Y. 10278-0090

REPLY TO  
ATTENTION OF:  
CENAN-OP-RE

DATE: FEB 22 2010

SUBJECT: Permit Application File Number NAN-2010-00194-ESO  
by Multi Aquaculture Systems, Inc.

MEMORANDUM FOR: Multi Aquaculture Systems, Inc., 429 Cranberry Hole Road, Amagansett, New York 11930

1. This office has received your application for a Department of the Army permit; and in accordance with Title 33 of the Code of Federal Regulations Part 325.2(a) (1) it has been assigned the 18-character application file number shown above. To avoid misfiled and lost correspondence, please put this unique 18-character application number on all correspondence, (mail, fax, and e-mail) regarding this application.
2. Your application file is assigned to application reviewer / project manager: Ahmed Soliman 917-790-8518  
Our facsimile machine number is 212-264-4260.
3. In accordance with Title 33 of the Code of Federal Regulations Part 325.2, within fifteen business days of the date of this acknowledgement memorandum, you, or your permit application agent, should be receiving via facsimile machine correspondence specifying what additional items or information, if any, must be submitted to the application reviewer in order for this office to find your permit application "complete for Federal processing".
4. The Corps of Engineers strives to make a final permit application decision as soon as reasonably possible. For example, for non-controversial individual Standard Permit applications, the USACE National Performance goal is to make that decision within 120 calendar days of our receipt of the final item or information which makes the specific permit application file "complete for Federal processing".
5. You are advised not to undertake any activity in regulated waters and/or wetlands of the United States until after you have received the required Department of the Army permit.

EASTERN PERMITS  
REGULATORY BRANCH

Copy Furnished to:

Multi Aquaculture  
Attn: Robert Link  
Fax: 631-267-7998

1-917-790-8518

PERMITTEE: Mariculture Technologies, Inc.  
PERMIT NO.: 96-00600

e. Damage claims associated with any future modification, suspension, or revocation of this permit.

4. Reliance on Applicant's Data: The determination of this office that issuance of this permit is not contrary to the public interest was made in reliance on the information you provided.

5. Reevaluation of Permit Decision: This office may reevaluate its decision on this permit at any time the circumstances warrant. Circumstances that could require a reevaluation include, but are not limited to, the following:

a. You fail to comply with the terms and conditions of this permit.

b. The information provided by you in support of your permit application proves to have been false, incomplete, or inaccurate (See 4 above).

c. Significant new information surfaces which this office did not consider in reaching the original public interest decision.

Such a reevaluation may result in a determination that it is appropriate to use the suspension, modification, and revocation procedures contained in 33 CFR 325.7 or enforcement procedures such as those contained in 33 CFR 326.4 and 326.5. The referenced enforcement procedures provide for the issuance of an administrative order requiring you to comply with the terms and conditions of your permit and for the initiation of legal action where appropriate. You will be required to pay for any corrective measures ordered by this office, and if you fail to comply with such directive, this office may in certain situations (such as those specified in 33 CFR 209.170) accomplish the corrective measures by contract or otherwise and bill you for the cost.

6. Extensions: General Condition 1 establishes a time limit for the completion of the activity authorized by this permit. Unless there are circumstances requiring either a prompt completion of the authorized activity or a reevaluation of the public interest decision, the Corps will normally give favorable consideration to a request for an extension of this time limit.

Your signature below, as permittee, indicates that you accept and agree to comply with the terms and conditions of this permit.

*Pat L. Thomas* Res. 5/30/97  
(PERMITTEE) (DATE)

Mariculture Technologies, Inc.

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

*Richard L. Tomer* MAY 30 1997  
(DISTRICT ENGINEER) (DATE)

"For and in behalf of"

Gary Thomas  
Colonel, Corps of Engineers  
District Engineer

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

*Robert J. Valenti, President* 03/08/2010  
(TRANSFEREE) (DATE)

**New York State Department of Environmental Conservation**

**Division of Fish, Wildlife & Marine Resources**

**Bureau of Marine Resources – Shellfisheries Section**

205 North Belle Mead Road, Suite 1, East Setauket, New York 11733

Phone: (631) 444-0481 • Fax: (631) 444-0496

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



Joe Martens  
Commissioner

MARINE HATCHERY PERMIT

PERMIT NO.: 07-P  
FOR CALENDAR YEAR: 2014

Pursuant to the provisions of Section 13-0316 of the Environmental Conservation Law and Part 48 of Title 6 of the Official Compilation of Codes, Rules and Regulations of the State of New York, permission is hereby granted to the Permittee to operate a Marine Hatchery, subject to the specific conditions hereby applied.

PERMITTEE NAME: MULTI-AQUACULTURE SYSTEMS, INC.  
COMPANY/TOWN REPRESENTATIVE: DR. ROBERT VALENTI  
ADDRESS: 429 CRANBERRY HOLE RD, P.O. BOX 679  
TOWN/CITY, STATE, ZIP CODE: AMAGANSETT, NEW YORK 11930

HATCHERY LOCATION: 429 CRANBERRY HOLE ROAD, AMAGANSETT, NEW YORK

1. The only species to be possessed, raised or bred pursuant to this permit shall be:

Marine Finfish                      Striped bass (Morone saxatilis)  
& Crustaceans :                      Black seabass (Centropristis striata)  
   American lobster (Homarus americanus)  
   Winter flounder (Pseudopleuronectes americanus)  
   Summer flounder (Paralichthys dentatus)  
   Tautog (Tautoga onitis)  
   Oyster toadfish (Opsanus tau)  
   Northern puffer (Sphoeroides maculatus)  
   Atlantic cod (Gadus morhua)

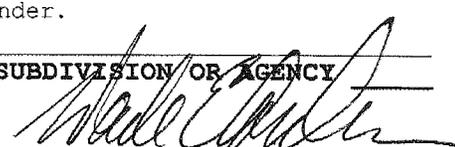
2. The Permittee shall not import marine plants or animals for activities to be undertaken pursuant to this Permit without first obtaining an appropriate **Importation Permit** from this Department.

3. Unless revoked or suspended earlier, pursuant to law, this Permit and the approval of activities hereby allowed shall expire on **December 31, 2014**.

This Permit is issued subject to a reserved right of **SUMMARY SUSPENSION AND/OR REVOCATION** whenever such **SUSPENSION AND/OR REVOCATION** is deemed prudent or necessary by the Department of Environmental Conservation in carrying out the purposes of the Environmental Conservation Law or the Rules and Regulations promulgated thereunder, whenever in the judgement of the Department the Permittee shall have violated any term or condition of this Permit, or whenever the Permittee shall have violated any provision of the Environmental Conservation Law or the Rules and Regulations promulgated thereunder.

FEE PAID: \$100.00 XXX EXEMPT POLITICAL SUBDIVISION OR AGENCY

DATE ISSUED: 12/18/13

BY: 

COMPUTER ENTERED:

Wade E. Carden

BY: \_\_\_\_\_ DATE: \_\_\_/\_\_\_/\_\_\_

Biologist 1 Marine

C. Treatment of Diseased Finfish / Crustaceans

Treatment of any diseased finfish or crustaceans of the species hereby permitted [Striped bass (Morone saxatilis), Black seabass (Centropristis striata), American lobster (Homarus americanus), Winter flounder (Pseudopleuronectes americanus), Summer flounder (Paralichthys dentatus), Tautog (Tautoga onitis), Oyster toadfish (Opsanus tau), Northern puffer (Sphoeroides maculatus), Atlantic cod (Gadus morhua)] at the Permittee's marine hatchery facility, shall follow FDA regulations and will only involve the application of FDA-approved chemicals, antibiotics, etc. Any treatment of diseased fish or crustaceans will not include a discharge to surface or groundwaters.

D. Fish Wastes

All fish waste, carcasses, and/or any parts thereof, resulting from the operation of this marine hatchery facility shall be composted, or otherwise disposed of at this facility. Any removal of such fish waste, carcasses, and/or any parts thereof, from the facility will be considered a direct violation of this permit.

E. Marking and Tagging of Non-Live and Live Cultured Food Fish Products

For all non-live food fish product [Striped bass (Morone saxatilis), Black seabass (Centropristis striata), Winter flounder (Pseudopleuronectes americanus), Summer flounder (Paralichthys dentatus), Tautog (Tautoga onitis), Oyster toadfish (Opsanus tau), Northern puffer (Sphoeroides maculatus), Atlantic cod (Gadus morhua)] and crustaceans [American lobster (Homarus americanus)] cultured at this marine hatchery facility and intended for sale to commercial markets for consumption or resale, the Permittee shall be required to mark each shipping container with a label bearing the following information as required pursuant to Part 48.5(a), 6NYCRR:

1. The name and quantity of the species contained;
2. The name and address of the original consignor and consignee; and
3. The Marine Hatchery Permit number of the original consignor

Additionally, prior to being sold as a non-live cultured food fish product, or a live cultured food fish product [Striped bass (Morone saxatilis) only], each individual of the species hereby permitted [Striped bass (Morone saxatilis), Black seabass (Centropristis striata), Winter flounder

Permittee must also keep records of invoices or shipping labels describing their receipts and disbursements of cultured food fish and crustaceans as required pursuant to Part 48.6, 6NYCRR.

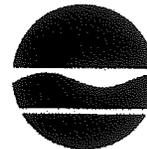
Prior to engaging in the marketing and transport of live cultured **Striped bass (Morone saxatilis)** from the Permittee's marine hatchery facility in Amagansett, New York, to commercial markets within the State, the Permittee shall provide a list to the Department that includes all wholesalers and/or retailers that will be receiving these fish.

The Permittee shall be required to submit a report to the Department at the end of each week which contains all of the information required for marking and identification of cultivation products pursuant to Part 48.5, 6NYCRR, [see **Condition No. 1(E.) above**] for all cultured **Striped bass (Morone saxatilis)** distributed live during that week.

  
Wade E. Carden  
Biologist 1 Marine

Dated: December 18, 2013

**New York State Department of Environmental Conservation**  
**Division of Environmental Permits, Region One**  
**SUNY @ Stony Brook, 50 Circle Road, Stony Brook, NY 11790-3409**  
Phone: (631) 444-0359 Fax: (631) 444-0360  
Website: [www.dec.ny.gov](http://www.dec.ny.gov)



Joe Martens  
Commissioner

April 11, 2011

Multi Aquaculture Systems, Inc.  
429 Cranberry Hole Road  
Amagansett, NY 11930

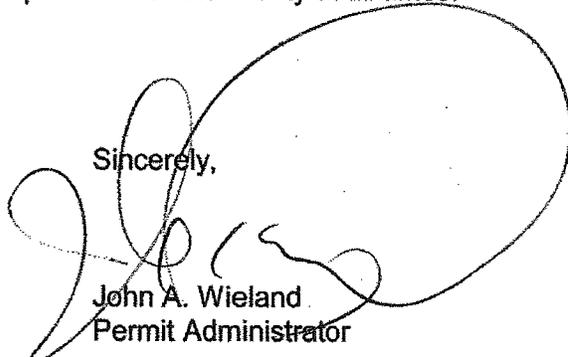
Re: Permit No. 1-4738-01255/00001

Dear Permittee:

In conformance with the requirements of the State Uniform Procedures Act (Article 70, ECL) and its implementing regulations (6NYCRR, Part 621) we are enclosing your permit identified above. Please carefully read all permit conditions carefully to ensure compliance during the term of the permit. If you are unable to comply with any conditions, please contact us at the above address.

This permit must be kept available on the premises of the facility at all times.

Sincerely,

  
John A. Wieland  
Permit Administrator

JAW/lis

**New York State Department of Environmental Conservation**

**Division of Fish, Wildlife & Marine Resources**

**Bureau of Marine Resources – Shellfisheries Section**

205 North Belle Mead Road, Suite 1, East Setauket, New York 11733

Phone: (631) 444-0481 • Fax: (631) 444-0496

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



Joe Martens  
Commissioner

**OFF-BOTTOM CULTURE PERMIT**

Permit No.: 131-P

Year: 2014

Pursuant to the provisions of Section 13-0316 of the Environmental Conservation Law and Part 48 of Title 6 of the Official Compilation of Codes, Rules and Regulations of the State of New York, permission is hereby granted to the Permittee to carry out off-bottom culture activities, under the following conditions:

<b>PERMITTEE NAME:</b>	<b>MULTI AQUACULTURE SYSTEMS, INC.</b>
<b>TOWN OR COMPANY REPRESENTATIVE:</b>	<b>DR. ROBERT VALENTI</b>
<b>ADDRESS:</b>	<b>429 CRANBERRY HOLE ROAD; P.O. BOX 679</b>
<b>TOWN OR CITY, STATE, ZIP:</b>	<b>AMAGANSETT, NEW YORK 11930</b>

1. The species to be possessed, raised or bred in connection with this permit shall be:

Marine finfish: **Striped bass (Morone saxatilis)**

2. Culture activities to be carried out pursuant hereto shall be limited to specifications set forth in the Permittee's On/Off-Bottom Culture Application which was originally approved or last amended by the Department of Environmental Conservation on **November 20, 2012 (see attached Permit Addendum)**.
3. The Permittee shall not import marine fish for activities to be undertaken pursuant to this Permit without first obtaining an appropriate **Importation Permit** from this Department and supplying the required **health quality certification**.
4. Unless revoked or suspended earlier, pursuant to law, this Permit and the approval of activities hereby allowed shall expire on **December 31, 2014**.

**FEE PAID: \$100.00** XXX **EXEMPT POLITICAL SUBDIVISION OR AGENCY** \_\_\_\_\_

This Permit is issued subject to a reserved right of **SUMMARY SUSPENSION AND/OR REVOCATION** whenever such **SUSPENSION AND/OR REVOCATION** is deemed prudent or necessary by the Department of Environmental Conservation in carrying out the purposes of the Environmental Conservation Law or the Rules and Regulations promulgated thereunder, whenever in the judgement of the Department the Permittee shall have violated any term or condition of this Permit, or whenever the Permittee shall have violated any provision of the Environmental Conservation Law or the Rules and Regulations promulgated thereunder.

**DATE ISSUED: 12/18/13**

**COMPUTER ENTERED:**

**BY: \_\_\_\_\_ DATE: / /**

**BY: \_\_\_\_\_**

**Wade E. Carden  
Biologist 1 Marine**

**New York State Department of Environmental Conservation**

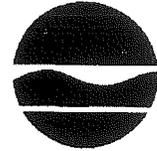
**Division of Fish, Wildlife & Marine Resources**

**Bureau of Marine Resources – Shellfisheries Section**

205 North Belle Mead Road, Suite 1, East Setauket, New York 11733

Phone: (631) 444-0481 • Fax: (631) 444-0496

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



Joe Martens  
Commissioner

**OFF-BOTTOM CULTURE PERMIT**

**Permit Addendum**

PERMIT NO.: 131-P  
FOR CALENDAR YEAR: 2014

**Condition No. 2:**

**A. Culture Activities**

The Permittee is authorized to conduct off-bottom culture of the species identified in Condition No. 1 (Striped bass {*Morone saxatilis*}) in up to two circular, floating net cages (50' diameter/ 157' circumference, 17' height) constructed of high density polyethylene framing, steel brackets, and outfitted with 5/8" and/or 1 3/8" netting, to be deployed and anchored on a 12.4 acre sub-plot of a 200 acre lease assignment sited in Gardiners Bay, south of Plum Island, New York (centerpoint: 41° 10' 19" N, 72° 11' 01" W; approximately 0.33 miles SW of Plum Island Rock Buoy N "4") , pursuant to ACOE Permit No. 96-00600 issued May 30, 1997 and transferred March 8, 2010. Use of this site for these activities is conditional upon the continued validity of the "Lease Assignment and Assumption Agreement" executed by the Commissioner of New York State's Office of General Services on October 28, 2009, and DEC Permit No. 1-4738-01255/00001 and State Pollutant Discharge Elimination System (SPDES) Permit No. NY-0226726, which each have an effective date of April 11, 2011, and an expiration date of April 10, 2016.

**B. Stocking Cycles**

Net cage frames shall be outfitted with netting and stocked with fingerlings of the species hereby permitted (Striped bass {*Morone saxatilis*}) during the early spring (i.e., April) of a given year. Culture activities will proceed for approximately 8-10 months at which time (i.e., November - January), all fish shall be harvested from the net cages and brought ashore to the Permittee's **marine hatchery facility at 429 Cranberry Hole Road, Amagansett, New York (Marine Hatchery Permit No. 07-P)** either: dead for immediate tagging if marketable size, or live for stocking and culture in tanks at this facility until marketable size. Following harvest, all netting will be removed from the cage frames for the winter months, but the frames/anchoring system will remain at the site year-round.

C. Discharge - SPDES Permit / Water Quality Monitoring Requirements

This Off-Bottom Culture Permit is issued in conjunction with DEC Permit No. 1-4738-01255/00001 and State Pollutant Discharge Elimination System (SPDES) Permit No. NY-0226726. Violation of any conditions of the DEC permit or the SPDES permit, including failure to observe water quality monitoring requirements, reporting requirements, etc., shall likewise be considered a violation of this Off-Bottom Culture Permit, and may result in immediate revocation.

D. Discharge - Shipment of Fingerlings / Shipment of Live Cultured Striped bass (*Morone saxatilis*) to Commercial Markets

All water used to transport / ship fingerlings of the species hereby permitted (**Striped bass (*Morone saxatilis*)**) to the Permittee's Off-Bottom Culture site or marine hatchery facility in connection with a **Marine Fish Importation Permit**, shall not be discharged to surface or groundwaters under any circumstances.

All water used to transport/ship live cultured **Striped bass (*Morone saxatilis*)** to commercial markets within or without the State shall not be discharged to surface or groundwaters under any circumstances.

E. Discharge - Feeding Protocols

The Permittee shall feed stocked fish a pelletized and/or ground fish supplemented diet at a rate not to exceed a maximum of 1.5% of the total cultured biomass per day based upon routine, twice-weekly sampling of these cultured fish. The Permittee shall employ underwater video and/or observation by SCUBA divers whenever conditions permit to insure that the broadcasting of sinking, pelletized food is stopped after fish have ceased feeding. When conditions are poor and divers/cameras are impractical, a floating, pelletized food will be used instead so that observers can assess the feeding activity of the cultured fish and cease feeding operations accordingly.

F. Treatment of Diseased Fish

Treatment (e.g., application of medicated feed) of any diseased fish of the species hereby permitted (**Striped bass (*Morone saxatilis*)**) at the Permittee's Off-Bottom Culture site is strictly prohibited unless authorized by the Department.

**G. Incidental Mortalities**

All incidental mortalities (i.e., fish carcasses, and/or any parts thereof) resulting from the off-bottom culture activities hereby permitted, shall be removed from the net cage site and brought to the Permittee's marine hatchery facility for examination, freezing, and disposal.

**H. Predator Interactions - Mitigation**

The Permittee shall apply perimeter predator netting to the two net cages, both above and below the surface, to discourage interactions with marine mammal and avian predators, as well as other marine biota. Any entanglements are to be reported to the Department immediately.

**I. Net Maintenance**

Cage netting will be treated with an appropriate anti-foulant (e.g., 'Flexabar'), and will routinely be power-washed to remove fouling organisms in an effort to prevent net wear and mitigate potential escapement of cultured fish.

**J. Sale of Live Fish**

The permittee is authorized to engage in commercial sales of live **Striped bass (Morone saxatilis)** cultured at the permittee's off-bottom culture site in Gardiners Bay, south of Plum Island, New York, and/or the permittee's marine hatchery facility at **429 Cranberry Hole Road, Amagansett, New York (Marine Hatchery Permit No. 07-P)**. Live cultured **Striped bass (Morone saxatilis)** will be harvested from the off-bottom culture site and/or holding tanks at the hatchery facility, tagged [**See Condition No. 2(K.)**] and distributed from the hatchery facility to seafood wholesalers and/or retailers as part of Phase I of a continuing pilot program initiated on **November 20, 2012**, to determine the feasibility of marketing this species live and transporting it successfully to market while observing the associated tagging and reporting requirements. Phase I of this pilot program will be re-evaluated on **November 20, 2014**.

**K. Tagging and Identification of Non-Live Food Fish Products**

Prior to being sold as a **non-live or live food fish product**, each individual of the species hereby permitted (**Striped bass (Morone saxatilis)**) shall bear a serially numbered tag provided and attached by the Permittee. The tags shall be used in ascending numerical order and must be firmly attached to each whole fish, or to each part thereof **immediately upon harvest and landing at the Permittee's marine hatchery facility**. Each tag must remain attached to the individual **non-live or live food fish product** until it is prepared for final consumption, at which time it shall be cut or broken in

half, rendering it unusable, upon preparation of the product for consumption. The following information must appear on each tag as required pursuant to **Part 48.5(b), 6NYCRR:**

1. place of origin;
2. off-bottom culture permit number;
3. month and year of production
4. species identification; and
5. tag number

Each consignment or sale of **food fish product (Striped bass (Morone saxatilis))** that was cultured and harvested from the Permittee's off-bottom culture site and/or holding tanks at the marine hatchery facility, and intended for sale to commercial markets for consumption or resale, other than to the final consumer, must be accompanied by an invoice and shipping label bearing the following information as required pursuant to **Part 48.5(a & j), 6NYCRR:**

1. the date;
2. the number of whole fish or parts contained therein and their tag numbers;
3. the species;
4. the total weight of whole fish or parts contained therein;
5. the culture facility of origin and permit number of the original consignor; and
6. the name and address of the original consignor and the consignee

**L. Records and Reporting Requirements**

Prior to engaging in the marketing and transport of live cultured **Striped bass (Morone saxatilis)** from the Permittee's off-bottom culture site and/or holding tanks at the marine hatchery facility in Amagansett, New York, to commercial markets within the State, the Permittee shall provide a list to the Department that includes all wholesalers and/or retailers that will be receiving these fish. The Permittee shall only be authorized to sell live cultured Striped bass to those wholesalers and/or retailers that have been approved by the Department for live sales and are maintained on a list on file with the Department.

The Permittee shall be required to submit a report to the department at the end of each week in the case of **live sales of Striped bass (Morone saxatilis)**, or each month in the case of **non-live sales of Striped bass (Morone saxatilis)**, which contains all of the information required pursuant to **Part 48.5, 6NYCRR, [see Condition No. 2(K.) above]** for all cultured finfish produced and distributed during that month. Thus, the report shall include the date a particular sale or consignment of fish was made, the number of whole fish or parts contained therein and their tag numbers, the species, the total weight of whole fish or parts contained therein, the culture facility of origin and permit number, and the names and addresses of the consignor and the consignee. Furthermore, the Permittee shall be required to maintain a record of the quantity and disposition of all finfish produced and distributed within the previous 12 month period. The Permittee must also keep records of invoices or shipping labels describing their receipts and disbursements of cultured food fish as required pursuant to **Part 48.6, 6NYCRR.**

**M. Expansion or Modification of Facility's Operations and Production**

This Off-Bottom Culture Permit only authorizes marine fish culture activities at the Permittee's net cage site in **Gardiners Bay, New York**, as described in 'Phase I' of the Permittee's original application. For this initial stage of the Permittee's proposed finfish culture project, culture activities shall only include the species hereby permitted (**Striped bass (Morone saxatilis)**), and shall not occupy more than **2 net cages** as described in **Condition No. 2 A.** above. **The total number of fingerlings imported and cultured at the off-bottom culture site shall not exceed 56,000 individual fish (28,000 per net cage), nor a total biomass of 100,000 pounds at any one time.** Any expansion or modification of the Permittee's net cages or finfish culture activities beyond these levels will require the Permittee to submit a completed Off-Bottom Culture Permit Amendment Application to the Department and apply for a modification to **DEC Permit No. 1-4738-01255/00001 and State Pollutant Discharge Elimination System (SPDES) Permit No. NY-0226726.**

**DATED: December 18, 2013**

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

DEC PERMIT NUMBER 1-4738-01255/00001
FACILITY/PROGRAM NUMBER(S)



**PERMIT**  
Under the Environmental  
Conservation Law

EFFECTIVE DATE April 11, 2011
EXPIRATION DATE(S) April 10, 2016

TYPE OF PERMIT  New  Renewal  Modification  Permit to Construct  Permit to Operate

- |   |  |  |
|---|--|--|
| <input checked="" type="checkbox"/> Article 15, Title 5: Protection of Waters<br>Article 15, Title 15: Water Supply | <input checked="" type="checkbox"/> Article 17, Titles 7, 8: SPDES<br><input type="checkbox"/> Article 19: Air Pollution Control | <input type="checkbox"/> Article 27, Title 9; 6NYCRR 373:<br>Hazardous Waste Management  |
| <input type="checkbox"/> Article 15, Title 15: Water Transport<br>Article 15, Title 15: Long Island Wells           | <input type="checkbox"/> Article 23, Title 27: Mined Land<br>Reclamation   | <input type="checkbox"/> Article 34: Coastal Erosion<br>Management   |
| <input type="checkbox"/> Article 15, Title 27: Wild, Scenic and<br>Recreational Rivers                              | <input type="checkbox"/> Article 24: Freshwater Wetlands<br><input type="checkbox"/> Article 25: Tidal Wetlands                  | <input type="checkbox"/> Article 36: Floodplain Management<br><input type="checkbox"/> Articles 1, 3, 17, 19, 27, 37; 6NYCRR<br>380: Radiation Control |
| <input checked="" type="checkbox"/> 6NYCRR 608: Water Quality<br>Certification                                      | <input type="checkbox"/> Article 27, Title 7; 6NYCRR 360:<br>Solid Waste Management  |  |

PERMIT ISSUED TO <b>Multi Aquaculture Systems, Inc.</b>		TELEPHONE NUMBER
ADDRESS OF PERMITTEE 429 Cranberry Hole Road, Amagansett, NY 11930		
CONTACT PERSON FOR PERMITTED WORK		TELEPHONE NUMBER
NAME AND ADDRESS OF PROJECT/FACILITY Multi Aquaculture Systems Inc., Gardiners Bay, Southold		
COUNTY Suffolk	TOWN Southold	NYTM COORDINATES E: N:
DESCRIPTION OF AUTHORIZED ACTIVITY:  Install two net pens in order to commence Phase I of the finfish aquaculture project for striped bass, <u>Monone saxatilis</u> . No more than 56,000 fish may be deployed at the fish farm facility at any time.		

By acceptance of this permit, the permittee agrees that the permit is contingent upon strict compliance with the ECL, all applicable regulations, the General Conditions specified and any **Special Conditions** included as part of this permit.

DEPUTY PERMIT ADMINISTRATOR: <b>John A. Wieland</b>	ADDRESS Region 1 Headquarters, SUNY @ Stony Brook, 50 Circle Road, Stony Brook, NY 11790 - 3409
AUTHORIZED SIGNATURE 	DATE April 11, 2011

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION  
**State Pollutant Discharge Elimination System (SPDES)**  
**DISCHARGE PERMIT**



First3.99

Industrial Code: **0273**  
 Discharge Class (CL): **01**  
 Toxic Class (TX): **N**  
 Major Drainage Basin: **17**  
 Sub Drainage Basin: **01**  
 Water Index Number:  
 Compact Area:

SPDES Number: **NY- 0226726**  
 DEC Number: **1-4738-01255/00001**  
 Effective Date (EDP): **04/11/2011**  
 Expiration Date (ExDP): **04/10/2016**  
 Modification Dates:(EDPM)

This SPDES permit is issued in compliance with Title 8 of Article 17 of the Environmental Conservation Law of New York State and in compliance with the Clean Water Act, as amended, (33 U.S.C. §1251 et.seq.)(hereinafter referred to as "the Act").

**PERMITTEE NAME AND ADDRESS**

Name: **Multi Aquaculture Systems Inc.** Attention: **Dr. Robert J Valenti, Director**  
 Street: **429 Cranberry Hole Rd**  
 City: **Amagansett** State: **NY** Zip Code: **11930**

is authorized to discharge from the facility described below:

**FACILITY NAME AND ADDRESS**

Name: **Multi Aquaculture Systems Inc, - Net Pen Growout Site**  
 Location (C,T,V): **Gardiner's Bay** County: **Suffolk**  
 Facility Address: **Gardiner's Bay (off Plum Island)**  
 City: **Southold** State: **NY** Zip Code: **11971**

NYTM -E: From Outfall No.: **01F** at Latitude: **41 ° 10 ' 08 "** & Longitude: **72 ° 10 ' 16 "**  
 NYTM - N:  
 into receiving waters known as: **Gardiners Bay** Class: **SA**

and; (list other Outfalls, Receiving Waters & Water Classifications)  
**see page 2**

in accordance with: effluent limitations; monitoring and reporting requirements; other provisions and conditions set forth in this permit; and 6 NYCRR Part 750-1.2(a) and 750-2.

**DISCHARGE MONITORING REPORT (DMR) MAILING ADDRESS**

Mailing Name: **Multi Aquaculture Systems Inc**  
 Street: **429 Cranberry Hole Rd (PO Box 679)**  
 City: **Amagansett** State: **NY** Zip Code: **11930**  
 Responsible Official or Agent: **Dr. Robert J Valenti** Phone: **631-267-3341**

This permit and the authorization to discharge shall expire on midnight of the expiration date shown above and the permittee shall not discharge after the expiration date unless this permit has been renewed, or extended pursuant to law. To be authorized to discharge beyond the expiration date, the permittee shall apply for permit renewal not less than 180 days prior to the expiration date shown above.

**DISTRIBUTION:**

CO BWP - Permit Coordinator  
 RWE  
 RPA  
 EPA Region II - Michelle Josilo

Permit Administrator: John A. Wieland	
Address: <b>Stony Brook @ Stony Brook</b> <b>50 Circle Road</b> <b>Stony Brook, NY 11790</b>	
Signature:	Date: <b>04/11/11</b>

**ADDITIONAL OUTFALLS**

<b>Outfall No.</b>	<b>Description</b>	<b>Latitude / Longitude</b>	<b>Receiving Stream/Class</b>
01F	SE corner of the underwater property	41°10'08" / 72°10'16"	Gardiner's Bay / SA
02F	SW corner of the underwater property	41°10'16" / 72°11'33"	Gardiner's Bay / SA
03F	NW corner of the underwater property	41°10'34" / 72°11'02"	Gardiner's Bay / SA
04F	NE corner of the underwater property	41°10'31" / 72°10'36"	Gardiner's Bay / SA
01R – 11R	Rotating Monitoring Locations		

**PERMIT LIMITS, LEVELS AND MONITORING DEFINITIONS**

OUTFALL	WASTEWATER TYPE	RECEIVING WATER	EFFECTIVE	EXPIRING
	This cell describes the type of wastewater authorized for discharge. Examples include process or sanitary wastewater, storm water, non-contact cooling water.	This cell lists classified waters of the state to which the listed outfall discharges.	The date this page starts in effect. (e.g. EDP or EDPM)	The date this page is no longer in effect. (e.g. ExDP)

PARAMETER	MINIMUM	MAXIMUM	UNITS	SAMPLE FREQ.	SAMPLE TYPE
e.g. pH, TRC, Temperature, D.O.	The minimum level that must be maintained at all instants in time.	The maximum level that may not be exceeded at any instant in time.	SU, °F, mg/l, etc.		

PARAMETER	EFFLUENT LIMIT	PRACTICAL QUANTITATION LIMIT (ML)	ACTION LEVEL	UNITS	SAMPLE FREQUENCY	SAMPLE TYPE
	Limit types are defined below in Note 1. The effluent limit is developed based on the more stringent of technology-based standards, required under the Clean Water Act, or New York State water quality standards. The limit has been derived based on existing assumptions and rules. These assumptions include receiving water hardness, pH and temperature; rates of this and other discharges to the receiving stream; etc. If assumptions or rules change the limit may, after due process and modification of this permit, change.	For the purposes of compliance assessment, the analytical method specified in the permit shall be used to monitor the amount of the pollutant in the outfall to this level, provided that the laboratory analyst has complied with the specified quality assurance/quality control procedures in the relevant method. Monitoring results that are lower than this level must be reported, but shall not be used to determine compliance with the calculated limit. This ML can be neither lowered nor raised without a modification of this permit.	Action Levels are monitoring requirements, as defined below in Note 2, that trigger additional monitoring and permit review when exceeded.	This can include units of flow, pH, mass, Temperature, concentration. Examples include µg/l, lbs/d, etc.	Examples include Daily, 3/week, weekly, 2/month, monthly, quarterly, 2/yr and yearly.	Examples include grab, 24 hour composite and 3 grab samples collected over a 6 hour period.

**Note 1: DAILY DISCHARGE:** The discharge of a pollutant measured during a calendar day or any 24-hour period that reasonably represents the calendar day for the purposes of sampling. For pollutants expressed in units of mass, the 'daily discharge' is calculated as the total mass of the pollutant discharged over the day. For pollutants with limitations expressed in other units of measurement, the 'daily discharge' is calculated as the average measurement of the pollutant over the day. **DAILY MAX:** The highest allowable daily discharge. **DAILY MIN:** The lowest allowable daily discharge. **MONTHLY AVG (daily avg):** The highest allowable average of daily discharges over a calendar month, calculated as the sum of each of the daily discharges measured during a calendar month divided by the number of daily discharges measured during that month. **RANGE:** The minimum and maximum instantaneous measurements for the reporting period must remain between the two values shown. **7 DAY ARITHMETIC MEAN (7 day average):** The highest allowable average of daily discharges over a calendar week. **12 MRA (twelve month rolling avg):** The average of the most recent twelve month's monthly averages. **30 DAY GEOMETRIC MEAN (30 d geo mean):** The highest allowable geometric mean of daily discharges over a calendar month, calculated as the antilog of: the sum of the log of each of the daily discharges measured during a calendar month divided by the number of daily discharges measured during that month. **7 DAY GEOMETRIC MEAN (7 d geo mean):** The highest allowable geometric mean of daily discharges over a calendar week.

**Note 2: ACTION LEVELS:** Routine Action Level monitoring results, if not provided for on the Discharge Monitoring Report (DMR) form, shall be appended to the DMR for the period during which the sampling was conducted. If the additional monitoring requirement is triggered as noted below, the permittee shall undertake a short-term, high-intensity monitoring program for the parameter(s). Samples identical to those required for routine monitoring purposes shall be taken on each of at least three consecutive operating and discharging days and analyzed. Results shall be expressed in terms of both concentration and mass, and shall be submitted no later than the end of the third month following the month when the additional monitoring requirement was triggered. Results may be appended to the DMR or transmitted under separate cover to the same address. If levels higher than the Action Levels are confirmed, the permit may be reopened by the Department for consideration of revised Action Levels or effluent limits. The permittee is not authorized to discharge any of the listed parameters at levels which may cause or contribute to a violation of water quality standards. The additional monitoring requirement is triggered upon receipt by the permittee of any monitoring results in excess of the stated Action Level.

**PERMIT LIMITS, LEVELS AND MONITORING**

OUTFALL No.	WASTEWATER TYPE	RECEIVING WATER	EFFECTIVE	EXPIRING
01F & 03F	Aquaculture waste	Gardiner's Bay	EDPM	ExDP

PARAMETER	MINIMUM	MAXIMUM	UNITS	SAMPLE FREQUENCY	SAMPLE TYPE	FOOTNOTES (FN)
pH	6.0	9.0	SU	1/month	Grab	2,3,4,5

PARAMETER	EFFLUENT LIMIT					SAMPLE FREQUENCY	SAMPLE TYPE	FN
	Type	Limit	UNITS	Limit	UNITS			
Phosphorus, Total	Daily Maximum	Monitor	mg/l	Monitor	lbs/d	1/month	Grab	1, 4, 5
Ammonia	Daily Maximum	Monitor	mg/l	Monitor	lbs/d	1/month	Grab	1, 4, 5
Nitrogen, Total (as N)	Daily Maximum	Monitor	mg/l	25	lbs/d	1/month	Grab	1, 4, 5
Chlorophyll A	Daily Maximum	Monitor	mg/l	Monitor	lbs/d	1/month	Grab	1, 3
Biological Oxygen Demand	Daily Maximum	Monitor	mg/l	380	lbs/d	1/month	Grab	3, 4, 5
Suspended Solids, Total	Daily Maximum	Monitor	mg/l	300	lbs/d	1/month	Grab	3, 4, 5
Dissolved Oxygen	Daily Minimum	Monitor	mg/l			1/month	Grab	2, 3, 4, 5
Temperature	Daily Maximum	Monitor	°F			1/month	Grab	2, 3, 4, 5
Salinity	Daily Maximum	Monitor	‰			1/month	Grab	2, 3, 4, 5

OUTFALL No.	WASTEWATER TYPE	RECEIVING WATER	EFFECTIVE	EXPIRING
02F & 04F	Aquaculture waste	Gardiner's Bay	EDPM	ExDP

PARAMETER	EFFLUENT LIMIT		ACTION LEVEL	UNITS	SAMPLE FREQUENCY	SAMPLE TYPE	FN
	Monthly Avg	Daily Max.					
Dissolved Oxygen		Monitor		mg/l	1/month	Grab	2, 3, 4, 5
Temperature		Monitor		°F	1/month	Grab	2, 3, 4, 5
Salinity		Monitor		‰	1/month	Grab	2, 3, 4, 5

**PERMIT LIMITS, LEVELS AND MONITORING**

OUTFALL No.	WASTEWATER TYPE	RECEIVING WATER	EFFECTIVE	EXPIRING
01R - 02R	Process from Rotating Monitoring Locations	Gardiner's Bay	EDPM	ExDP

PARAMETER	MINIMUM	MAXIMUM	UNITS	SAMPLE FREQUENCY	SAMPLE TYPE	FOOTNOTES (FN)
pH	6.0	9.0	SU	1/month	Grab	2,3,4,5

PARAMETER	EFFLUENT LIMIT					SAMPLE FREQUENCY	SAMPLE TYPE	FN
	Type	Limit	UNITS	Limit	UNITS			
Phosphorus, Total	Daily Maximum	Monitor	mg/l	Monitor	lbs/d	1/month	Grab	1, 4, 5
Ammonia	Daily Maximum	Monitor	mg/l	Monitor	lbs/d	1/month	Grab	1, 4, 5
Nitrogen, Total (as N)	Daily Maximum	Monitor	mg/l	25	lbs/d	1/month	Grab	1, 4, 5
Chlorophyll A	Daily Maximum	Monitor	mg/l	Monitor	lbs/d	1/month	Grab	1, 3
Biological Oxygen Demand	Daily Maximum	Monitor	mg/l	380	lbs/d	1/month	Grab	3, 4, 5
Suspended Solids, Total	Daily Maximum	Monitor	mg/l	300	lbs/d	1/month	Grab	3, 4, 5
Dissolved Oxygen	Daily Minimum	Monitor	mg/l			1/month	Grab	2, 3, 4, 5
Temperature	Daily Maximum	Monitor	°F			1/month	Grab	2, 3, 4, 5
Salinity	Daily Maximum	Monitor	‰			1/month	Grab	2, 3, 4, 5

OUTFALL No.	WASTEWATER TYPE	RECEIVING WATER	EFFECTIVE	EXPIRING
03R - 11R	Process from Rotating Monitoring Locations	Gardiner's Bay	EDPM	ExDP

PARAMETER	EFFLUENT LIMIT or CALCULATED LEVEL		ACTION LEVEL	UNITS	SAMPLE FREQUENCY	SAMPLE TYPE	FN
	Monthly Avg	Daily Max.					
Dissolved Oxygen		Monitor		mg/l	1/month	Grab	2, 3, 4, 5
Temperature		Monitor		°F	1/month	Grab	2, 3, 4, 5
Salinity		Monitor		‰	1/month	Grab	2, 3, 4, 5

FOOTNOTES on NEXT PAGE

**FOOTNOTES:**

1. Monitoring for these parameters is to assess the impact of the offshore net pen operation on ambient water quality in the Long Island Sound Study and the Peconic Estuary Study monitoring programs. In order to make assessment, these parameters must be analyzed to the lowest achievable detection limit practical. At a minimum, these parameters must be analyzed to the detection limits possible at a NYS Certified laboratory capable of conducting the required analyses in saline water.
2. These parameters are to be analyzed in the field using equipment and/or meters approved by the Department.
3. "Top" – These samples shall be collected one (1) meter below the surface of the water.
4. "Middle" – These samples shall be collected from the middle of the water column.
5. "Bottom" – These samples shall be collected within one (1) meter of the bottom of the water column.

**ADDITIONAL REQUIREMENTS**

The first ambient water quality sampling at outfalls 01F through 04F must be performed prior to deployment of any fish into the net pens. Sampling results must be submitted to the Department no later than three weeks after sampling collection.

This permit is for operation of phase 1 as specified in the Environmental Impact Statement for the project, up to a maximum of 56,000 striped bass, *Morone saxatilis* (fish). No more than 56,000 fish can be deployed in the net pen facility at any time.

Fish can only be present in the net pens from April to December. Sampling is required during the months when the fish are present in the net pens.

Any anti-fouling coating products proposed for use on the net pens or any part of the net pen superstructure must be a properly registered NYSDEC pesticide. Any individual applying approved anti-fouling coating products must be a Certified NYS Commercial Pesticide Applicator in Category 7H.

Any antibiotics or prophylactics proposed to be administered to the fish deployed in the net pens must be approved by this department prior to use. Only antibiotic chemicals approved by the US Food and Drug Administration for use in aquaculture applications shall be applied. All applications must comply with 21CFR 529, 556, and 558. Prophylactic use of antibiotics is expressly prohibited.

If any Dissolved Oxygen (DO) readings are below 5.0 mg/l, the Department must be notified within 24 hours and daily DO monitoring and coordination with NYSDEC must be initiated.

Submit to the Department any analytical results of fish given to Suffolk County/Cornell Cooperative Extension for pathological analysis.

All submittals to the Department that are not proprietary shall also be submitted to the Town of Southold Town Hall for purposes of maintaining a public repository.

All mortalities (dead fish), feed bags, fish food fines, and other waste materials, excluding fish excrements and secretions and unconsumed food, shall be removed daily to shore and disposed of properly.

Prior to conducting regulated activities authorized under this permit, a minimum \$50,000.00 performance bond must be in effect. The holder of the performance bond will be the NYS Office of General Services. Within 15 days of the effective date of the performance bond, a copy of the performance bond and a copy of the NYSOGS lease for the underwater lands encompassing the fish farm cage culture facility must be submitted to:

NYSDEC  
Division of Permits  
SUNY @ Stony Brook  
50 Circle Road  
Stony Brook, NY 11777

Upon termination of activities authorized under this permit, Robert Valenti or his successor must immediately notify the NYSOGS, NYSDEC and USACOE of cessation of activities.

**ADDITIONAL REPORTING REQUIREMENTS**

A daily log of operations must be maintained and available for review by Department staff. The daily log must record, at a minimum, the following information:

- The date, time, amount of feed, and type of feed dispensed into the net pens.
- The date, time, and description of any activity related to maintenance of the net pen structures (i.e., net cleaning, net replacement, etc.).
- The date, time, and description of any visible changes to water quality.
- The date and number of dead fish removed from the net pens.
- The date, time, type, and quantity of any antibiotics dispensed into the pens.
- The date and time of incidence of disease appearance.

A Monthly Operating Report containing the information recorded in the daily log of operations must be submitted to the Regional Water Engineer at the NYSDEC Region 1 Headquarters at Stony Brook and to the Associate Director of Marine Resources at the Marine Resources Headquarters in Setauket. In addition to the above information, the Monthly Operating Report must include a detailed site diagram showing the location of the leased site boundary and the location of all deployed net pens at the time monthly sampling was conducted. If the information contained in the report is deemed proprietary or trade secrets, the Monthly Operating Report should be clearly labeled as "CONFIDENTIAL - NOT FOR PUBLIC RELEASE".

## SEDIMENT MONITORING REQUIREMENTS

An annual Sediment Monitoring Report must be submitted to the Department no later than November 1<sup>st</sup> of each year. This report is to contain all relevant information pertaining to the operation of the net pen facility. The information presented in the report will be used to identify environmental changes occurring at the net pen site and adjacent property. The report is to include the following:

- Analytical results from a New York State Certified Laboratory of Total Organic Carbon (TOC), Redox Potential Discontinuity Layer (RPDL), macro fauna analysis, and grain size analysis of samples collected in August of each year from all fixed and rotating monitoring locations. After the initial year, the RDPL and macrofauna analysis could be collected every 3 years thereafter.
- A detailed site diagram showing the location of the leased site boundary and the location of all deployed net pens at the time of sampling, with a detailed accounting of the number and size of fish contained in each net pen and the length of time the fish have been in that location.
- A series of site diagrams showing the location of net pens that were moved prior to the sediment sampling, with the dates that the net pens were positioned in each location and the number and size of fish contained in the net pens during the time period.
- A daily or weekly log showing the amount of fish food placed in each net pen. Any information contained in the report disclosing production figures or identified as trade secrets that are to be treated as confidential should not be included in the body of the report. Confidential information must be contained in a separate appendix clearly marked as such.
- A videotape showing the underwater conditions and the sediment below and adjacent to the net pens in the month of August. The videotape should provide continuous footage of the underwater conditions from monitoring locations 06R through 11R taken at 1-2 meters off the bottom, depending on water clarity. The videotape should also provide continuous footage around each pen at mid-depth and at 1-2 meters off the bottom. The videotape should be taken approximately 1-2 meters from the net pen walls, facing the walls. If possible, the tape should include continuous footage of transects underneath the pens at 1-2 meters off the bottom. The video should be taken under conditions favorable to a clear view (i.e., calm, sunny weather, slack tide, etc.) and use equipment that will facilitate superior quality of images (e.g., strobe with arm).

The first Sediment Monitoring Report must contain data from samples collected prior to deployment of any fish into the net pens. Samples for the first report do not have to be collected during the month of August.

TOC, macrofauna, and grain size samples must be collected within the first six inches of the surface of the sediment.

The grain size analysis shall be reported in three categories: sand, silt, and clay.

The macrofauna from the sediment samples must be archived for a minimum of three years.

The macrofauna analysis should be conducted using a 0.5 mm mesh sieve.

### MONITORING LOCATIONS

The permittee shall take samples and measurements, to comply with the monitoring requirements specified in this permit, at the location(s) specified below:

There are to be four Fixed Monitoring Locations (identified as 01F, 02F, 03F, and 04F). The location of Fixed Monitoring Locations will be at the four corners of the leased underwater property. (See site diagram)

- 01F: The southeastern-most corner of the leased underwater property.
- 02F: The southwestern-most corner of the leased underwater property.
- 03F: The northwestern-most corner of the leased underwater property.
- 04F: The northeastern-most corner of the leased underwater property.

There are to be eleven Rotating Monitoring Locations (identified as 01R, 02R, 03R, 04R, 05R, 06R, 07R, 08R, 09R, 10R, and 11R). The location of the Rotating Monitoring Locations will be dependent upon the actual deployment of the net pens within the 200-acre leased area and the location of the fish within the pens. The locations are defined as follows:

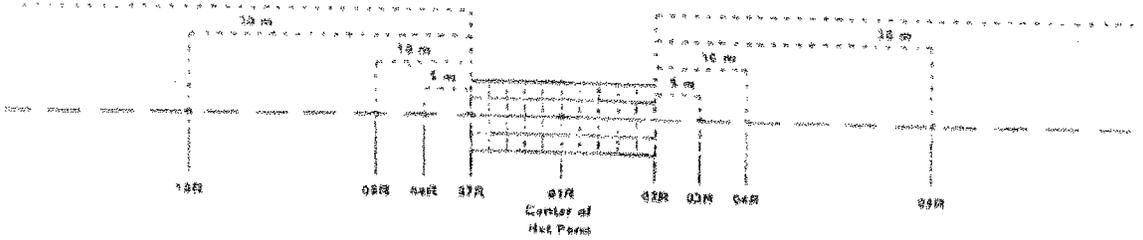
- 01R: As close to the center as is practical of the largest, most heavily used net pen. If net pens are clustered together, then the cluster can be considered one large net pen and location 01R shall be the center of the net pen cluster.
- 02R: The eastern edge of the largest, most heavily used net pen or net pen cluster.
- 03R: 5 meters east of 02R.
- 04R: 10 meters east of 02R.
- 05R: 30 meters east of 02R.
- 06R: 60 meters east of 02R.
- 07R: The western edge of the largest, most heavily used net pen or net pen cluster.
- 08R: 5 meters west of 07R.
- 09R: 10 meters west of 07R.
- 10R: 30 meters west of 07R.
- 11R: 60 meters west of 07R.

The location of the Rotating Monitoring Locations is based upon information contained in the Environmental Impact Statement for this project which states, "The current flowed in basically two directions, easterly (20-60) during an ebb tide, and westerly (250-300) during a flood tide."

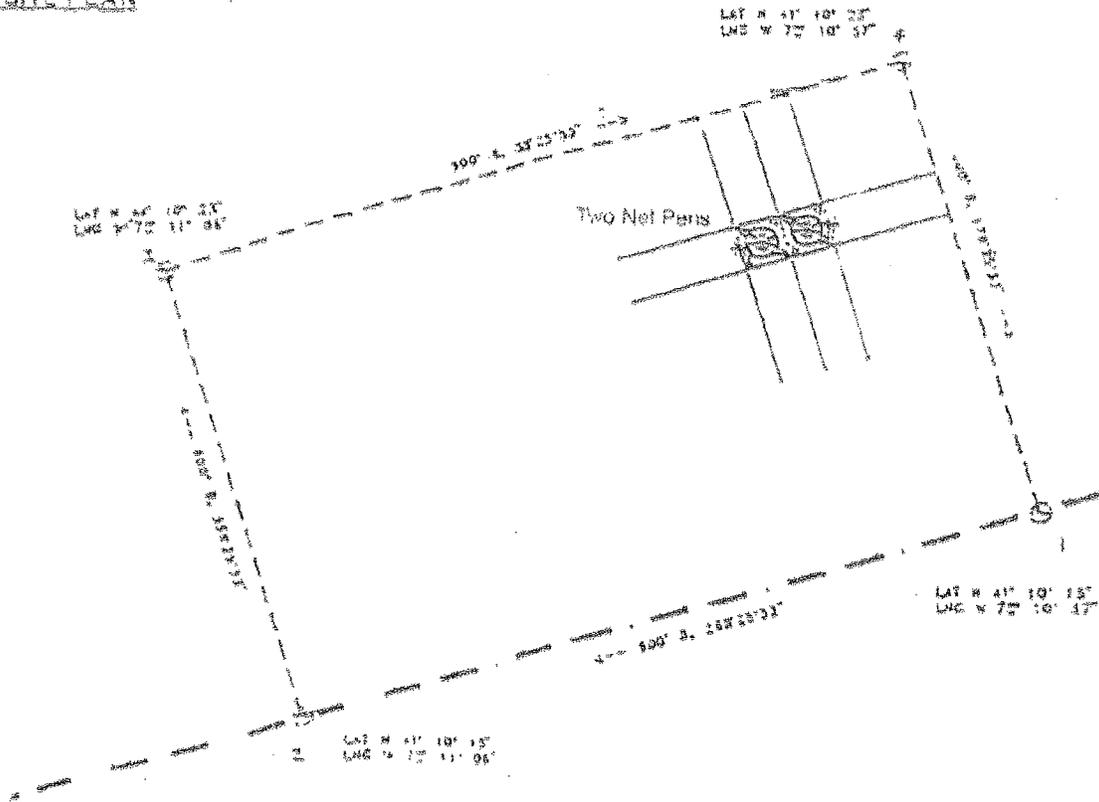


ROTATING MONITORING LOCATIONS

(01R, 02R, 03R, 04R, 05R, 06R, 07R, 08R, 09R, 10R, 11R)



SITE PLAN



SITE PLAN  
SCALE: 1" = 200'

**DISCHARGE NOTIFICATION REQUIREMENTS**

a) The permittee shall maintain the existing identification signs at all outfalls to surface waters, which have not been waived by the Department in accordance with 17-0815-a of the Environmental Conservation Law. The sign(s) shall be conspicuous, legible and in as close proximity to the point of discharge as is reasonably possible while ensuring the maximum visibility from the surface water and shore. The signs shall be installed in such a manner to pose minimal hazard to navigation, bathing or other water related activities. If the public has access to the water from the land in the vicinity of the outfall, an identical sign shall be posted to be visible from the direction approaching the surface water.

The signs shall have **minimum** dimensions of eighteen inches by twenty four inches (18" x 24") and shall have white letters on a green background and contain the following information:

<p style="text-align: center;"><b>N.Y.S. PERMITTED DISCHARGE POINT</b></p> <p style="text-align: center;">SPDES PERMIT No.: NY _____</p> <p style="text-align: center;">OUTFALL No. : _____</p> <p>For information about this permitted discharge contact:</p> <p>Permittee Name: _____</p> <p>Permittee Contact: _____</p> <p>Permittee Phone: (    ) - ### - ####</p> <p>OR:</p> <p>NYSDEC Division of Water Regional Office Address :</p> <p>NYSDEC Division of Water Regional Phone: (    ) - ### - ####</p>
--

b) For each discharge required to have a sign in accordance with a), the permittee shall provide for public review at a repository accessible to the public, copies of the Discharge Monitoring Reports (DMRs) as required by the **RECORDING, REPORTING AND ADDITIONAL MONITORING REQUIREMENTS** page of this permit. This repository shall be open to the public, at a minimum, during normal daytime business hours. The repository may be at the business office repository of the permittee or at an off-premises location of its choice (such location shall be the village, town, city or county clerk's office, the local library or other location as approved by the Department). In accordance with the **RECORDING, REPORTING AND ADDITIONAL MONITORING REQUIREMENTS** page of your permit, each DMR shall be maintained on record for a period of five years.

c) The permittee shall periodically inspect the outfall identification signs in order to ensure that they are maintained, are still visible and contain information that is current and factually correct.

**REPORTING REQUIREMENTS FOR THE FISH HATCHERY CATEGORY**

1. The permittee shall report the use of any investigational new animal drug (INAD) or any extra-label drug use where such a use may lead to a discharge of the drug to waters of the state. Reporting is not required for an INAD or extralabel drug use that has been previously approved by FDA for a different species or disease if the INAD or extralabel use is at or below the approved dosage and involves similar conditions of use.
  - a. In the case where a permittee intends to participate in an INAD study, the permittee shall provide a written report to the Regional Water Engineer (RWE) of an INAD's impending use within 7 days of agreeing or signing up to participate in the INAD study. The written report must identify the INAD to be used, method of use, the dosage, and the disease or condition the INAD is intended to treat.
  - b. In the case of INAD and/or extralabel drug use at the facility, the permittee shall provide an oral report to the RWE as soon as possible, preferably in advance of use, but no later than 5 days after initiating use of that drug. The oral report must identify the drugs used, method of application, and the reason for using that drug. In addition, the permittee must provide a written report to the RWE within 30 days after initiating use of that drug. The written report must identify the drug used and include: the reason for treatment, date(s) and time(s) of the addition (including duration), method of application, and the amount added.

*Investigational new animal drug (INAD)* means a drug for which there is a valid exemption in effect under section 512(j) of the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. 360b(j), to conduct experiments.

*Extralabel drug use* means a drug approved under the Federal Food, Drug and Cosmetic Act that is not used in accordance with the approved label directions, see 21 CFR part 530.

2. In the event of failure in, or damage to, the structure of an aquatic animal containment system resulting in an unanticipated material discharge of pollutants to waters of the state, the permittee shall report the incident to the RWE within 24 hours of its occurrence in accordance with 6 NYCRR Part 750-2.7(c) and submit a written report within 5 days in accordance with 6 NYCRR part 750-2.7(d). the written incident report shall also contain the following information: documentation of the cause of containment system failure or damage, the estimated time elapsed until the failure or damage was repaired, an estimate of the material released as a result of the failure or damage, and steps being taken to prevent a recurrence.
3. In the event of spill of drugs, pesticides or feed that results in a discharge to waters of the state, the permittee shall report the spill to the RWE with 24 hours of its occurrence in accordance with 6 NYCRR Part 750-2.7(c) and submit a written report within 5 days in accordance with 6 NYCRR Part 750-2.7(d). The report shall include the identity and quantity of the material spilled.



**PRIVATE AIDS TO NAVIGATION**

HOME | APPLICATION | LOG OFF | 2/22/10

You are logged on as **BIGBOSEE**.

**PRIVATE AIDS TO NAVIGATION FOR - MULTI AQUACULTURE SYSTEMS INC.**

2554-Application  
**Edit Record**

LLNR: 27671.00  
 AID: 100117466799  
 AID\_NAME: **Plum Island Aquaculture Lighted Buoy A**  
 CLASS: II  
 TYPE:  Floating  Fixed  
 FIRST\_NAME: Dr. Robert  
 LAST\_NAME: Valenti  
 Your Organization:  
 PHONE: 631-267-3341  
 LAT: 41-10-25.00N  
 LON: 072-11-09.00W  
 Email: liveliner@hotmail.com  
 Chain Length: 40'  
 Depth of water: 32'  
 Mooring Size: 550lbs  
 Suggested Aid Name: Plum Isl. Aquaculture Bouys  
 Aid Purpose: Mark Hazard  
 Flash Length: 16 Leds flashing 6 seconds - FL W 6s  
 Aid Color: White w/ Orange Bands  
 Aid Candle Power: Gilman  
 Aid Height: 5 feet  
 Aid Structure: Net Pens  
 Action Requested: Establish and Maintain throughout the yr  
 Aid Duration: Throughout the year  
 Aid Necessity: Aquaculture  
 Aid General Locality: Note: Please use a name from nautical chart, not a local knowledge name.  
 Plum Island 13209/13205/12354  
 Army Corp: 96-00600  
 Your comments:

**COMMENTS**

**Notes:**

\*\*\* SPOTHIER \*\*\* February 9, 2010 at 12:55 PM

Your application for Plum Island Aquaculture Lighted Buoy A is approved. This aid is assigned a Class II rating and will be inspected at least tri-annually by the Coast Guard. Please notify this office via the PATON website when the aid is established by clicking on the link either on the website or through the periodic e-mail you will receive. Use the assigned name when corresponding about this aid. Please affix some means of identification to the buoy in case the aid goes adrift.

As owner of a private aid to navigation, you are under legal obligation to operate the aid(s) in the manner specified on your permit. Should a discrepancy in the operation of the aid occur (aid inoperable, wrong characteristic, etc.) we would notify you. Failure to correct the discrepancy in a timely manner may result in termination of your permit. Please notify us upon correcting any discrepancy.

**Other stipulations:**

The characteristics of this aid to navigation shall conform to the United States Aids to Navigation System described in Subpart B of 33 CFR Part 62 and will be of sufficient size for the area and use. Specifically the aid will be a regulatory mark WHITE in color with two horizontal retro reflective orange bands placed completely around the buoy circumference. One band shall be near the top of the buoy body, with a second band placed just above the waterline of the buoy so that both bands are clearly visible. Between the bands will be two (2) vertical open faced diamonds placed 180 degrees apart. The nature of the danger may be placed in the diamond. The aid will have a minimum daytime visibility range of one (1) nautical mile (NM) and be radar reflective for night time and low visibility conditions. This aid will have a flash characteristic of Flashing White with a 6 second on/off period (FL W 6s). It will have a minimum visibility range of 2 nautical miles at night). (An example is in the front of the Coast Guard Light List Vol I or at <http://www.navcen.uscg.gov/pubs/LightLists/V1COMPLETE.PDF>).

This permit does not relieve you from complying with all other applicable federal, state or local regulations that may or may not conflict with this permit.

This permit is non-transferable. A new owner must submit a new private aid application. You are required to notify this office should your phone number, address or e-mail address change.

If you wish to modify an aid in any way, ie; change position, characteristics, color etc, you must submit a change to your website application for approval from this office.

If you wish to discontinue an aid you must notify this office in writing (website) prior to doing so. Should you discontinue an aid or your permit is canceled, you must remove the aid, moorings, and any other gear from the waterway within 30 days. If the aid is not removed after 30 days it will be removed by the Coast Guard at your expense.

Private Aids to Navigation Regulations can be found in 33 CFR Part 66 at the following link; [http://www.boatingbasicsonline.com/course/boating/6\\_3print.php](http://www.boatingbasicsonline.com/course/boating/6_3print.php)

\*\*\* SPOTHIER \*\*\* February 9, 2010 at 10:14 AM

Added aid and LL#.

\*\*\* BMAYS \*\*\* February 9, 2010 at 8:08 AM

approved. Please notify unit when final approval is complete and information is entered into iatonis

\*\*\* SPOTHIER \*\*\* February 8, 2010 at 2:03 PM

Please review and confer with local harbormaster.

\*\*\* SPOTHIER \*\*\* February 8, 2010 at 1:51 PM

Reviewed.



**PRIVATE AIDS TO NAVIGATION**

[HOME](#) | [APPLICATION](#) | [LOG OFF](#) | 2/22/10

You are logged on as **BIGBOSEE**.

**PRIVATE AIDS TO NAVIGATION FOR - MULTI AQUACULTURE SYSTEMS INC.**

2554-Application  
**Edit Record**

LLNR: 27671.10  
 AID: 100117466806  
 AID\_NAME: Plum Island Aquaculture Lighted Buoy B  
 CLASS: II  
 TYPE:  Floating  Fixed  
 FIRST\_NAME: Dr. Robert  
 LAST\_NAME: Valenti  
 Your Organization:  
 PHONE: 631-267-3341  
 LAT: 41-10-15.00N  
 LON: 072-11-09.00W  
 Email: liveliner@hotmail.com  
 Chain Length: 40'  
 Depth of water: 32'  
 Mooring Size: 550lbs  
 Suggested Aid Name: Plum Isl. Aquaculture Bouys  
 Aid Purpose: Mark Hazard  
 Flash Length: led 6 seconds FL W 6's  
 Aid Color: White w/ Orange Bands  
 Aid Candle Power: Gilman  
 Aid Height: 5 feet  
 Aid Structure: Net Pens  
 Action Requested: Establish and Maintain throughout the y  
 Aid Duration: Throughout the year  
 Aid Necessity: Aquaculture  
 Aid General Locality: Note: Please use a name from nautical chart, not a local knowledge name.  
 Plum Island 13209/13205/12354  
 Army Corp: 96-00600  
 Your comments:

**COMMENTS**

**Notes:**

\*\*\* SPOTHIER \*\*\* February 9, 2010 at 1:00 PM  
 Your application for Plum Island Aquaculture Lighted Buoy B is approved. This aid is assigned a Class II rating and will be inspected at least tri-annually by the Coast Guard. Please notify this office via the PATON website when the aid is established by clicking on the link either on the website or through the periodic e-mail you will receive. Use the assigned name when corresponding about this aid. Please affix some means of identification to the buoy in case the aid goes adrift.  
 As owner of a private aid to navigation, you are under legal obligation to operate the aid(s) in the manner specified on your permit. Should a discrepancy in the operation of the aid occur (aid inoperable, wrong characteristic, etc.) we would notify you. Failure to correct the discrepancy in a timely manner may result in termination of your permit. Please notify us upon correcting any discrepancy.  
 Other stipulations:  
 The characteristics of this aid to navigation shall conform to the United States Aids to Navigation System described in Subpart B of 33 CFR Part 62 and will be of sufficient size for the area and use. Specifically the aid will be a regulatory mark WHITE in color with two horizontal retro reflective orange bands placed completely around the buoy circumference. One band shall be near the top of the buoy body, with a second band placed just above the waterline of the buoy so that both bands are clearly visible. Between the bands will be two (2) vertical open faced diamonds placed 180 degrees apart. The nature of the danger may be placed in the diamond. The aid will have a minimum daytime visibility range of one (1) nautical mile (NM) and be radar reflective for night time and low visibility conditions. This aid will have a flash characteristic of Flashing White with a 6 second on/off period (Fl W 6s). It will have a minimum visibility range of 2 nautical miles at night). (An example is in the front of the Coast Guard Light List Vol I or at <http://www.navcen.uscg.gov/pubs/LightLists/V1COMPLETE.PDF>).  
 This permit does not relieve you from complying with all other applicable federal, state or local regulations that may or may not conflict with this permit.  
 This permit is non-transferable. A new owner must submit a new private aid application. You are required to notify this office should your phone number, address or e-mail address change.  
 If you wish to modify an aid in any way, ie; change position, characteristics, color etc, you must submit a change to your website application for approval from this office.  
 If you wish to discontinue an aid you must notify this office in writing (website) prior to doing so. Should you discontinue an aid or your permit is canceled, you must remove the aid, moorings, and any other gear from the waterway within 30 days. If the aid is not removed after 30 days it will be removed by the Coast Guard at your expense.  
 Private Aids to Navigation Regulations can be found in 33 CFR Part 66 at the following link; [http://www.boatingbasicsonline.com/course/boating/6\\_3print.php](http://www.boatingbasicsonline.com/course/boating/6_3print.php)  
 \*\*\* SPOTHIER \*\*\* February 9, 2010 at 10:19 AM  
 Added aid and LL#.  
 \*\*\* BMAYS \*\*\* February 9, 2010 at 8:07 AM  
 approved. Please notify unit when final approval is complete and information is entered into iatonis  
 \*\*\* SPOTHIER \*\*\* February 8, 2010 at 2:03 PM  
 Please review and confer with local harbormaster.  
 \*\*\* SPOTHIER \*\*\* February 8, 2010 at 1:55 PM  
 Reviewed.



**PRIVATE AIDS TO NAVIGATION**

[HOME](#) | [APPLICATION](#) | [LOG OFF](#) | 2/22/10

You are logged on as **BIGBOSEE**.

**PRIVATE AIDS TO NAVIGATION FOR - MULTI AQUACULTURE SYSTEMS INC.**

2554-Application

**Edit Record**

LLNR: 27671.20  
 AID: 100117466811  
 AID\_NAME: Plum Island Aquaculture Lighted Buoy C  
 CLASS: II  
 TYPE:  Floating  Fixed  
 FIRST\_NAME: Dr. Robert  
 LAST\_NAME: Valenti  
 Your Organization:  
 PHONE: 631-267-3341  
 LAT: 41-10-15.00N  
 LON: 072-10-57.00W  
 Email: liveliner@hotmail.com  
 Chain Length: 40'  
 Depth of water: 32'  
 Mooring Size: 550lbs  
 Suggested Aid Name: Plum Isl. Aquaculture Bouys  
 Aid Purpose: Mark Hazard  
 Flash Length: led 6 seconds FL W 6's  
 Aid Color: White w/ Orange Bands  
 Aid Candle Power: Gilman  
 Aid Height: 5 feet  
 Aid Structure: Net Pens  
 Action Requested: Establish and Maintain throughout the year  
 Aid Duration: Throughout the year  
 Aid Necessity: Aquaculture  
 Aid General Locality: Note: Please use a name from nautical chart, not a local knowledge name.  
 Plum Island 13209/13205/12354  
 Army Corp: 96-00600  
 Your comments:

**COMMENTS**

**Notes:**

\*\*\* SPOTHIER \*\*\* February 9, 2010 at 1:01 PM

Your application for Plum Island Aquaculture Lighted Buoy C is approved. This aid is assigned a Class II rating and will be inspected at least tri-annually by the Coast Guard. Please notify this office via the PATON website when the aid is established by clicking on the link either on the website or through the periodic e-mail you will receive. Use the assigned name when corresponding about this aid. Please affix some means of identification to the buoy in case the aid goes adrift.

As owner of a private aid to navigation, you are under legal obligation to operate the aid(s) in the manner specified on your permit. Should a discrepancy in the operation of the aid occur (aid inoperable, wrong characteristic, etc.) we would notify you. Failure to correct the discrepancy in a timely manner may result in termination of your permit. Please notify us upon correcting any discrepancy.

**Other stipulations:**

The characteristics of this aid to navigation shall conform to the United States Aids to Navigation System described in Subpart B of 33 CFR Part 62 and will be of sufficient size for the area and use. Specifically the aid will be a regulatory mark WHITE in color with two horizontal retro reflective orange bands placed completely around the buoy circumference. One band shall be near the top of the buoy body, with a second band placed just above the waterline of the buoy so that both bands are clearly visible. Between the bands will be two (2) vertical open faced diamonds placed 180 degrees apart. The nature of the danger may be placed in the diamond. The aid will have a minimum daytime visibility range of one (1) nautical mile (NM) and be radar reflective for night time and low visibility conditions. This aid will have a flash characteristic of Flashing White with a 6 second on/off period (Fl W 6s). It will have a minimum visibility range of 2 nautical miles at night. (An example is in the front of the Coast Guard Light List Vol 1 or at <http://www.navcen.uscg.gov/pubs/LightLists/V1COMPLETE.PDF>).

This permit does not relieve you from complying with all other applicable federal, state or local regulations that may or may not conflict with this permit.

This permit is non-transferable. A new owner must submit a new private aid application. You are required to notify this office should your phone number, address or e-mail address change.

If you wish to modify an aid in any way, ie; change position, characteristics, color etc, you must submit a change to your website application for approval from this office.

If you wish to discontinue an aid you must notify this office in writing (website) prior to doing so. Should you discontinue an aid or your permit is canceled, you must remove the aid, moorings, and any other gear from the waterway within 30 days. If the aid is not removed after 30 days it will be removed by the Coast Guard at your expense.

Private Aids to Navigation Regulations can be found in 33 CFR Part 66 at the following link; [http://www.boatingbasicsonline.com/course/boating/6\\_3print.php](http://www.boatingbasicsonline.com/course/boating/6_3print.php)

\*\*\* SPOTHIER \*\*\* February 9, 2010 at 10:23 AM

Added aid and LL#.

\*\*\* BMAYS \*\*\* February 9, 2010 at 8:05 AM

approved. Please notify unit when final approval is complete and information is entered into iatonis

\*\*\* SPOTHIER \*\*\* February 8, 2010 at 2:12 PM

Please review and confer with local harbormaster.

\*\*\* SPOTHIER \*\*\* February 8, 2010 at 1:58 PM

Reviewed.



**PRIVATE AIDS TO NAVIGATION**

[HOME](#) | [APPLICATION](#) | [LOG OFF](#) | 2/22/10

You are logged on as **BIGBOSEE**.

**PRIVATE AIDS TO NAVIGATION FOR - MULTI AQUACULTURE SYSTEMS INC.**

2554-Application  
**Edit Record**

LLNR: **27671.30**  
 AID: **100117466814**  
 AID\_NAME: **Plum Island Aquaculture Lighted Buoy D**  
 CLASS: **II**  
 TYPE:  Floating  Fixed  
 FIRST\_NAME: **Dr. Robert**  
 LAST\_NAME: **Valenti**  
 Your Organization:  
 PHONE: **631-267-3341**  
 LAT: **41-10-25.00N**  
 LON: **072-10-57.00W**  
 Email: **liveliner@hotmail.com**  
 Chain Length: **40'**  
 Depth of water: **32'**  
 Mooring Size: **550lbs**  
 Suggested Aid Name: **Plum Isl. Aquaculture Bouys**  
 Aid Purpose: **Mark Hazard**  
 Flash Length: **led 6 seconds FL W 6's**  
 Aid Color: **White w/ Orange Bands**  
 Aid Candle Power: **Gilman**  
 Aid Height: **5 feet**  
 Aid Structure: **Net Pens**  
 Action Requested: **Establish and Maintain throughout the year**  
 Aid Duration: **Throughout the year**  
 Aid Necessity: **Aquaculture**  
 Aid General Locality: **Note: Please use a name from nautical chart, not a local knowledge name.  
Plum Island 13209/13205/12354**  
 Army Corp: **96-00600**  
 Your comments:

**COMMENTS**

**Notes:**

\*\*\* SPOTHIER \*\*\* February 9, 2010 at 1:01 PM  
 Your application for Plum Island Aquaculture Lighted Buoy D is approved. This aid is assigned a Class II rating and will be inspected at least tri-annually by the Coast Guard. Please notify this office via the PATON website when the aid is established by clicking on the link either on the website or through the periodic e-mail you will receive. Use the assigned name when corresponding about this aid. Please affix some means of identification to the buoy in case the aid goes adrift.  
 As owner of a private aid to navigation, you are under legal obligation to operate the aid(s) in the manner specified on your permit. Should a discrepancy in the operation of the aid occur (aid inoperable, wrong characteristic, etc.) we would notify you. Failure to correct the discrepancy in a timely manner may result in termination of your permit. Please notify us upon correcting any discrepancy.  
 Other stipulations:  
 The characteristics of this aid to navigation shall conform to the United States Aids to Navigation System described in Subpart B of 33 CFR Part 62 and will be of sufficient size for the area and use. Specifically the aid will be a regulatory mark WHITE in color with two horizontal retro reflective orange bands placed completely around the buoy circumference. One band shall be near the top of the buoy body, with a second band placed just above the waterline of the buoy so that both bands are clearly visible. Between the bands will be two (2) vertical open faced diamonds placed 180 degrees apart. The nature of the danger may be placed in the diamond. The aid will have a minimum daytime visibility range of one (1) nautical mile (NM) and be radar reflective for night time and low visibility conditions. This aid will have a flash characteristic of Flashing White with a 6 second on/off period (F1 W 6s). It will have a minimum visibility range of 2 nautical miles at night). (An example is in the front of the Coast Guard Light List Vol I or at <http://www.navcen.uscg.gov/pubs/LightLists/V1COMPLETE.PDF>).  
 This permit does not relieve you from complying with all other applicable federal, state or local regulations that may or may not conflict with this permit.  
 This permit is non-transferable. A new owner must submit a new private aid application. You are required to notify this office should your phone number, address or e-mail address change.  
 If you wish to modify an aid in any way, ie; change position, characteristics, color etc, you must submit a change to your website application for approval from this office.  
 If you wish to discontinue an aid you must notify this office in writing (website) prior to doing so. Should you discontinue an aid or your permit is canceled, you must remove the aid, moorings, and any other gear from the waterway within 30 days. If the aid is not removed after 30 days it will be removed by the Coast Guard at your expense.  
 Private Aids to Navigation Regulations can be found in 33 CFR Part 66 at the following link; [http://www.boatingbasicsonline.com/course/boating/6\\_3print.php](http://www.boatingbasicsonline.com/course/boating/6_3print.php)  
 \*\*\* SPOTHIER \*\*\* February 9, 2010 at 10:26 AM  
 Added aid and LL#.  
 \*\*\* BMAYS \*\*\* February 9, 2010 at 8:05 AM  
 approved. Please notify unit when final approval is complete and information is entered into iatons  
 \*\*\* SPOTHIER \*\*\* February 8, 2010 at 2:13 PM  
 Please review and confer with local harbormaster.  
 \*\*\* SPOTHIER \*\*\* February 8, 2010 at 2:01 PM  
 Reviewed.

# Attachment 7

General Consistency Determination Coastal Zone  
Management



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.

Mr. Jeffrey Zappieri

August 29, 2013

Page 2 of 2

### **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.

## Attachment B- List of Affected Counties

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>

**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)



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



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

# Attachment 8

Floodplain Management (EO11988)

**Project 103-ED-147-13 EO11988 Floodplain Management Determination**  
***Commercial & Economic Development Initiative within NY State Community Development***  
***Block Grant-Disaster Recovery Program***  
*November 12, 2014*

**Introduction & Overview**

The purpose of Executive Order 11988, Floodplain Management, is “to avoid to the extent possible the long and short-term adverse impacts associated with occupancy and modification of floodplains and to avoid direct or indirect support of floodplain development wherever there is a practicable alternative.” This report contains the analysis prescribed by 24 CFR Part 55.

This project involves Community Development Block Grant Program-Disaster Relief (CDBG-DR) funding for in-kind business equipment repairs for a single business impacted by Super Storm Sandy. The analysis that follows focuses on floodplain impacts, as there are no new direct wetland impacts associated with this project. Based on the type of business, type of damages received and the apparent “non-substantial” level of work, and other case characteristics, it is concluded that there is a reasonable basis to proceed with funding for this project/activity within floodplain. There are no practicable and readily feasible alternatives to supporting the pre-existing business in resuming its operations. Moreover, in the March 5, 2013 Federal Register Notice, HUD expressly recognized that “without the return of businesses and jobs to a disaster-impacted area, recovery may be impossible. Therefore, HUD strongly encourages the grantee to envision economic revitalization as a cornerstone to a long-term recovery” (78 FR 14335). Thus, alternatives preventing or impeding small business recovery are not considered reasonable alternatives.

**Description of Proposed Action & Land Use**

Multi Aquaculture Systems, Inc. is an aquaculture fin fish farming business at 429 Cranberry Hole Road, Amagansett, Suffolk County, NY. Information was obtained from the website Property Shark indicates the property is Section/Block/Lot 128-1-32.3, which is a 2.4 acre parcel. County tax assessor’s data indicates that improvements existed on this property as of 1976 while it appears from photos that some infrastructure could pre-date this point. Site inspection photos reveal several structures on the property for storage and other commercial purposes. Buildings appear to be wood-framed with wood siding and aluminum or tin roofing. Infrastructure includes metal-framed greenhouses and on-land pens for fish farming purposes and there is extensive equipment and materials there.

The scope of work for Project Case 103-ED-147-2013 involves a grant of \$9,600.00, which was awarded for reimbursement for the retrieval of in-ocean cages. Additionally, \$40,400.00 was awarded for the future repair and replacement of the in-water fish cages as well as repair and replacement of construction related equipment. The in-water cages are currently on the property, located within floodplain, where work will occur on the cages before they are brought back out into the ocean. A previous environmental review for separate activities categorized under 24 CFR 58.35(b)(4) for this applicant was completed on September 9, 2014 and is included in the environmental review record.

### **Applicable Regulatory Procedure Per EO 11988**

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

Based on online data, including data managed and updated by the U.S Fish & Wildlife Service (USFWS) and New York Department of Environmental Conservation (DEC), there is no direct construction (new) in wetlands present at the site. Thus, in accordance with the decision-making process set forth in 24 CFR Part 55, this analysis focuses exclusively on floodplains.

Pursuant to 24 CFR §55.12(a)(4), the activity eligible for reimbursement does constitute repair, rehabilitation, modernization, weatherization, or improvement of existing nonresidential buildings and structures in a community that is in the regular program of the NFIP and is in good standing. Based on inspection report(s) and Program materials, the total award for repairs, and the type of equipment repairs and support, rehabilitation consists of repairs/ replacements to pens that are not real property but rather plant and equipment and this project does not exceed a substantial improvement / damage threshold of fifty percent (50%) in 24 CFR §55.2(b)(10). As such, abbreviated five-step floodplain determination process in §55.20 is allowed. The following analysis examines each step in a floodplain management determination process.

#### ***Step 1. Determine Whether the Proposed Action is Located in the 100-year Floodplain (500-year for Critical Actions) or results in New Construction in Wetlands.***

The location of the proposed action, per the applicable FEMA flood map Firmette, is within the 100-year floodplain (SFHA-VE and AE Zones), with a base flood elevation of between 10-14 feet across the property. This means aspects of this action at this functionally dependent business may be within a coastal high hazard area. This action does not require a new Section 404 permit under the Clean Water Act (see 55.20(a)(1)) – note: it has been identified that the business maintains valid permits, including for its marine operations.

#### ***Step 4. Identify & Evaluate Potential Direct & Indirect Impacts Associated with Occupancy or Modification of 100-year Floodplain and Potential Direct & Indirect Support of Floodplain and Wetland Development that Could Result from Proposed Action.***

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

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

floodplain. These definitions are used in describing impacts that may arise in association with potential advancement of this case.

*Natural moderation of floods*

As the applicant's site is functionally dependent on proximity to water and it is one of several developed parcels situated within the 100-year floodplain, the continued occupancy of the site may potentially result in future direct impacts to property during certain severe floods and related natural disasters.

*Living resources such as flora and fauna*

This fin fish farming business may be a type of business where upon flooding, materials used in operations could potentially be released into the environment, thereby having unquantifiable potential to impact water quality maintenance and ecological resources. A potential impact that may arise is that materials used or stored on-site would be caused to be released into the environment, such as a result of wind or floodwaters. However, this would be more likely if there are not non-structural and structural floodproofing techniques in place, such as if materials are not stored in water-tight containers, elevated, and/or said containers break or migrate out of a non-enclosed building due to lack of proper preparation. A qualitative evaluation suggests the potential would be relatively small and if such releases do occur, it is likely as part of a potential area-wide impact. In such an instance, floatable debris could contribute to litter and if there were minor amounts of chemicals used on site, floodwaters may induce rapid dilution. Given the nature of this business, potential for an acute or chronic level of water quality impact from this site is low.

*Impacts to Property & Lives*

The action presents potential to impact commercial occupancy of floodplain, but it does not involve residential structures and in-kind equipment repairs do not directly modify 100-year floodplain. The project does not alter floodplain because it does not directly or physically modify floodplain through ground disturbance. It is presumed during fabrication there will be anchoring and once repaired, the cages will be removed from the floodplain, and if applicable high-hazard velocity zone, and moved off the land and secured in the ocean several miles off the coast. Moreover, supporting the recovery of small businesses is an essential component of recovery in storm-affected communities, as recognized by the March 2013 Notice in the Federal Register.

Occupancy of this floodplain in this developed area has taken place over an extended recent history. According to Suffolk County's 2014 Draft update to the 2000 version of their Multi-Jurisdictional Multi-Hazard Mitigation Plan, East Hampton is at risk for occasional hurricanes, frequent flooding, and frequent severe storms (pages 9.17-2 and 9.17-3). Considering the context of the area – this action represents an activity at only one parcel among others that are located within contiguous coastal edge floodplain. Thus, funding this project/activity at this functionally dependent business does constitute indirect continued support of commercial floodplain occupancy and development. In the event of severe flooding and associated natural hazards in the future, there is potential for further damage to this property, business disruption, and impacts to this small business.

The continued operations and in-kind rehabilitation occurring at the site sustains area property values and community character within a district and neighborhood that has been settled for a

long time. It enables continued viability of this small maritime aquaculture business, which might otherwise degrade, or cease to exist, without support in rehabilitating equipment, restarting business operations, and/or recouping some revenue lost as a result of the disaster. Similarly, the proposed investment supports the area by sustaining a commercial business asset with a retail component. Support to sustain this business also helps ensure a diverse economic base. If this project/activity were not funded, there probably would be other undefined, undesirable indirect impacts to lives and the area economy, on a short-and long-term basis, such as relating to economic multipliers and support that this business provides to surrounding businesses, as it purchases products and services.

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

The property impacted hosts a commercial fin fish farming/ aquaculture business. The in-kind rehabilitation scope of work centers on the cage structures staged on the property. There is a limited scope of funded physical repairs. The broader repair scope does not involve buildings but fixing land-based pens infrastructure. The historic properties determination applied is that there would be no or limited effect as a result of the funded rehabilitation. Without support, building resources could degrade and there could be loss of development character and identity for the building(s) and the area.

*Agricultural, aquacultural, and forestry resources*

Suffolk County has agricultural and woodland sites in flood zone and there is substantial aquaculture and fishing industry on Long Island, including in the form of oyster farming. There appears to be a high concentration of aquaculture on Eastern Long Island and per the 2012 State Comptrollers Report, Agriculture in Long Island, Figure 2 shows that considering 'Agricultural Production by Commodity Group in Long Island (2007)', aquaculture at \$7.6 Million sales revenue represents 2.9% of this total type of economic product. This business constitutes one part of this sector. It is possible that if there is a materials release from this property, it could potentially affect natural resources. However, while it is conceivable that flooding of a business like this could be part of a cumulative influence on such resources, the impact attributable to this use could not have been quantitatively derived, and the potential impact, with planning for and practice of non-structural management practices, is considered minor.

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

Given that proposed rehabilitation funded by this program is limited and does not rise to the level of substantial reconstruction, and considering the individual property scale, it is not financially feasible to specify mitigation measures, such as: elevating the structures/ buildings, dry floodproofing them, or promoting strategic retreat, such as through government acquisition. It is necessary that if equipment is stored or fabricated in velocity flood zone that is be adequately anchored. Additionally, the proposed rehabilitation of in-water cages, even though the cages are susceptible to damage from severe storms, is warranted as the purpose of this business is functionally dependent upon location in the water and in floodplain. However, it is reasonable to promote business owner awareness of future risks of natural hazards, including flooding, plus the physical, social and economic impacts that potential events could convey, including through potential for future physical damage to property, buildings, supplies, and equipment.

It is reasonable to promote business owner awareness of actions they can take to define and prepare for the impacts of many hazards they may face. There are free resources available to aid such preparedness planning found at the link: <http://www.ready.gov/business>.

**Step 6. Reevaluate the Proposed Action.** The action to fund structure rehabilitation and business continuity at this business is still practicable in light of exposure to flood hazards in floodplain, possible adverse impacts on floodplain, the extent to which it may aggravate current hazards to other floodplains, and the potential to disrupt natural and beneficial functions and values of floodplains. Moreover, the March 2013 notice in the Federal Register strongly recommends that the grantee engage in a robust policy for ensuring small business recovery affected by the storm events, as such recovery is essential to the continued vitality of surrounding communities. Thus, alternatives preventing or impeding small business recovery are not considered reasonable alternatives.

As this project triggers abbreviated process, there was not a requirement to perform Step 3. This means there is not alternatives analysis that must be reconsidered.

**Step 8. Continuing Responsibility of Responsible Entity & Recipient.** The responsible entity will make available educational materials regarding best practices for businesses located in floodplains, as well as require the business to demonstrate proof of current flood insurance. It is acknowledged there is a continuing responsibility by the responsible entity, New York State Housing Trust Fund/ Division of Homes and Community Renewal to ensure, to the extent feasible and necessary, compliance with Steps herein.

# Attachment 9

New York 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**

November 18, 2014

Joshua Gomez  
Tectonic Engineering & Surveying Consultants P.C.  
PO Box 37, 70 Pleasant Hill Road  
Mountainville, NY 10953

Re: Case # 103-ED-147-13: Multi Aquaculture Systems, Inc., Cranberry Hole Road, Amagansett  
Town/City: East Hampton. County: Suffolk.

Dear Joshua Gomez :

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

Enclosed is a report of rare or state-listed animals and plants, and significant natural communities, which our databases indicate occur, or may occur, on your site or in the immediate vicinity of your site.

For most sites, comprehensive field surveys have not been conducted; the enclosed report only includes records from our databases. We cannot provide a definitive statement as to the presence or absence of all rare or state-listed species or significant natural communities. Depending on the nature of the project and the conditions at the project site, further information from on-site surveys or other sources may be required to fully assess impacts on biological resources.

Our databases are continually growing as records are added and updated. If this proposed project is still under development one year from now, we recommend that you contact us again so that we may update this response with the most current information.

The presence of the plants and animals identified in the enclosed report may result in this project requiring additional review or permit conditions. For further guidance, and for information regarding other permits that may be required under state law for regulated areas or activities (e.g., regulated wetlands), please contact the appropriate NYS DEC Regional Office, Division of Environmental Permits, as listed at [www.dec.ny.gov/about/39381.html](http://www.dec.ny.gov/about/39381.html).

Sincerely,

A handwritten signature in black ink that reads "Nick Conrad".

Nicholas Conrad  
Information Resources Coordinator  
New York Natural Heritage Program



**The following rare plants have been documented in the vicinity of your project site.**

We recommend that potential onsite and offsite impacts of the proposed project on these species be addressed as part of any environmental assessment or review conducted as part of the planning, permitting and approval process, such as reviews conducted under SEQR. Final requirements of the project to avoid, minimize, or mitigate potential impacts are determined by the lead permitting agency or the government body approving the project.

**The following plants are listed as Endangered or Threatened by New York State, and/or are considered rare by the New York Natural Heritage Program, and so are a vulnerable natural resource of conservation concern.**

<i>COMMON NAME</i>	<i>SCIENTIFIC NAME</i>	<i>NY STATE LISTING</i>	<i>HERITAGE CONSERVATION STATUS</i>
<b>Vascular Plants</b>			
<b>Seabeach Knotweed</b>	<i>Polygonum glaucum</i>	Rare	Vulnerable in NYS and Globally Uncommon
Napeague Bay Shore, 2010-09-21: The plants are growing on a wide section of beach, on open sand above the cobbles and mixed in with other plants at the vegetated edge.			4352
<b>Northern Blazing-star</b>	<i>Liatris scariosa</i> var. <i>novae-angliae</i>	Threatened	Imperiled in NYS and Globally Uncommon
Cranberry Hole Roadsides, 2010-09-21: The plants are growing in maritime heathland along the roadside and in a disturbed maritime grassland.			5321

This report only includes records from the NY Natural Heritage databases. For most sites, comprehensive field surveys have not been conducted, and we cannot provide a definitive statement as to the presence or absence of all rare or state-listed species. Depending on the nature of the project and the conditions at the project site, further information from on-site surveys or other sources may be required to fully assess impacts on biological resources.

If any rare plants or animals are documented during site visits, we request that information on the observations be provided to the New York Natural Heritage Program so that we may update our database.

Information about many of the rare animals and plants in New York, including habitat, biology, identification, conservation, and management, are available online in Natural Heritage's Conservation Guides at [www.guides.nynhp.org](http://www.guides.nynhp.org), from NatureServe Explorer at [www.natureserve.org/explorer](http://www.natureserve.org/explorer), and from USDA's Plants Database at <http://plants.usda.gov/index.html> (for plants).

# Attachment 10

USFWS Consultation



# United States Department of the Interior

FISH AND WILDLIFE SERVICE  
Washington, D.C. 20240



In Reply Refer To:  
FWS DBTS-BGMTS

SEP 09 2014

Ms. Alicia Shultz  
NYS Homes and Community Renewal  
Hampton Plaza  
38-40 State Street  
Albany, New York 12207

Dear Ms. Shultz:

The U.S. Fish and Wildlife Service (Service) has reviewed the request dated September 4, 2014, Case # 2832, for a determination as to whether the following property is within a System unit or an otherwise protected area (OPA) of the John H. Chafee Coastal Barrier Resources System (CBRS).

Address: 429 Cranberry Hole Road  
Amagansett, NY 11930

We compared the property above, as depicted on the information that was provided, to the official CBRS map for the area, numbered 118B, dated July 12, 1996. A portion of the driveway for this property is partially located within CBRS Unit F10. The existing structures and land-based pens located on the property are not within Unit F10.

We hope this information is helpful. Additional information concerning the CBRS can be found on our website at <http://www.fws.gov/cbra>. If you have any additional questions, please contact Ms. Dana Wright, Program Specialist, at (703) 358-2171.

Sincerely,

Acting

Jonathan Phinney, PhD  
Chief, Branch of Geospatial Mapping and  
Technical Support

cc: Steve Papa, FWS, Shirley, NY  
Percy Vasquez, NFIP, Landover, MD

# Attachment 11

SEQR Compliance Documentation

# Short Environmental Assessment Form

## Part 1 - Project Information

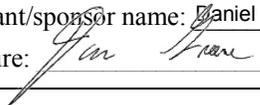
### Instructions for Completing

**Part 1 - Project Information. The applicant or project sponsor is responsible for the completion of Part 1.** Responses become part of the application for approval or funding, are subject to public review, and may be subject to further verification. Complete Part 1 based on information currently available. If additional research or investigation would be needed to fully respond to any item, please answer as thoroughly as possible based on current information.

Complete all items in Part 1. You may also provide any additional information which you believe will be needed by or useful to the lead agency; attach additional pages as necessary to supplement any item.

<b>Part 1 - Project and Sponsor Information</b>			
NYS Project Case #103-ED-147-2013 within NYS Small Business Storm Recovery Grant Program of NY 2013 CDBG-DR Program			
Name of Action or Project: Multi Aquaculture Systems, Inc. (Project 103-ED-147-13)	Note: this Short EAF addresses the terrestrial (land based) part of the property associated with this project. A second short EAF Form 1, attached, is completed for the in-water location of cages, which are also associated with this total reviewed action.		
Project Location (describe, and attach a location map): 429 Cranberry Hole Road, Amagansett, Suffolk County, NY			
Brief Description of Proposed Action: Multi Aquaculture Systems, Inc. is an existing fin fish farm growing Sea Bass ( <i>Morone saxatilis</i> ) from fingerlings to 1.5 LBS. The company suffered damages to its pens, particularly in-ocean pens, due to Hurricane Sandy. Proposed funding is for reimbursement of past work, and for future expenses associated with cage repairs. PAST WORK: (1) Commercial diving company to retrieve and secure the cages from the ocean; FUTURE WORK: (1) repair in-ocean cages, which are currently on the applicant's terrestrial property/land. Pieces of the need to be welded back together, or need to be welded into proper shape/form while the cages are on land. Cage handrails and some floats need repair. (2) Repair/replace ropes and chains that hold cages in place when they are in-place in ocean (3) Replace/repair the nets for cages and bird stands on cages, and (4) Bring repaired cages back out to location in ocean and anchor cages to concrete blocks on the ocean floor (which are already in-place).			
Name of Applicant or Sponsor: New York State Housing Trust Fund Corporation	Telephone: (212) 480-4644 E-Mail: NYSCDBG_DR_ER@nyshcr.org		
Address: Governor's Office of Storm Recovery, NYS Housing Trust Fund Corporation, 25 Beaver Street			
City/PO: New York	State: NY	Zip Code: 10004	
1. Does the proposed action only involve the legislative adoption of a plan, local law, ordinance, administrative rule, or regulation? If Yes, attach a narrative description of the intent of the proposed action and the environmental resources that may be affected in the municipality and proceed to Part 2. If no, continue to question 2.		NO <input checked="" type="checkbox"/>	YES <input type="checkbox"/>
2. Does the proposed action require a permit, approval or funding from any other governmental Agency? If Yes, list agency(s) name and permit or approval: It is assumed that the existing use is lawful and all required permits and approvals for existing business operations are obtained, including for the sea-based leased operations area. See certain permits annexed within NEPA ERR Attachment 6.		NO <input checked="" type="checkbox"/>	YES <input type="checkbox"/>
3.a. Total acreage of the site of the proposed action? _____ 2.4 acres b. Total acreage to be physically disturbed? _____ 0.0 acres c. Total acreage (project site and any contiguous properties) owned or controlled by the applicant or project sponsor? _____ 2.4 acres		Note: this date is for terrestrial (land) property where business occurs.	
4. Check all land uses that occur on, adjoining and near the proposed action. <input type="checkbox"/> Urban <input checked="" type="checkbox"/> Rural (non-agriculture) <input checked="" type="checkbox"/> Industrial <input type="checkbox"/> Commercial <input checked="" type="checkbox"/> Residential (suburban) <input type="checkbox"/> Forest <input type="checkbox"/> Agriculture <input checked="" type="checkbox"/> Aquatic <input type="checkbox"/> Other (specify): <u>Aquaculture/ mariculture</u> <input checked="" type="checkbox"/> Parkland			



<p>18. Does the proposed action include construction or other activities that result in the impoundment of water or other liquids (e.g. retention pond, waste lagoon, dam)?          If Yes, explain purpose and size: _____          There is no new construction of this type associated with the project (there do not appear to be retention ponds, lagoons, or dams here), although process tanks/ tanks used for mariculture may have been stabilized/ repaired around point of Disaster.</p>	<p><b>NO</b></p> <p><input type="checkbox"/></p>	<p><b>YES</b></p> <p><input checked="" type="checkbox"/></p>
<p>19. Has the site of the proposed action or an adjoining property been the location of an active or closed solid waste management facility?          If Yes, describe: _____          _____          _____</p>	<p><b>NO</b></p> <p><input checked="" type="checkbox"/></p>	<p><b>YES</b></p> <p><input type="checkbox"/></p>
<p>20. Has the site of the proposed action or an adjoining property been the subject of remediation (ongoing or completed) for hazardous waste?          If Yes, describe: _____          'Case 103-ED-147-13 HUD Environmental Standards Review', Attachment 2 within the NEPA ERR, describes the analysis and the property is not suspected to remain contaminated and a Phase I or II Environmental Site Assessment is not warranted</p>	<p><b>NO</b></p> <p><input checked="" type="checkbox"/></p>	<p><b>YES</b></p> <p><input type="checkbox"/></p>
<p><b>I AFFIRM THAT THE INFORMATION PROVIDED ABOVE IS TRUE AND ACCURATE TO THE BEST OF MY KNOWLEDGE</b></p> <p>Applicant/sponsor name: Daniel Greene _____ Date: November 19, 2014 _____          Signature:  _____</p>		



**Disclaimer:** The EAF Mapper is a screening tool intended to assist project sponsors and reviewing agencies in preparing an environmental assessment form (EAF). Not all questions asked in the EAF are answered by the EAF Mapper. Additional information on any EAF question can be obtained by consulting the EAF Workbooks. Although the EAF Mapper provides the most up-to-date digital data available to DEC, you may also need to contact local or other data sources in order to obtain data not provided by the Mapper. Digital data is not a substitute for agency determinations.



Part 1 / Question 7 [Critical Environmental Area]	Yes
Part 1 / Question 7 [Critical Environmental Area - Identify]	Name:Peconic Bay and Environs, Reason:Protect public health, water, vegetation, & scenic beauty, Agency:Suffolk County, Date:7-12-88
Part 1 / Question 12a [National Register of Historic Places]	No
Part 1 / Question 12b [Archeological Sites]	Yes
Part 1 / Question 13a [Wetlands or Other Regulated Waterbodies]	Yes - Digital mapping information on local and federal wetlands and waterbodies is known to be incomplete. Refer to EAF Workbook.
Part 1 / Question 15 [Threatened or Endangered Animal]	Yes
Part 1 / Question 16 [100 Year Flood Plain]	Yes
Part 1 / Question 20 [Remediation Site]	No

# Short Environmental Assessment Form

## Part 1 - Project Information

### Instructions for Completing

**Part 1 - Project Information.** The applicant or project sponsor is responsible for the completion of Part 1. Responses become part of the application for approval or funding, are subject to public review, and may be subject to further verification. Complete Part 1 based on information currently available. If additional research or investigation would be needed to fully respond to any item, please answer as thoroughly as possible based on current information.

Complete all items in Part 1. You may also provide any additional information which you believe will be needed by or useful to the lead agency; attach additional pages as necessary to supplement any item.

<b>Part 1 - Project and Sponsor Information</b>			
Project Case #103-ED-147-2013 within NYS Small Business Storm Recovery Grant Program of NY 2013 CDBG-DR Program			
Name of Action or Project: Multi Aquaculture Systems, Inc. (Project 103-ED-147-13)	Note: This Part 1 Short EAF addresses the leased location of the in-water cages associated with this project. It is the second portion of the SEQRA Part 1 SEAF developed with the other part (attached) developed for the part of business on land.		
Project Location (describe, and attach a location map): Gardiner's Bay (see attached map and coordinates of the four corners of the area)			
Brief Description of Proposed Action: Multi Aquaculture Systems, Inc. is an existing fin fish farm growing Sea Bass from fingerlings to 1.5 LBS. The company suffered damages to its in-ocean pens due to Hurricane Sandy. Proposed funding is for reimbursement of past work, and for future expenses associated with cage repairs. PAST WORK: (1) Commercial diving company to retrieve and secure damaged cages from the ocean. FUTURE WORK: (1) repair the in-ocean cages, which are currently on the applicant's terrestrial property/land. Pieces of cage need to be welded back together, or need to be welded into proper shape/form while the cages are on land. Cage handrails and some floats need to be repaired; (2) Repairing/replacing ropes and chains that hold cages in place when they are in the ocean; (3) Replacing/repairing nets for cages and bird stands on the cages; and (4) Bring repaired cages back out to location in ocean and anchor the cages to the concrete blocks on the ocean floor, which are already in place.			
Name of Applicant or Sponsor: New York State Housing Trust Fund Corporation	Telephone: (212) 480-4644 E-Mail: NYSCDBG_DR_ER@nysshr.org		
Address: Governor's Office of Storm Recovery, NYS Housing Trust Fund Corporation, 25 Beaver Street			
City/PO: New York	State: NY	Zip Code: 10004	
1. Does the proposed action only involve the legislative adoption of a plan, local law, ordinance, administrative rule, or regulation? If Yes, attach a narrative description of the intent of the proposed action and the environmental resources that may be affected in the municipality and proceed to Part 2. If no, continue to question 2.		NO <input checked="" type="checkbox"/>	YES <input type="checkbox"/>
2. Does the proposed action require a permit, approval or funding from any other governmental Agency? If Yes, list agency(s) name and permit or approval: The business is presumed to lawfully exist and it maintains all required permits and approvals for sea-based leased operations. See certain annexed information in NEPA ERR Attachment 6 ' NYSDEC Permits and Compliance Documents'.		NO <input type="checkbox"/>	YES <input checked="" type="checkbox"/>
3.a. Total acreage of the site of the proposed action? _____ Lease 200+/- acres			
b. Total acreage to be physically disturbed? _____ 0.00 acres			
c. Total acreage (project site and any contiguous properties) owned or controlled by the applicant or project sponsor? _____ 200+/- acres			
4. Check all land uses that occur on, adjoining and near the proposed action. <input type="checkbox"/> Urban <input type="checkbox"/> Rural (non-agriculture) <input type="checkbox"/> Industrial <input type="checkbox"/> Commercial <input type="checkbox"/> Residential (suburban) <input type="checkbox"/> Forest <input type="checkbox"/> Agriculture <input checked="" type="checkbox"/> Aquatic <input checked="" type="checkbox"/> Other (specify): <u>ocean bay; aquaculture</u> <input checked="" type="checkbox"/> Parkland			



<p>18. Does the proposed action include construction or other activities that result in the impoundment of water or other liquids (e.g. retention pond, waste lagoon, dam)?          If Yes, explain purpose and size: _____          There is no new construction of this type associated with the project (there do not appear to be retention ponds, lagoons, or dams here), although process tanks/ tanks used for mariculture may have been stabilized/ repaired around point of Disaster</p>	<p><b>NO</b></p> <p><input type="checkbox"/></p>	<p><b>YES</b></p> <p><input checked="" type="checkbox"/></p>
<p>19. Has the site of the proposed action or an adjoining property been the location of an active or closed solid waste management facility?          If Yes, describe: _____          _____          _____</p>	<p><b>NO</b></p> <p><input checked="" type="checkbox"/></p>	<p><b>YES</b></p> <p><input type="checkbox"/></p>
<p>20. Has the site of the proposed action or an adjoining property been the subject of remediation (ongoing or completed) for hazardous waste?          If Yes, describe: _____          _____          _____</p>	<p><b>NO</b></p> <p><input checked="" type="checkbox"/></p>	<p><b>YES</b></p> <p><input type="checkbox"/></p>
<p><b>I AFFIRM THAT THE INFORMATION PROVIDED ABOVE IS TRUE AND ACCURATE TO THE BEST OF MY KNOWLEDGE</b></p> <p>Applicant/sponsor name: Daniel Greene, GOSR Certifying Officer. <span style="float: right;">Date: November 19, 2014</span></p> <p>Signature: <u><i>Daniel Greene</i></u></p>		



**Disclaimer:** The EAF Mapper is a screening tool intended to assist project sponsors and reviewing agencies in preparing an environmental assessment form (EAF). Not all questions asked in the EAF are answered by the EAF Mapper. Additional information on any EAF question can be obtained by consulting the EAF Workbooks. Although the EAF Mapper provides the most up-to-date digital data available to DEC, you may also need to contact local or other data sources in order to obtain data not provided by the Mapper. Digital data is not a substitute for agency determinations.



Part 1 / Question 7 [Critical Environmental Area]	Yes
Part 1 / Question 7 [Critical Environmental Area - Identify]	Name:Peconic Bay and Environs, Reason:Protect public health, water, vegetation, & scenic beauty, Agency:Suffolk County, Date:7-12-88
Part 1 / Question 12a [National Register of Historic Places]	No
Part 1 / Question 12b [Archeological Sites]	No
Part 1 / Question 13a [Wetlands or Other Regulated Waterbodies]	Yes - Digital mapping information on local and federal wetlands and waterbodies is known to be incomplete. Refer to EAF Workbook.
Part 1 / Question 15 [Threatened or Endangered Animal]	Yes
Part 1 / Question 16 [100 Year Flood Plain]	Digital mapping data are not available or are incomplete. Refer to EAF Workbook.
Part 1 / Question 20 [Remediation Site]	No

Project:

Date:

***Short Environmental Assessment Form***  
***Part 2 - Impact Assessment***

**Part 2 is to be completed by the Lead Agency.**

Answer all of the following questions in Part 2 using the information contained in Part 1 and other materials submitted by the project sponsor or otherwise available to the reviewer. When answering the questions the reviewer should be guided by the concept "Have my responses been reasonable considering the scale and context of the proposed action?"

**Note: This Part 2 Form considers combined potential at terrestrial (land) and in-water parts of the operating locations for this business's proposed action, as described sequentially in Part 1.**

	No, or small impact may occur	Moderate to large impact may occur
1. Will the proposed action create a material conflict with an adopted land use plan or zoning regulations?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
2. Will the proposed action result in a change in the use or intensity of use of land?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
3. Will the proposed action impair the character or quality of the existing community?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
4. Will the proposed action have an impact on the environmental characteristics that caused the establishment of a Critical Environmental Area (CEA)?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
5. Will the proposed action result in an adverse change in the existing level of traffic or affect existing infrastructure for mass transit, biking or walkway?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
6. Will the proposed action cause an increase in the use of energy and it fails to incorporate reasonably available energy conservation or renewable energy opportunities?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
7. Will the proposed action impact existing:		
a. public / private water supplies?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b. public / private wastewater treatment utilities?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
8. Will the proposed action impair the character or quality of important historic, archaeological, architectural or aesthetic resources?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
9. Will the proposed action result in an adverse change to natural resources (e.g., wetlands, waterbodies, groundwater, air quality, flora and fauna)?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
10. Will the proposed action result in an increase in the potential for erosion, flooding or drainage problems?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
11. Will the proposed action create a hazard to environmental resources or human health?	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Project:

Date:

### **Short Environmental Assessment Form Part 3 Determination of Significance**

For every question in Part 2 that was answered “moderate to large impact may occur”, or if there is a need to explain why a particular element of the proposed action may or will not result in a significant adverse environmental impact, please complete Part 3. Part 3 should, in sufficient detail, identify the impact, including any measures or design elements that have been included by the project sponsor to avoid or reduce impacts. Part 3 should also explain how the lead agency determined that the impact may or will not be significant. Each potential impact should be assessed considering its setting, probability of occurring, duration, irreversibility, geographic scope and magnitude. Also consider the potential for short-term, long-term and cumulative impacts.

**Note: This Part 3 form entails consideration of all impacts at both the terrestrial and in-water locations for this proposed action, which are described separately/ sequentially in two Part 1s.**

New York State Housing Trust Fund Corporation (HTFC) with Unlisted action SEQR administration by NYS Governor's Office of Storm Recovery (GOSR), reviewed this EAF and the associated NEPA Environmental Review Record documentation, thoroughly analyzed relevant areas of potential environmental concern, and determines that the proposed action described herein will not have a significant effect on the environment and a Draft Environmental Impact Statement WILL NOT be prepared. This finding is based on rationale that no question in this SEAF's Part 2 was answered "moderate to large impact may occur" and the activity contemplated is consistent with decision making criteria in NYCRR 617, including 617.7(c).

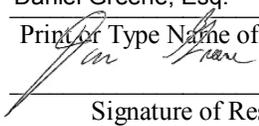
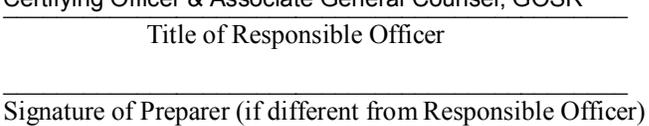
This project involves CDBG-DR program funding for business infrastructure rehabilitation. The total grant award, includes physical-type repair activities of \$50,000 to rehabilitate and reposition net pens that sustained physical damages and another \$50,000 for business assistance such as for materials and inventory purchases and other working capital.

Rehabilitation work at this unique business will occur on land, where the cages temporarily reside, and once completed the cages will be returned to the in-water location approximately 3,000 feet off the southeastern coast of Plum Island. There is no ground disturbance associated with the proposed work at either location, and the proposed scope of work will not increase the capacity of the aquaculture business - it only repairs structures in-kind.

(continued Attachment X)

Check this box if you have determined, based on the information and analysis above, and any supporting documentation, that the proposed action may result in one or more potentially large or significant adverse impacts and an environmental impact statement is required.

Check this box if you have determined, based on the information and analysis above, and any supporting documentation, that the proposed action will not result in any significant adverse environmental impacts.

New York State Housing Trust Fund Corporation	November 19, 2014
Name of Lead Agency	Date
Daniel Greene, Esq.	Certifying Officer & Associate General Counsel, GOSR
Print or Type Name of Responsible Officer in Lead Agency	Title of Responsible Officer
	
Signature of Responsible Officer in Lead Agency	Signature of Preparer (if different from Responsible Officer)

**ATTACHMENT FOR PART 3 – SEQRA DETERMINATION OF SIGNIFICANCE**

**Multi Aquaculture Systems, Inc.**

**Specific Rationale Supporting This Determination of a Negative Declaration (continued)**

The proposed project involves repairs/ replacements at an existing business which will not include ground disturbance, clearing of vegetation, or expansion of facilities or business operations, and it will occur only in pre-existing business operating locations. The business is assumed to be lawfully existing with all local, regional, State and Federal operating permits and approvals in-hand and up to date, such as for the industrial State Pollution Discharge Elimination System. Also, since repairs are part of resuming prior operations, the action does not appear to require any permit or approval updates since there is no change in operations or capacity and activity on land is the temporary and accessory in-kind repair of marine pens, which is a normal aspect of the overall type of business operation occurring here.

The action does take place in ecology important and sensitive habitats which contain State and/or Federal identified rare, threatened or endangered species. For instance, it is within the Peconic Bay and Environs Critical Environmental Area (CEA) of New York State. This CEA was established to protect public health, water, vegetation, and scenic beauty. An information request was sent to the NY Natural Heritage Program (NHP) on October 20, 2014 for a list of threatened or endangered species on or in proximity to the Site (covering the terrestrial and in-water sites). NHP response on 11/18/2014 identified Seabeach Knotweed and the Northern Blazing-star as endangered or threatened species in the project areas. However, in-kind activities to re-establish water-based pens will not impact environmental characteristics that caused establishment of the CEA or threatened or endangered species, including because work will not disturb the underwater bottom. Likewise, equipment repairs on land are within the yard of the existing business where there is extensive other activity, including materials and/or equipment storage, and the funded work is not expected to disturb the surface of the land or any protected or special interest species or habitat. Backing-up this reasoning is communications with NYSDEC which confirms that the action fits with permits for aquaculture, including which limit business activities, including to manage importation of species and provide procedures for routine sampling to ensure that operations do not adversely or irreversibly affect water quality, the environment or public health.

The action does constitute activity in floodplain; yet, there is not an expectation of undesirable impact(s) because temporary construction will be managed to ensure that in the event of a severe storm or other hazard event, there will be adequate anchoring of materials/ equipment so that it does not become liberated. Also, there may be some fortification of net pen frames to help ensure that these can withstand potential future severe waves or winds.

Based on the project scope, existing conditions at the property, the imposition of floodplain management mitigation, and continuing adherence to existing environmental controls that this business is already subject to, including for NYSDEC permitted aquaculture actions, no detrimental impact is anticipated as a result of funding this action.

End of Document

# Attachment 12

Other Supporting Documentation

**NYS SMALL BUSINESS STORM RECOVERY PROGRAM  
PROJECT DESCRIPTION FORM**

**1. Business Information**

Business Name: Multi Aquaculture Systems, Inc.

Owner: Robert Valenti

Applicant ID #: 103-ED-147-13

Business Address: 429 Cranberry Hole Road, Suffolk County

C/T/V: East Hampton

Zip Code: 11930

Type of Business: Aqua Culture Fin Fish Farmer

**2. Project Description**

Multi Aquaculture Systems, Inc. is a Fin Fish Farm growing Sea Bass from fingerlings to 1.5 LBS. The company suffered damages to its in-ocean pens due to Hurricane Sandy.

Proposed funding is for reimbursement of past work, and for future expenses associated with cage repairs detailed below.

Reimbursement (\$9600):

- (1) Commercial diving company to retrieve and secure the damaged cages from the ocean.

Future proposed work (\$40,400):

- (1) Repairing the in-ocean cages, which are on currently located on the applicant's terrestrial property/land. Pieces of the cage need to be welded back together, or need to be welded into proper shape/form while the cages are on land. The cage handrails and some floats need to be repaired.
- (2) Repairing/replacing the ropes and chains that hold the cages in place when they are in place in the ocean.
- (3) Replacing/repairing the nets for the cages and bird stands on the cages.
- (4) Bring the repaired cages back out to location in the ocean and to anchor the cages to the concrete blocks on the ocean floor, which are already in place.

Applicant will be required to maintain flood insurance on acquisitions funded through the program.

See annexed spreadsheet and invoice for additional information on uses of funds.

A previous environmental review for separate activities categorized under 24 CFR 58.35(b)(4) for this applicant was completed on August 27, 2014 and is included in the environmental review

record.

Additionally, all physical work for this applicant is minor past or proposed repair work.

Marine Systems International	Hand Rail, Floats & Stanchion repairs/Bird Net & Production Net/Predeator Net Replacement/Repair Labor MAS/Tow charges to bring cages inshore/Rope&Chain repair and replace/Mooring floats & grid plates	4/15/2013			\$ 9,600.00	\$ 40,400.00
<b>Subtotals</b>			\$ -	\$ -	\$ 9,600.00	\$ 40,400.00
<b>Grand Total</b>			\$ -	\$ -	\$ 9,600.00	\$ 50,000.00

# Attachment 13

Combined Notice of Finding No Significant Impact  
(FONSI) and Notice of Intent to Request Release of  
Funds (NOI-RROF)



# GOVERNOR'S OFFICE OF STORM RECOVERY

Andrew M. Cuomo  
Governor

James Rubin  
Executive Director



## PUBLIC NOTICE

### **COMBINED NOTICE OF FINDING OF NO SIGNIFICANT IMPACT (*FONSI*) AND NOTICE OF INTENT TO REQUEST RELEASE OF FUNDS (*NOI-RROF*)**

**December 19, 2014**

Governor's Office of Storm Recovery  
25 Beaver Street, 5<sup>th</sup> Floor  
New York, New York 10004  
(212) 480-4644

**Name of Responsible Entity and Recipient:** This combined notice pertains to activities to be undertaken through funding assistance by the New York State New York State Housing Trust Fund Corporation (HTFC) as Responsible Entity with administration by the Governor's Office of Storm Recovery (GOSR) on behalf of the HTFC. Contact: Daniel Greene.

This two-part notice is intended to satisfy two separate but related National Environmental Policy Act of 1969 (NEPA) procedural requirements and the interested public is advised to specify in any comments provided which notice part it is directed to. 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 Superstorm Sandy. As a result, the comment periods for the FONSI/NOIRROF and the RROF have been combined.

**Project Description:** GOSR 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 Economic Development Program including the Small Business Grant Program. Under this program, GOSR proposes to provide funds to the Multi Aquaculture System Inc. (impacted by Superstorm Sandy) located at 429 Cranberry Hole Road, East Hampton, NY. The funds include \$9,600 reimbursement for retrieval of in-ocean cages and \$46,330.89 for future repair and replacement of the in-water fish cages as well as repair and replacement of construction related equipment.

## FINDING OF NO SIGNIFICANT IMPACT

GOSR prepared an Environmental Assessment pursuant to 24 CFR Part 58 Subpart E and determines that this project is not an action which will result in a significant impact on the quality of the human environment. Therefore, an Environmental Impact Statement under NEPA is not required and will not be prepared. GOSR, as Responsible Entity, is publishing this FONSI plus sending it to identified interested parties, appropriated involved government agencies, and local news media. An Environmental Review Record (ERR) documenting the environmental determinations supporting this



# GOVERNOR'S OFFICE OF STORM RECOVERY

Andrew M. Cuomo  
Governor

James Rubin  
Executive Director



FONSI is on file and available for public inspection during normal business hours (9 A.M. - 5 P.M) in accordance with 24 CFR Part 58 at the office listed below. The NEPA Environmental Assessment documenting the FONSI may be viewed and downloaded at:

<http://www.stormrecovery.ny.gov/environmental-docs>

GOSR 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.

**Public Review:** Public viewing of the ERR is available on the internet and is also available in person and may be examined or copied non-holiday weekdays from 9:00 AM - 5:00 PM at the following address:

*GOSR Office  
25 Beaver Street, 5<sup>th</sup> Floor  
New York, New York 10004  
Contact: Daniel Greene (212) 480-4644*

Further information also may be requested at [NYSCDBG\\_DR\\_ER@nyshcr.org](mailto:NYSCDBG_DR_ER@nyshcr.org).

## **PUBLIC COMMENTS**

Any individual, group, or agency disagreeing with the FONSI determination or desiring to comment on the project may submit written comments to both Daniel Greene, GOSR, 25 Beaver Street, 5<sup>th</sup> floor, New York, New York, 10004, and Tennille Smith Parker, Director, Disaster Recovery & Special Issues Division, HUD, 451 Seventh Street SW, Washington, D.C. 20410. Comments may also be submitted via email at [NYSCDBG\\_DR\\_ER@nyshcr.org](mailto:NYSCDBG_DR_ER@nyshcr.org). All comments received 15 days following the date of first publication of this notice will be considered by GOSR prior to authorizing submission of a request for release of funds.

## **REQUEST FOR RELEASE OF FUNDS**

Economic recovery, particularly for communities' small businesses, is an essential cornerstone of storm recovery in New York State. Thus, on or about 16 days after the date of publication of this notice, GOSR, will request the U. S. Dept. of Housing & Urban Development (HUD) to release Community Development Block Grant - Disaster Recovery (CDBG-DR) funds under the Housing & Community Development Act of 1974 and Public Law 113-2, under the Small Business Grant Program associated with storm recovery.

## **RELEASE OF FUNDS**

GOSR certifies to HUD that Daniel Greene acting in the capacity of Certifying Officer consents to accept jurisdiction of the Federal Courts if an action is brought to enforce responsibilities in relation to the environmental review process and that these responsibilities have been satisfied. GOSR's approval



## GOVERNOR'S OFFICE OF STORM RECOVERY

Andrew M. Cuomo  
Governor

James Rubin  
Executive Director



of the certification satisfies its responsibilities under NEPA and related laws and authorities, and allows GOSR to use Program funds.

### **OBJECTIONS TO RELEASE OF FUNDS**

HUD will consider objections to its release of funds and GOSR's certification for a period of 15 days following the anticipated submission date, or its actual receipt of the request (whichever is later), only if they are on one of the following bases: (a) the certification was not executed by GOSR's Certifying Officer; (b) GOSR omitted a step or failed to make a decision or finding required by HUD regulations at 24 CFR Part 58; (c) the grant recipient or other project participants have committed funds or incurred costs not authorized by 24 CFR Part 58 before approval of a release of funds by HUD; 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 accordance with the required procedures (24 CFR Part 58) and shall be addressed to:

*Tennille Smith Parker*  
*Director, Disaster Recovery & Special Issues Division*  
*Office of Block Grant Assistance*  
*U.S. Department of Housing & Urban Development*  
*451 7<sup>th</sup> Street SW*  
*Washington, DC 20410*  
*Phone: (202) 402-4649*

Potential objectors should contact HUD to verify the actual last day of the objection period.

Sincerely,

Daniel Greene  
Deputy General Counsel & Certifying Officer  
Governor's Office of Storm Recovery