

State Land/Easement Project Work Plan
for
Construction of New Facilities and Expansion or
Modification of Existing Facilities
Fiscal Year 2022-2023

Project # [Click or tap here to enter text.](#)

Region 6	Project Title Picketville Road Culvert Installation
--------------------	---

Project Type	Town(s)	County	Management Unit
Modification of Existing Facility	Parishville	St. Lawrence	White Hill Wild Forest

Project Description/Justification:

Install culverts at 2 locations along the Picketville Road, a qualified abandoned town road which is used as a snowmobile trail (Corridor Trail C8).

Location 1 – Replace an existing failed cement culvert crossing an intermittent seep with a new 24” diameter x 20 ft long HDPE culvert. The bottom of the culvert should be set 5” below the level of the stream bed, to allow wildlife to travel through the culvert (see accompanying diagrams). Rock headwalls should be constructed at both ends of the culvert. Cut 2 small apple trees at the culvert outflow and remove stumps. Clean inflow and outflow ditches, and extend the outflow ditch 15’ from the end of culvert to direct water off of the roadbed.

Location 2 – Install a new 40” diameter x 20 ft long HDPE culvert across a perennial stream. The existing crossing is coarse cobble rock fill, with water flowing through it. No culvert is visible, but there may be one under the existing fill. If found, any old culvert will be removed. The bottom of the new culvert should be set 8” below the level of the stream bed, to allow wildlife to travel through the culvert (see accompanying diagrams). Rock headwalls should be constructed at both ends of the culvert. The existing fill is coarse cobble rock. If necessary, up to 5 cubic yards of crushed stone may be needed to pack around the culvert if the cobble fill is too coarse to keep it in place.

Operations and Lands & Forests will meet on site before fieldwork begins. Preferably the equipment operator will also be present.

Trees to be Removed:

2 Trees located at culvert 1 will be cut to allow the installation of the culvert and outflow ditch. Apple 2” DBH
Apple 7” DBH

Earthwork and Disturbance, Including Identification of Work Outside Trail Corridor:

At location 1, the existing culvert will be removed with a mini excavator and replaced by a new culvert, which will be covered by existing fill. Roadwork outside the 20’ road width will include cleaning the inflow ditch (2’ wide x 1’ deep x 10’ feet long) and outflow ditch (2’ wide x 1’ deep x 15’ long). Materials to be removed are mostly fine sediments and leaves that have accumulated due to a lack of regular maintenance.

At location 2, any existing culvert will be removed if found, and a new culvert will be installed and covered with existing fill. Up to 5 yards of crushed stone may be used to pack around the culvert if the existing fill is too coarse to keep it in place.

Analysis of Project Alternatives:

Alternative 1. No Action Alternative. Under this alternative, no work would be performed. This would result in a continuation of the existing conditions, where water runs down the road and causes erosion, and pooled water creates unfrozen and unsafe water crossings on the snowmobile trail. This is unacceptable as it allows continued erosion of the trail and creates dangerous conditions for users of the snowmobile trail.

Alternative 2. Install a culvert at location 1, install a snowmobile bridge at location 2. This alternative was rejected because it would be very difficult to install a snowmobile bridge at location 2, which is a remote location accessed by poor standard roads. Installing a bridge at location 2 would also require the removal of the existing cobble fill (approximately 30 cubic yards), which would create substantially more disturbance to the stream channel than the proposed culvert installation.

Impacts to Wetlands:

A State Land Consultation Form was submitted to the APA and they responded on 5/26/21 that the project was in compliance with the State Land Master Plan and no wetland permit was needed. A preconstruction notification was submitted to the USACE and on 7/06/22 they responded that the project was covered under permit NWP 3. This project will have minimal impacts on nearby wetlands.

Impacts to Rare, Threatened or Endangered Species:

There are no known endangered species withing the project area.

Description of Use of Motorized Equipment or Motor Vehicles, if any:

Mini Excavator, UTV with dump box, chainsaw

Other Relevant Considerations:

None.

Prepared by (Name & Title): Aaron Graves, Forester 1 (315.274.3344) **Date:** 8/9/2022
Phone:



State Land Consultation Number
SL - _____

SHERMAN CRAIG
Chairman

TERRY MARTINO
Executive Director

STATE LAND PROJECT CONSULTATION FORM

Completion of this form is required to receive a determination of Adirondack Park State Land Master Plan (APSLMP) and/or Unit Management Plan compliance and wetland jurisdiction for all DEC State land projects from the Agency. A site visit by Agency staff may be required depending on the complexity of the project, the natural resources involved and the level of documentation provided.

Part 1

(To be completed by DEC staff)

A. Project Identification

Project Name: Picketville Road Culvert Installation

DEC Contact Person: Aaron Graves, Forester 1 – Potsdam Office

Telephone: (315) 274-3344

Email: aaron.graves@dec.ny.gov

B. Project Location and Other Information

State Land Unit: White Hill Wild Forest

Region: 6

Town: Parishville

County: St. Lawrence

Is a UMP for this unit completed and approved? Yes No
(If yes, please attach a copy of the cover page and all pages relevant to this project.)

Is the proposal to replace an existing structure? Yes No

If yes:

a) When was the structure constructed? Unknown – 30+ years ago

b) Will the new structure be the same size and located in the same place? Yes No

(Describe in the narrative, section D.)

C. Prior Agency Contact

Has there been prior contact (including any wetland delineation work) with the Agency regarding this project? Yes No

If yes, name of contact person(s) and date(s) (approximate, if not known): **Deb Christy J2013-0496, St. Lawrence County Multi-use Trail.** (Note: The current application to install culverts is for use of the road as a snowmobile trail, NOT as part of the SLC Multi-Use trail).

D. Project Description

Provide a brief, narrative description as precisely as possible with any additional location information necessary. Include/attach map(s), photograph(s) and plan(s) whenever possible.

Project is to install 2 culverts on the Picketville Road, a qualified abandoned Town Road which travels through White Hill Wild Forest.

Culvert 1 (24" diameter x 20' long) would replace a failed cement culvert at an intermittent stream crossing.

Culvert 2 (40" diameter x 20' long) would replace a cobble rock corduroy across a perennial stream. From the APA Wetland GIS layer, this appears to cross an Upper Perennial Marine Wetland.

If the proposed project is determined to be compliant with the APSLMP but jurisdictional for wetlands, the Agency can determine if the project qualifies for *General Permit 2005G-1R* or if an individual Article 24 Freshwater Wetlands permit will be required. If either of these wetlands permits is applied for, additional information about the project will likely be requested. Agency staff can provide the appropriate permit application form with the return of this completed State Land Consultation Form, if requested.

Submitted by: Aaron Graves

Date: 08/08/18

Return this form to the Agency (preferably electronically) for APA staff completion of Part 2.

Part 2

(To be completed by APA staff)

ADIRONDACK PARK STATE LAND MASTER PLAN COMPLIANCE REVIEW

Planning Status (check one)

- ↑
- A) The project, as planned, is described sufficiently in an approved UMP and does not require additional consultation with APA State land staff before being undertaken.
- B) The project is proposed in insufficient detail in an approved UMP and so does require additional consultation with APA State land staff before being undertaken. ↑
- C) The project is not proposed in an approved UMP and – via this submission - is the subject of consultation with APA State land staff to determine if it may be undertaken, as per Section V of the DEC/APA MOU. ↑

DEC/APA Consultation Guidelines

Planning Status “A” Projects:

- The proposed project has been determined by the APA Board, via approval of a UMP, to conform to APSLMP guidelines and criteria in all respects other than potential wetland impacts.
- IF the result of the “Preliminary APA Wetlands Jurisdiction Assessment” (page 6) is an APA staff conclusion that jurisdictional wetlands:
 - WILL NOT be involved or affected by the proposed project, THEN, the project may be undertaken.
 - MAY BE involved or affected by the proposed project, THEN, the Agency can determine if the project qualifies for *General Permit 2005G-1R* or an individual Article 24 Freshwater Wetlands permit and may request additional information.

Planning Status “B” Projects:

- The proposed project, via review and approval of a UMP, has received conceptual approval by the APA Board but must still be reviewed by APA State land staff in sufficient detail before it may be determined to conform to APSLMP guidelines and criteria in all respects other than potential wetland impacts.
- IF the result of the “Preliminary APA Wetlands Jurisdiction Assessment” (page 6) is an APA staff conclusion that jurisdictional wetlands:
 - WILL NOT be involved or affected by the proposed project, THEN, the project may be undertaken.
 - MAY BE involved or affected by the proposed project, THEN, the Agency can determine if the project qualifies for *General Permit 2005G-1R* or an individual Article 24 Freshwater Wetlands permit and may request additional information..
- IF the result of the “APSLMP Compliance Review” is a conclusion that the proposed project:
 - DOES NOT CONFORM to APSLMP guidelines and criteria regardless of wetland impacts, THEN, the project should not be undertaken by DEC staff.

Planning Status “C” Projects:

- The project has NOT been proposed within a UMP approved by the APA Board, and so it has not been determined to conform to APSLMP guidelines and criteria. It must therefore be determined by APA State land staff to meet the definition of “ordinary maintenance,” “rehabilitation” or “minor relocation” of conforming structures or improvements as per Section V of the DEC/APA MOU if it is to be undertaken without being included in such a UMP.
- IF the result of the determination is that the proposed project:
 - CANNOT BE so defined, THEN, the project should not be undertaken by DEC staff at this time.
 - CAN BE so defined, THEN, the Agency can determine if the project qualifies for *General Permit 2005G-1R* or an individual Article 24 Freshwater Wetlands permit and may request additional information.
- IF the result of the “Preliminary APA Wetlands Jurisdiction Assessment” (page 6) is an APA staff conclusion that jurisdictional wetlands:

- WILL NOT be involved or affected by the proposed project, THEN, the project may be undertaken.
- MAY BE involved or affected by the proposed project, THEN, the Agency can determine if the project qualifies for *General Permit 2005G-1R* or an individual Article 24 Freshwater Wetlands permit and may request additional information.

APA State Land Staff Determination Regarding Consistency with the Adirondack Park State Land Master Plan

Staff have determined the proposed project – in all respects other than potential wetlands impacts - conforms , does not conform , to the guidelines and criteria of the Adirondack Park State Land Master Plan.

Deputy Director, Planning or designee

Date

Rationale for Determination

Click here to enter text.

PRELIMINARY APA WETLANDS JURISDICTION ASSESSMENT

- | | | |
|---|---------------------------------|--------------------------------|
| 1) Is the proposed project located in a wetland? | Yes
<input type="checkbox"/> | No
<input type="checkbox"/> |
| 2) Does the project involve any of the following activities whether or not it is located in a wetland? | | |
| Discharge of liquid wastes into (or so as to drain into) a wetland, including sewage treatment effluent within 100' of a wetland? | Yes
<input type="checkbox"/> | No
<input type="checkbox"/> |
| Any other form of pollution of a wetland? | Yes
<input type="checkbox"/> | No
<input type="checkbox"/> |
| Any activity that may substantially impair the functions served by, or the benefits derived from, wetlands? | Yes
<input type="checkbox"/> | No
<input type="checkbox"/> |

APA RASS Staff Preliminary Assessment Regarding Adirondack Park Freshwater Wetlands Jurisdiction

Staff have determined that wetlands subject to the review jurisdiction of the Adirondack Park Agency may , will not , be involved or affected by the proposal.

Supervisor, Natural Resource Analysis or designee _____ Date

Rationale for Determination

Click here to enter text.

If the project is determined to be jurisdictional for wetlands, the Agency will determine if the project qualifies for *General Permit 2005G-1R* or an individual Article 24 Freshwater Wetlands permit and may request additional information.

Form completed by APA State Land team member: Click here to enter text.

Completion Date: Click here to enter text.

Distribution

DEC Contact: Click here to enter text.

Regional Forester: Click here to enter text.

Natural Resources Supervisor of Region: Click here to enter text.

Forest Preserve Coordinator, Central Office: Click here to enter text.



New York State
Department of Environmental Conservation

Division of Lands & Forests

White Hill Unit Management Plan

including:

White Hill Wild Forest
Unclassified Lands
Lassiter Easement
Niagara Mohawk Easement
Lake Ozonia Fishing Access Site

St. Lawrence County
Towns of Colton, Hopkinton, and Parishville

December 2006

GEORGE E. PATAKI, Governor

DENISE M. SHEEHAN, Commissioner

Lead Agency: (in consultation with the Adirondack Park Agency)

New York State Department of Environmental Conservation

625 Broadway

Albany, NY 12233-4254

For further information contact:

Division of Lands and Forests

New York State DEC

6739 US Highway 11, Potsdam, NY 13676

315/265-3090

B. Man-Made Facilities (See 11" x 17" White Hill Unit Area Facilities Map in the Appendix)

1. Forest Preserve

<u>Boundary Lines Forest Preserve</u>	<u>Surveyed (Boundary clearly marked and signed)</u>	<u>Needs Survey (No evidence of boundary line)</u>
Main Parcel	25.50 miles	10 miles
Lake Ozonia Fishing Access Site	0.25 miles	
Five Falls Parcel	1 miles	
Blake Falls Parcel	0 miles	1.50 miles
Whispering Pines Parcel	0 miles	5.90 miles
Stark Tailrace Parcel	0 miles	0.35 miles
Raquette Flats Parcel	0 miles	1.20 miles
West Boundary Parcel	0 miles	1.90 miles
Total	26.75	20.85 miles

Unclassified Lands

New York State Radio Tower Parcel	0.5 miles	
West Branch Parcel	0.4 miles	0.35 miles (estimated)
Total	0.9 miles	0.35 miles

a. Bridges

Number

Main Parcel (50') 1 (Clear Pond to Picketville Trail)

b. Designated Campsites

Number

Main Parcel 9 (Clear Pond)

c. Foot Trails

Number

Main Parcel 3.50 miles 1 (Clear Pond to Gold Mine Road)

d. Gates

Number

0

e. Parking Areas

	<u>Number</u>
Main Parcel	1 (Clear Pond)
Lake Ozonia Fishing Access Site	1

f. Snowmobile Trails

	<u>Number</u>
Main Parcel	1 (Clear Pond to Picketville- 2.8 miles)

g. Trail Head Registers

<u>Number</u>
1 (Clear Pond)

h. Privies

	<u>Number</u>
Main Parcel	1
Lake Ozonia Fishing Access Site	1

i. Radio Towers

	<u>Number</u>
Radio Tower Parcel 200 foot high metal tower with aircraft warning lights, anchored with guy wires. On tower are two radio antennae's. 125 foot antennae is used by DEC Forest Protection and Fire Management and 200 foot antennae used by DEC law enforcement. Accessory facilities include a transmission line and chain link fence.	1

j. Radio Tower Building

	<u>Number</u>
Radio Tower Parcel Within the building is the radio repeater	1

k. Waterway/Fishing Access Sites

	<u>Number</u>
Main Parcel	1 (at Clear Pond)
Lake Ozonia	1

l. Administrative Road

	<u>Number</u>
West Parcel Road - 1.0 miles	1

m. Qualified Abandoned Roads

	<u>Number</u>
Morgan Road - 1.3 miles	2
Picketville Rd. - about 4 miles	

- Aggressively ticket and enforce the law when encountering any illegal ATV use.
- Encourage legal ATV riders to police their own ranks.

3. Boundary Lines

Objectives:

- Establish and maintain clearly identified boundary lines on all unit lands

Management Actions:

- Survey, post, paint, and maintain all New York State boundary lines within 10 years.
- Until surveys are completed, DEC staff will post signs on the roadsides that are currently unmarked, but clearly DEC lands, and post signs on those few boundaries that currently have postings from adjacent private landowners, pending a survey to determine the exact location at those lines.

4. Research

Objectives:

- The Department encourages research and studies that will further our understanding of the natural resources and public use of this unit.

Management Actions:

- Should the opportunity arise to accommodate any new study that will further the understanding of the use, or natural resources of this unit, every effort will be made by the Department to accommodate and assist in the study.

5. Open Space/Land Acquisition

Objectives:

- Protect the integrity of the unit by considering acquisitions that eliminate inholdings and provide additional protection in susceptible locations.

Management Actions:

- Pursue acquisition of parcels identified in the Open Space Plan from willing sellers, including acquisitions under the priority project categories North Flow River Corridors, Recreational Trail Linkages & Networks, and Working Forest Lands.

C. Man-Made Facilities

For all proposed facilities, the Adirondack Park Agency will be consulted about management activities proposed in wetlands and in areas adjacent to wetlands to determine if an Agency wetlands permit is required.

1. Roads

Present Conditions: Roads on Forest Preserve are adequate for seasonal motor vehicle use, and administrative access. The White Hill Road, a town road, is adjacent to the main parcel and several smaller Forest Preserve parcels. The Clear Pond Road, also a town road, provides access through Forest Preserve to the approximate center of the main White Hill WF parcel, ending near Clear Pond. **The Picketville Road**, though qualified abandoned by the Town of Parishville (so no longer maintained), is posted open to ATV and snowmobile use and continues to be used by motor vehicles. Town roads in the White Hill Unit are open for ATV use with a few exceptions (See Appendix E). There are 18 town roads open to ATV use that either border Forest Preserve or easement land or connect areas open for ATV and snowmobile use.

The roads on easement lands range in condition from not passable by car or pickup to good pavement.

Objectives:

- The unit will be managed to preserve the wild forest characteristics of the lands adjacent to the roadways. Access to recreational opportunities by motor vehicle will continue in a manner that does not degrade the environment.
- Coordinate with towns to insure that any ATV riding associated with “officially designated” town roads legally complies with Vehicle and Traffic Law and ATV use does not spill over into adjacent WHWF lands.

Management Actions:

Forest Preserve Lands

- The Clear Pond-Pickettville “Road” will remain closed to public motor vehicle use, including ATV use due to the considerations discussed in Section III-D-1.
- There are currently several hundred yards of roads open to public motor vehicle use off the end of the town maintained Clear Pond Road that provides access to campsites along Clear Pond. The proposed reduction in the number of campsites will also reduce the amount of road open to public motor vehicle use. The Clear Pond campsite map identifies what sections of road will be closed and what will remain open.
- Department will post the roadsides that are currently unmarked as to New York State ownership with Forest Preserve signs. In addition, the Department will block (with boulders) the currently illegally used access roads and trails, to discourage illegal motor vehicle traffic on the Forest Preserve.
- Illegal ATV use on Forest Preserve lands as a result of travel beyond legally posted highways will be monitored. A systematic assessment of ATV use will be conducted.

Conservation Easement Lands

- The Town of Colton’s Round Pond Road, which provides access to the Preston Lot, is open to motor vehicles for a distance of 1.3 miles; this provides reasonable access to this easement parcel, so no additional roads will be open to motor vehicle use.
- Motor vehicles have always been allowed to travel on the road that leads to the Blake Falls Dam from the River Road, and this UMP proposes that it remain open to public motor vehicle, but not public ATV use.
- The Gold Mine Road is to remain open to motor vehicles for a short distance, from the White Hill Road to the Dead Creek crossing, where a parking area will be provided.

APPENDIX E

STATUS OF TOWN ROADS IN THE WHITE HILL UNIT

Town of Parishville Roads designated by the Town as “open” for ATV and snowmobile traffic that border New York State Forest Preserve or easement lands in the White Hill Unit:

Picketville Road

Clear Pond Road

Note: The additional roads listed below are designated as open to ATV’s and snowmobiles in the Town of Parishville. They do not border New York State lands in this White Hill Unit but do provide linkages between New York State Reforestation Areas (High Flats, Whiskey Flats, and Catherineville) and parcels within the White Hill Unit for ATV and snowmobile traffic. In addition, Catherine Street and the Catherineville Road interconnect with town roads designated as open to ATV’s and snowmobiles in the adjoining Town of Hopkinton, providing a legal means, via the Santamont, Sylvan Falls, and Jones Roads, to travel from the village of Parishville to the White Hill Road which adjoins the east boundary of the White Hill Wild Forest main parcel.

French Hill Road

Chapel Hill Road

Perkins Road

Cook Road

George Street south to the Picketville Road

Catherineville Road

Catherine Street

Mill Street

Charles Street

Town of Hopkinton Roads designated by the town as “open” for snowmobile traffic, that border New York State Forest Preserve or easement lands in the White Hill Unit:

White Hill Road

Clear Pond Road

Sylvan Falls Road

Lake Ozonia Road

Note: All Town Roads in the Town of Hopkinton, with the exception of Church Street (a small loop street where the Town Offices are located in “downtown” Hopkinton, are designated as being “open” for ATV and snowmobile traffic by the Town of Hopkinton.

Town of Colton Roads designated by the town as being “open” for ATV and snowmobile traffic, that border New York State Forest Preserve or easement lands in the White Hill Unit:

Joe Indian Road

Stark Road

Morgan Road

Note: There are currently no roads open to ATVs in the Town of Colton. All Town Roads in the Town of Colton are designated as “open” for snowmobile use with these few exceptions:

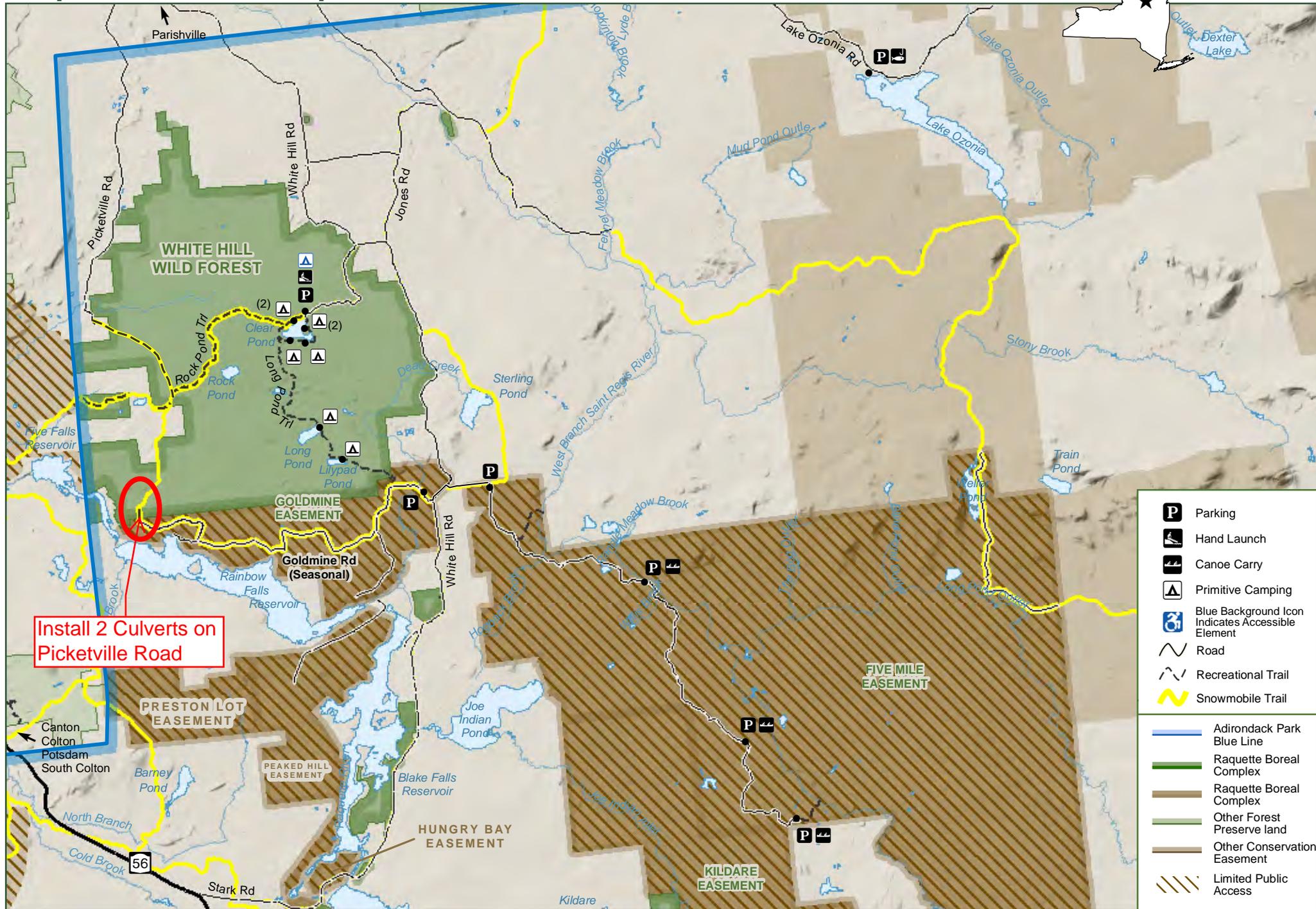
Closed to snowmobile traffic:

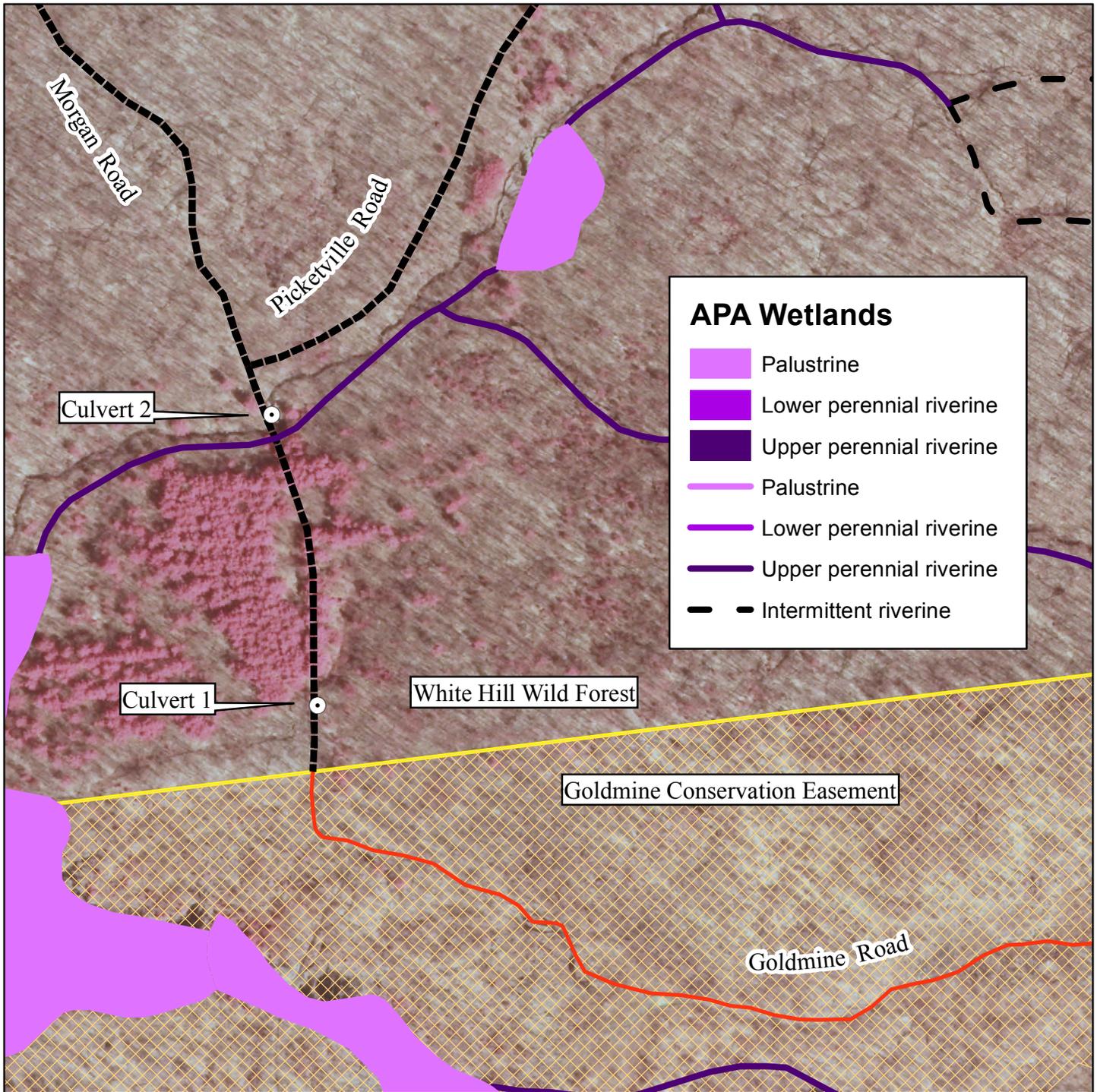
Sugarbush Lane
Stowe Lane
French Hill Road

Closed to snowmobile traffic from Memorial Day to Labor Day:

Coldbrook Drive, from the Littlejohn Road to State Route 56
Gulf Road, from Cottage Road to State Route 68
Cottage Road

Raquette Boreal Complex - North





State Land Consultation Form.
Picketville Road

White Hill Wild Forest
Installation of 2 culverts

08/08/18

1" = 330 ft = 5 ch. 1:3,960



New York State Department of Environmental Conservation
Division of Lands and Forests, Region 6
6739 US Highway 11, Potsdam, NY 13676

2018

315-265-3090



State Land Consultation Form. Picketville Road Culvert Installations

White Hill Wild Forest, Parishville. Photos taken 7/30/18.



Photo 1. Culvert # 1.

Failed 12" diameter,
12' long cement culvert.

To be replaced with a
24" diameter,
20' long plastic culvert.

UTM 18 T 0514667
4929831



Photo 2.

Looking upstream (east) from road.
Intermittent stream is approximately
3' wide and 1' deep.



Photo 3. Looking downstream (west) from road.

Outlet ditch will be cleaned for approximately 25 feet to drain water away from road.

Two small apple trees (4" and 7" DBH) will be removed to provide room for culvert and ditching.



Photo 4. Culvert # 2.

Road currently crosses a perennial stream over a 15' wide cobble rock crossing. The rock is approximately 3' deep, with water flowing under and through it.

There is no visible culvert, although there may be something buried under the cobble.

To be replaced with a 40" diameter, 20' long plastic culvert.

Culvert will be covered with crushed stone.

UTM 18 T 0514635

4930033



Photo 5. Looking upstream (east) from road.

Perennial stream is about 6' wide and 1' deep.



Photo 6. Looking downstream (west) from road.

Perennial stream is approximately 13' wide and 6" deep.

From: [Linck, Walter W \(APA\)](#)
To: [Dedrick, Henry C \(DEC\)](#); [Graves, Aaron \(DEC\)](#)
Subject: Picketville Road consultation
Date: Wednesday, May 26, 2021 12:32:58 PM

Henry and Aaron,

If you haven't already undertaken the work, please feel free to do so. There are no Master Plan/wetland issues, and paperwork can be considered complete, despite the fact that we might redo it because of the wrong Chairperson identified on the letterhead! (An artifact of the 2018 origination date – nothing you need to concern yourselves with at this point.)

Take care,

Walt

Walter Linck

Associate Natural Resources Planner

NYS Adirondack Park Agency

PO Box 99
1133 NYS Route 86
Ray Brook, NY 12977

(518) 891-4050 | Fax: (518) 891-3938 | walter.linck@apa.ny.gov
www.apa.ny.gov

CONFIDENTIALITY NOTICE: This email, including any attachments, may be confidential, privileged or otherwise legally protected. It is intended only for the addressee(s). If you are not the intended recipient, you are prohibited from disseminating, copying or otherwise using this email or its attachments. If you have received this email in error, please notify the sender immediately by reply email and delete the email from your system.



JOINT APPLICATION FORM

For Permits for activities affecting streams, waterways, waterbodies, wetlands, coastal areas, sources of water, and endangered and threatened species.

You must separately apply for and obtain Permits from each involved agency before starting work. Please read all instructions.

1. Applications To:
>NYS Department of Environmental Conservation
Check all permits that apply: Stream Disturbance, Dams and Impoundment Structures, Tidal Wetlands, Water Withdrawal, etc.
>US Army Corps of Engineers
Check all permits that apply: Section 404 Clean Water Act, Section 10 Rivers and Harbors Act
>NYS Office of General Services
Check all permits that apply: State Owned Lands Under Water, Utility Easement, Docks, Moorings or Platforms
>NYS Department of State
Check if this applies: Coastal Consistency Concurrence

2. Name of Applicant
Taxpayer ID (if applicant is NOT an individual)
Mailing Address
Post Office / City State Zip
Telephone Email
Applicant Must be (check all that apply): Owner Operator Lessee

3. Name of Property Owner (if different than Applicant)
Mailing Address
Post Office / City State Zip
Telephone Email

For Agency Use Only Agency Application Number:

4. Name of Contact / Agent

Mailing Address _____ Post Office / City _____ State _____ Zip _____

Telephone _____ Email _____

5. Project / Facility Name _____ Property Tax Map Section / Block / Lot Number: _____

Project Street Address, if applicable _____ Post Office / City _____ State _____ Zip _____

_____ NY _____

Provide directions and distances to roads, intersections, bridges and bodies of water

Town Village City County _____ Stream/Waterbody Name _____

Project Location Coordinates: Enter Latitude and Longitude in degrees, minutes, seconds:

Latitude: _____° _____' _____" Longitude: _____° _____' _____"

6. Project Description: Provide the following information about your project. Continue each response and provide any additional information on other pages. **Attach plans on separate pages.**

a. Purpose of the proposed project:

b. Description of current site conditions:

c. Proposed site changes:

d. Type of structures and fill materials to be installed, and quantity of materials to be used (e.g., square feet of coverage, cubic yards of fill material, structures below ordinary/mean high water, etc.):

e. Area of excavation or dredging, volume of material to be removed, location of dredged material placement:

f. Is tree cutting or clearing proposed? Yes If Yes, explain below. No

Timing of the proposed cutting or clearing (month/year): _____

Number of trees to be cut: _____ Acreage of trees to be cleared: _____

g. Work methods and type of equipment to be used:

h. Describe the planned sequence of activities:

i. Pollution control methods and other actions proposed to mitigate environmental impacts:

j. Erosion and silt control methods that will be used to prevent water quality impacts:

k. Alternatives considered to avoid regulated areas. If no feasible alternatives exist, explain how the project will minimize impacts:

l. Proposed use: Private Public Commercial

m. Proposed Start Date: Estimated Completion Date:

n. Has work begun on project? Yes If Yes, explain below. No

o. Will project occupy Federal, State, or Municipal Land? Yes If Yes, explain below. No

p. List any previous DEC, USACE, OGS or DOS Permit / Application numbers for activities at this location:

q. Will this project require additional Federal, State, or Local authorizations, including zoning changes?

Yes If Yes, list below. No

7. Signatures.

Applicant and Owner (If different) must sign the application. If the applicant is the landowner, the **landowner attestation form** can be used as an electronic signature as an alternative to the signature below, if necessary. Append additional pages of this Signature section if there are multiple Applicants, Owners or Contact/Agents.

I hereby affirm that information provided on this form and all attachments submitted herewith is true to the best of my knowledge and belief.

Permission to Inspect - I hereby consent to Agency inspection of the project site and adjacent property areas. Agency staff may enter the property without notice between 7:00 am and 7:00 pm, Monday - Friday. Inspection may occur without the owner, applicant or agent present. If the property is posted with "keep out" signs or fenced with an unlocked gate, Agency staff may still enter the property. Agency staff may take measurements, analyze site physical characteristics, take soil and vegetation samples, sketch and photograph the site. I understand that failure to give this consent may result in denial of the permit(s) sought by this application.

False statements made herein are punishable as a Class A misdemeanor pursuant to Section 210.45 of the NYS Penal Law. Further, the applicant accepts full responsibility for all damage, direct or indirect, of whatever nature, and by whomever suffered, arising out of the project described herein and agrees to indemnify and save harmless the State from suits, actions, damages and costs of every name and description resulting from said project. In addition, Federal Law, 18 U.S.C., Section 1001 provides for a fine of not more than \$10,000 or imprisonment for not more than 5 years, or both where an applicant knowingly and willingly falsifies, conceals, or covers up a material fact; or knowingly makes or uses a false, fictitious or fraudulent statement.

Signature of Applicant

Date

Applicant Must be (check all that apply): Owner Operator Lessee

Printed Name

Title

Signature of Owner (if different than Applicant)

Date

Printed Name

Title

Signature of Contact / Agent

Date

Printed Name

Title

For Agency Use Only

DETERMINATION OF NO PERMIT REQUIRED

Agency Application Number

(Agency Name) has determined that No Permit is required from this Agency for the project described in this application.

Agency Representative:

Printed Name

Title

Signature

Date



DEPARTMENT OF THE ARMY
BUFFALO DISTRICT, CORPS OF ENGINEERS
1776 NIAGARA STREET
BUFFALO, NEW YORK 14207-3199

July 6, 2022

Regulatory Branch

SUBJECT: Department of the Army No. LRB-2021-01576, Nationwide Permit No. (NWP) 3 Maintenance as Published in the Federal Register, Volume 86, No. 8 on Jan. 13, 2021 and No. 245 on Dec. 27, 2021.

Aaron Graves
NYSDEC
190 Outer Main Street Suite 103
Potsdam, NY 13676

Dear Mr. Graves:

This pertains to your application for a Department of the Army permit to install culverts at 2 locations with Culvert 1 being 24 inches in diameter and 20 feet long and Culvert 2 being 40 inches in diameter and 20 feet long and once in place to backfill with existing road material, cobble rock, or crushed stone as necessary, located in the Town of Parishville, St. Lawrence County, New York.

Specifically, I refer to the pre-construction notification (PCN) you submitted requesting Department of the Army (DA) authorization. As of January 22, 2022, more than 45 calendar days have passed since your complete PCN was received. In accordance with 2021 Nationwide Permit General Condition 32 (a) (2), since you did not receive written notice from the district or division engineer prior to this date **you were authorized to begin your activity under Nationwide Permit (NWP) 3 Maintenance, provided any required individual water quality certification (WQC) or coastal zone management (CZM) consistency concurrence were obtained from the state agencies that administers those programs.**

In regard to WQC, an individual WQC is not required as the blanket WQC issued by the NYS Department of Environmental Conservation and incorporated into the NWP applies.

In regard to (CZM) consistency concurrence, your project is not located within the coastal zone and therefore CZM requirements do not apply.

However, to comply with NWP general condition #18 specific to endangered species and general condition #20 specific to historic properties an evaluation of these resources was performed. As a result, this office has determined that consultation is not required under Section 7 of the Endangered Species Act (see 33 CFR 330.4(f)) and/or Section 106 of the National Historic Preservation Act (see 33 CFR 330.4(g)) as there is "no effect" on listed species or "no potential to cause effects" on historic properties.

SUBJECT: Department of the Army No. LRB-2021-01576, Nationwide Permit No. NWP 3 Maintenance as Published in the Federal Register, Volume 86, No. 8 on Jan. 13, 2021 and No. 245 on Dec. 27, 2021.

Again, you were authorized to begin your activity under NWP 3. However, it is incumbent upon you to construct your activity in compliance with the terms and conditions of the NWP (see attached). The NWPs expire on March 14, 2026 unless the NWP is modified, suspended, revoked, or the activity complies with any subsequent permit modification. It is your responsibility to remain informed of changes to the NWP program. A public notice announcing any changes will be issued when they occur and will be available for viewing at our website: <http://www.lrb.usace.army.mil/Missions/Regulatory.aspx>. Note, that if your activity is not undertaken within the defined period or the project specifications have changed, you must immediately notify this office to determine the need for further approval. Your initiation of work as authorized by the enclosed NWP acknowledges your acceptance of the general and regional conditions contained therein. This does not obviate the need to obtain any other project specific Federal, state, or local authorization.

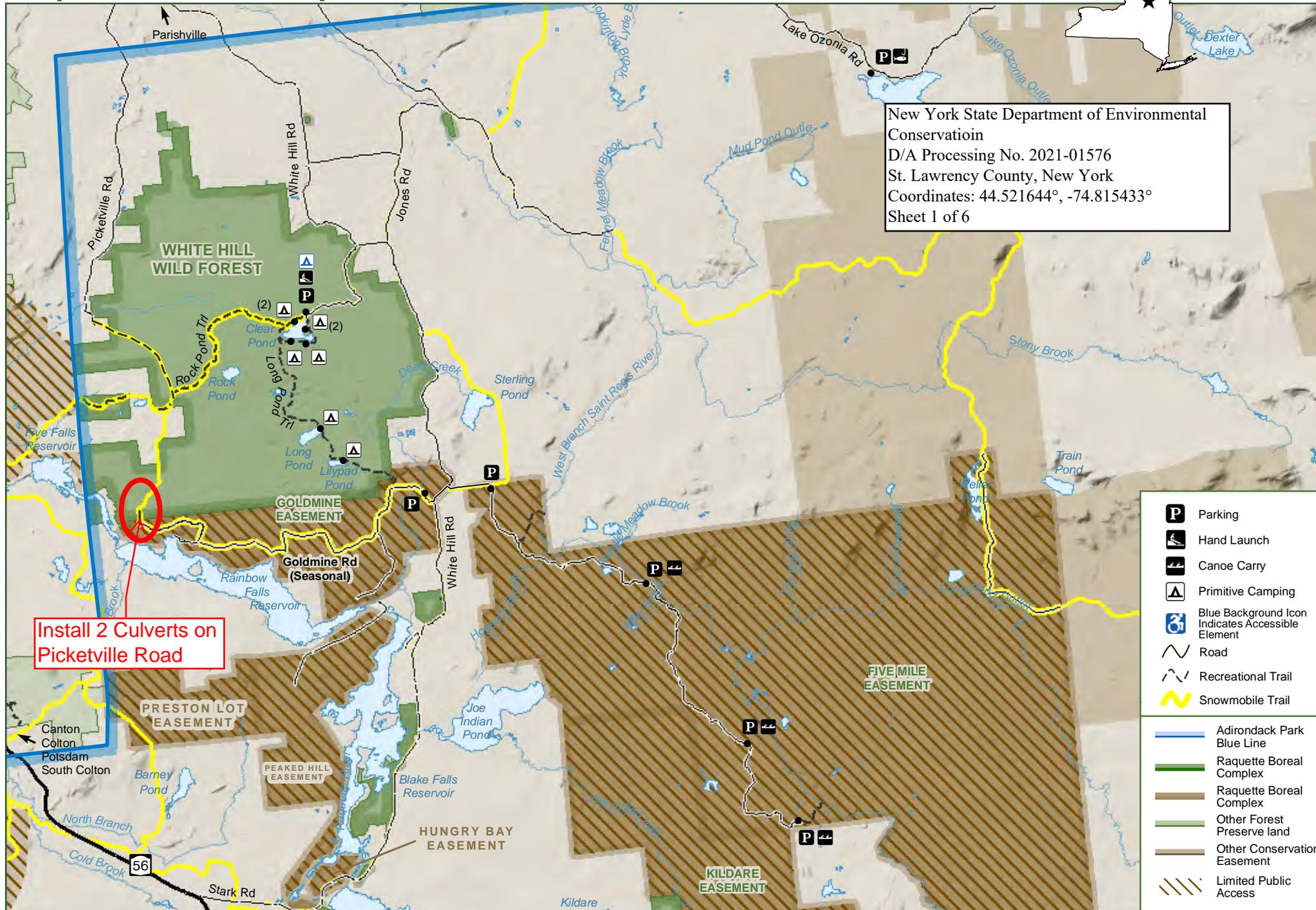
Questions should be directed to me at (716)879-4262, by writing to the address in the letterhead ATTN: Regulatory, or by e-mail to: Michael.W.Smith@usace.army.mil.

Sincerely,

Michael Smith

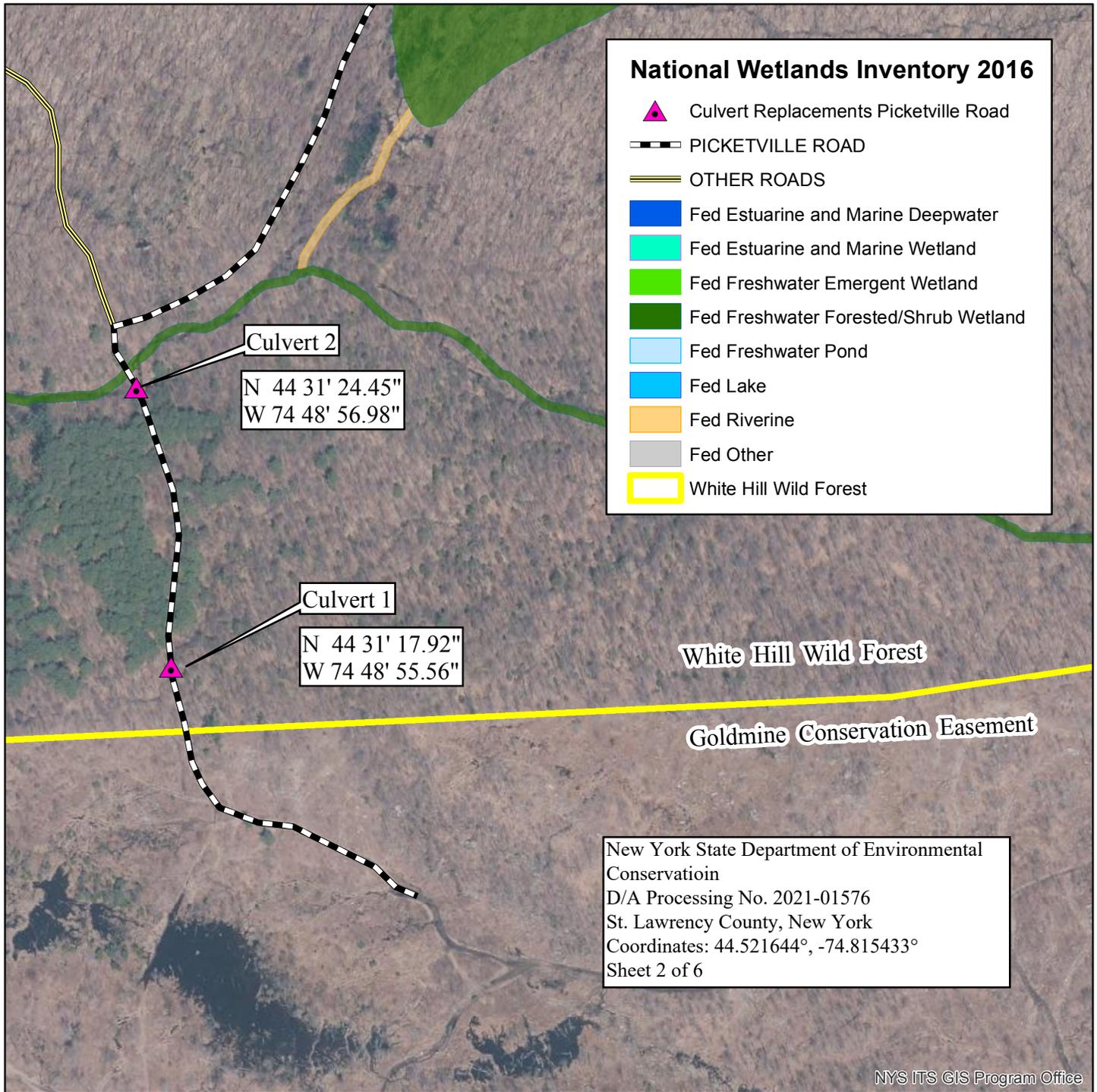
Michael Smith
Biologist

Raquette Boreal Complex - North



New York State Department of Environmental Conservation
 D/A Processing No. 2021-01576
 St. Lawrence County, New York
 Coordinates: 44.521644°, -74.815433°
 Sheet 1 of 6

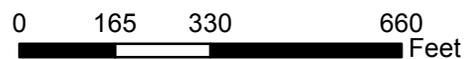
Install 2 Culverts on Picketville Road



White Hill Wild Forest
Town of Parishville, St. Lawrence Co., NY
Culvert Replacement - Picketville Road



1" = 5 ch = 330 ft 1:3,960 12/07/2021



NYS DEC
Division of Lands and Forests, Region 6
Potsdam, NY 13676

2021



PICKETVILLE ROADS

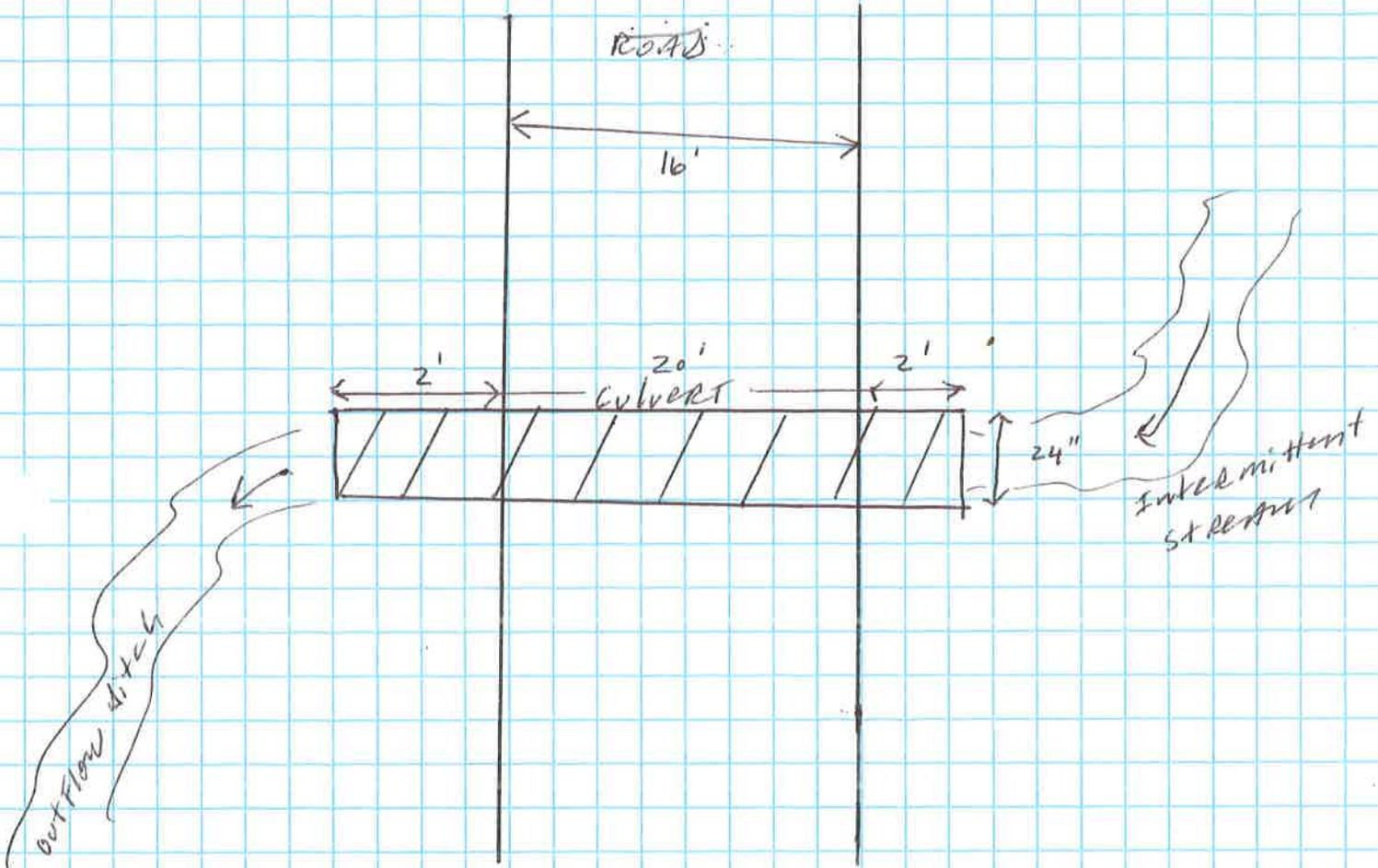
3/24/22

CULVERT REPLACEMENT

CULVERT #1

24" DIAMETER x 20' LONG HDPE

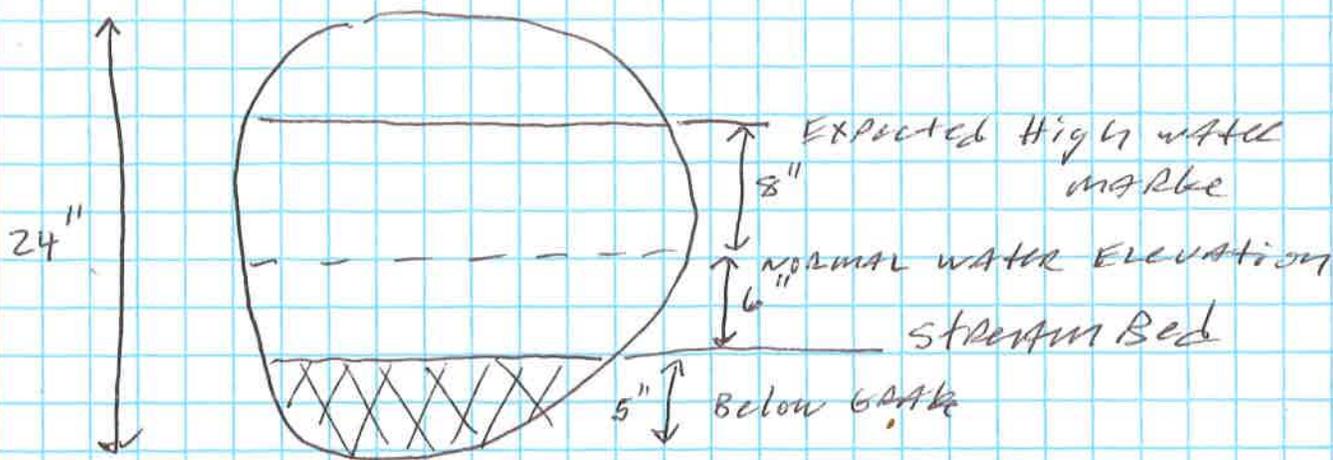
PLAN VIEW



New York State Department of Environmental
Conservation
D/A Processing No. 2021-01576
St. Lawrence County, New York
Coordinates: 44.521644°, -74.815433°
Sheet 3 of 6

CULVERT #1 - 24" DIAMETER x 20' Long H&AE

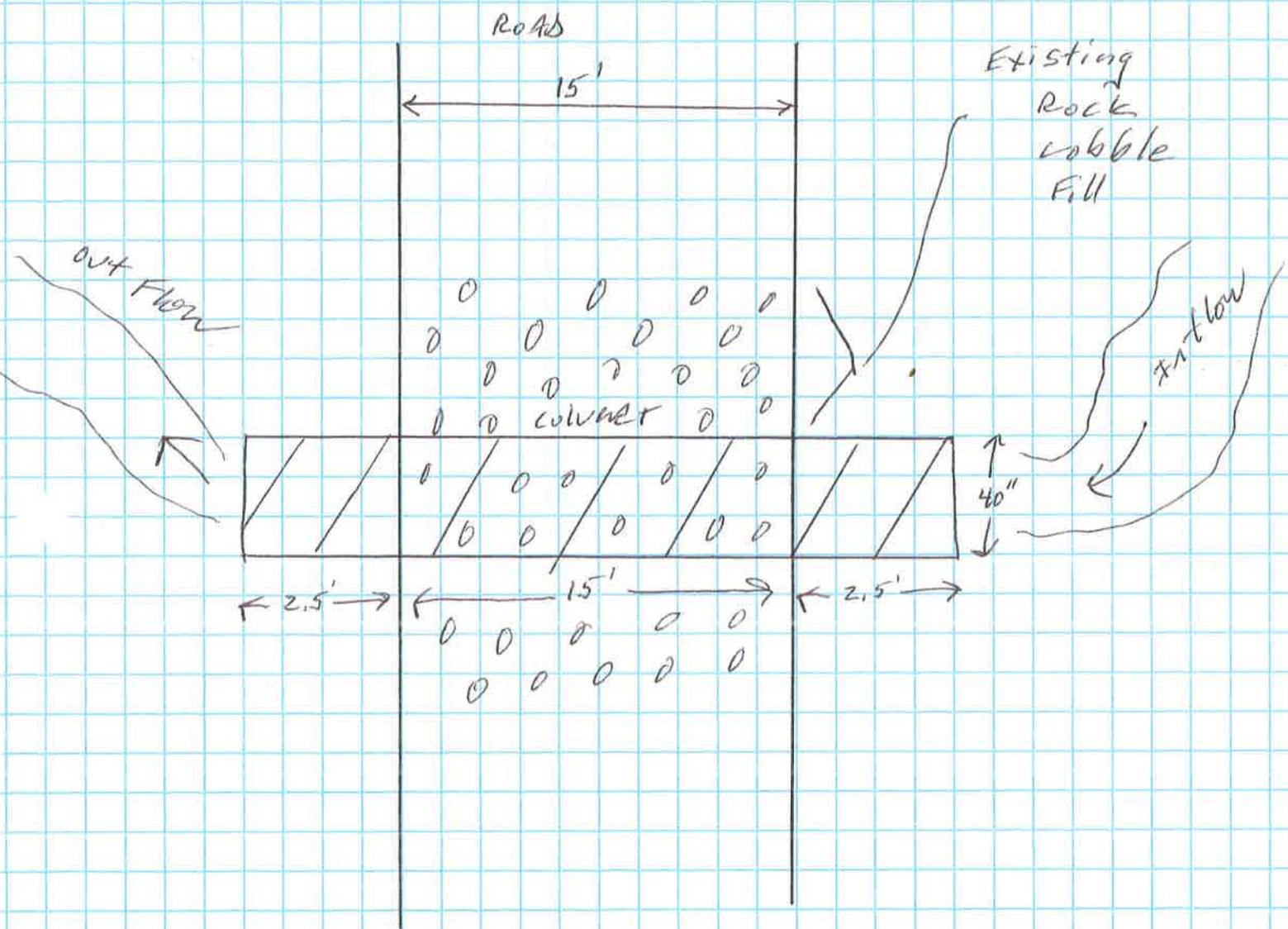
CROSS SECTION



New York State Department of Environmental
Conservation
D/A Processing No. 2021-01576
St. Lawrence County, New York
Coordinates: 44.521644°, -74.815433°
Sheet 4 of 6

CULVERT # 2 40" Diameter x 20' Long
HDPE

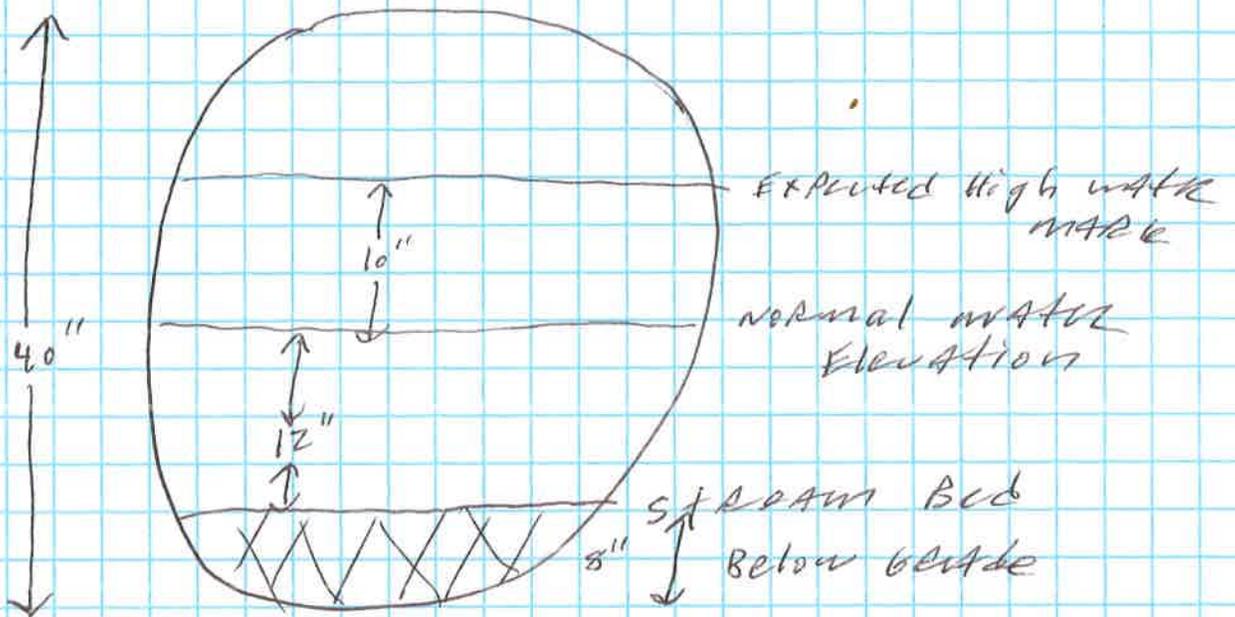
PLAN VIEW



New York State Department of Environmental Conservation
D/A Processing No. 2021-01576
St. Lawrence County, New York
Coordinates: 44.521644°, -74.815433°
Sheet 5 of 6

Culvert #2 - 40" Diameter x 20' Long HDPE

Cross Section



**Buffalo & New York Districts Final Regional Conditions, Water Quality Certification and Coastal Zone Concurrence for the 2021 Nationwide Permits for New York State
Effective February 25, 2022 - Expiration March 14, 2026**

Table of Contents:

A. Nationwide Permits Index

B. Nationwide Permit 3 – Maintenance

- **Specific NW terms and notification requirements**
- **Buffalo & New York Districts Specific NWP Regional Conditions**
- **Specific NWP Water Quality Certification**
- **NYSDOS Specific NWP Coastal Zone Consistency Determination**

C. Nationwide Permit General Conditions 1-32

D. District Engineer’s Decision

E. Further Information

F. Definitions

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

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

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

J. Information on Nationwide Permit Verification

K. Agency Contact Information

ENCLOSURE 1: New York State Regulatory District Boundary Map

ENCLOSURE 2: NYC Water Supply – East of Hudson Watershed (for NY District Regional Conditions)

ENCLOSURE 3: Commercial Mooring Buoy Application Additional Information (for NY District Regional Conditions – not applicable within Buffalo District)

ENCLOSURE 4: Incident Report of Sea Turtle Take (for NY District Regional Conditions – not applicable within Buffalo District)

**Buffalo & New York Districts Final Regional Conditions, Water Quality Certification and
Coastal Zone Concurrence for the 2021 Nationwide Permits for New York State
Effective February 25, 2022 - Expiration March 14, 2026**

A. NATIONWIDE PERMITS INDEX:

1. Aids to Navigation
2. Structures in Artificial Canals
3. Maintenance
4. Fish and Wildlife Harvesting, Enhancement and Attraction Devices and Activities
5. Scientific Measurement Devices
6. Survey Activities
7. Outfall Structures and Associated Intake Structures
8. Oil and Gas Structures on the Outer Continental Shelf
9. Structures in Fleeting and Anchorage Areas
10. Mooring Buoys
11. Temporary Recreational Structures
13. Bank Stabilization
14. Linear Transportation Projects
15. U.S. Coast Guard Approved Bridges
16. Return Water From Upland Contained Disposal Areas
17. Hydropower Projects
18. Minor Discharges
19. Minor Dredging
20. Response Operations for Oil or Hazardous Substances
22. Removal of Vessels
23. Approved Categorical Exclusions
24. Indian Tribe or State Administered Section 404 Programs
25. Structural Discharges
26. [Reserved]
27. Aquatic Habitat Restoration, Enhancement, and Establishment Activities
28. Modification of Existing Marinas
30. Moist Soil Management for Wildlife
31. Maintenance of Existing Flood Control Facilities
32. Completed Enforcement Actions
33. Temporary Construction, Access and Dewatering
34. Cranberry Production Activities
35. Maintenance Dredging of Existing Basins
36. Boat Ramps
37. Emergency Watershed Protection and Rehabilitation
38. Cleanup of Hazardous and Toxic Waste
41. Reshaping Existing Drainage and Irrigation Ditches
45. Repair of Uplands Damaged by Discrete Events
46. Discharges in Ditches
47. [Reserved]
49. Coal Mining Activities
53. Removal of Low-Head Dams
54. Living Shorelines
59. Water Reclamation and Reuse Facilities

**Buffalo & New York Districts Final Regional Conditions, Water Quality Certification and Coastal Zone Concurrence for the 2021 Nationwide Permits for New York State
Effective February 25, 2022 - Expiration March 14, 2026**

B. NATIONWIDE PERMITS

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

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

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

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

Notification: For activities authorized by paragraph (b) of this NWP, the permittee must submit a pre-construction notification to the district engineer prior to commencing the activity (see general condition 32). The pre-construction notification must include information regarding the original design capacities and configurations of the outfalls, intakes, small impoundments, and canals. (Authorities: Section 10 of the Rivers and Harbors Act of 1899 and Section 404 of the Clean Water Act (Sections 10 and 404))

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

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

- a. The Nationwide General Permit Condition No. 32 – Pre-Construction Notification (PCN) for activities

Buffalo & New York Districts Final Regional Conditions, Water Quality Certification and Coastal Zone Concurrence for the 2021 Nationwide Permits for New York State Effective February 25, 2022 - Expiration March 14, 2026

proposed under NWP 3.b. involving the removal of accumulated sediments and debris in the vicinity of existing structures to restore the waterway to previously existing depths, must include evidence of such depths. Such evidence may include but is not limited to construction drawings of the original structure; or project drawings of past excavation activities in the vicinity. If this information is not available, the PCN must include evidence of the existing depths immediately outside the proposed work area.

b. Every effort should be made to prevent additional encroachment into the beds of New York waterbodies. All repair or rehabilitation activities should focus on using the area immediately landward of the existing structure. Bulkhead replacement shall be completed in-place or landward of the existing structure where practicable. When that is not practicable, a PCN shall be required for any encroachment proposed within tidal waters of the U.S. or any extensions, excluding the placement of toe stone protection recommended/required by state/federal resource agencies (i.e. NYSDEC, NYSDOS, USFWS & USEPA), which exceed 18 inches waterward of the existing bulkhead within non-tidal waters. The PCN must include justification for a waterward extension of the bulkhead (e.g. geologic conditions, engineering requirements, etc.).

New York District Only Permit-specific Regional Conditions:

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

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

e. Within EFH, as discussed in Section G-E.8. below, if any work is proposed within 50 feet of submerged aquatic vegetation (SAV), a map generated from the SAV data tools in Note 5 or a current SAV survey of the area shall be included with a PCN to USACE for coordination with National Marine Fisheries Service (NMFS).

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

REMINDER TO APPLICANT: For projects involving culvert maintenance or replacement, please take particular note of the requirements of General Regional Conditions B.1 and B.2. below. For projects involving aerial transmission lines, note clearance requirements as outlined in 33 CFR 322.5(i) (See NWP #57).

Section 401 Water Quality Certification (WQC):

The WQC has been denied for this NWP by the following certifying authorities:

i. New York State Department of Public Services (NYSDPS) for activities that relate to the construction and operation of major natural gas or electric transmission facilities undertaken pursuant to New York State Public Service Law (PSL) Article VII.

Buffalo & New York Districts Final Regional Conditions, Water Quality Certification and Coastal Zone Concurrence for the 2021 Nationwide Permits for New York State Effective February 25, 2022 - Expiration March 14, 2026

- ii. New York State Office of Renewable Energy Siting (NYSORES) for activities that relate to the construction and operation of major renewable electric generating facilities undertaken pursuant to New York State Executive Law Article 6, Section 94-C.
- iii. New York State Board on Electric Generation Siting and the Environment (Siting Board) for activities that relate to new and repowered or modified major electric generating facilities of 25 megawatts or more undertaken pursuant to PSL Article 10.
- iv. U.S. Environmental Protection Agency (USEPA), as the certifying agency for the seven federally recognized Indian Nations in New York (Cayuga Nation, Onondaga Nation, Oneida Nation of Indians, Seneca Nation of Indians, Shinnecock Indian Nation, Tonawanda Seneca Nation, and Tuscarora Nation) for all activities occurring on these tribal lands.
- v. Saint Regis Mohawk Tribe for all activities occurring on Saint Regis Mohawk Tribal land.

The New York State Department of Environmental Conservation (NYSDEC) has granted blanket WQC, for those activities not outlined above, provided that the project complies with **all** the General Conditions listed below in Section H. Where the Special Conditions differ from the General Conditions, the Special Conditions shall prevail.

Any party conducting proposing to conduct the activities authorized by this NWP where the WQC has been denied or that cannot comply with all of the NYSDEC WQC conditions must apply for and obtain an individual WQC or waiver thereof from the appropriate certifying authority. Refer to Section K below for agency contact information.

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

Pursuant to 15 CFR Part 930.41 and 930.43, the New York State Department of State (NYSDOS) concurs with the USACE' consistency determination for this NWP with which all general and all Buffalo and New York District regional conditions are complied and with the additional condition(s), as follows:

- The NYSDOS concurs with the USACE' consistency determination for projects outside of Marine and Coastal District Waters (all tidal waters south of the Governor Mario M. Cuomo Bridge) within or affecting the NYS Coastal Area where the activities to be authorized primarily involve the repair/replacement in-place or landward of a lawful structure or fill, with no waterward expansion or increase in footprint;
- The NYSDOS concurs with the USACE' consistency determination for projects authorized by New York State Department of Environmental Conservation (DEC) [under General Permit GP-0-20-004 Great Lakes Erosion Control General Permit](#);
- The NYSDOS concurs with the USACE' consistency determination for projects proposed solely within the artificial canals identified by NYSDOS at: <https://www.dos.ny.gov/opd/atlas/>.

For activities that do not comply with the above conditions, the NYSDOS objects to the USACE' consistency determination and therefore, an individual consistency determination from NYSDOS is required for this NWP to be valid in the New York coastal area. Activities authorized pursuant to this Nationwide Permit shall be submitted to NYSDOS for review by the applicant. NYSDOS will review the proposed activities pursuant to 15 CFR Part 930 Subpart D. NYSDOS concurrence with an applicant's consistency certification shall not be presumed unless NYSDOS fails to concur with or object to an applicant's consistency certification within six (6) months of commencement of NYSDOS' review of an applicant's consistency certification and all necessary data and information in accordance with 15 CFR § 930.62 or § 930.63. See Section I below for further information.

**Buffalo & New York Districts Final Regional Conditions, Water Quality Certification and Coastal Zone Concurrence for the 2021 Nationwide Permits for New York State
Effective February 25, 2022 - Expiration March 14, 2026**

C. NATIONWIDE PERMIT GENERAL CONDITIONS

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

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

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

(c) The permittee understands and agrees that, if future operations by the United States require the removal, relocation, or other alteration, of the structure or work herein authorized, or if, in the opinion of the Secretary of the Army or his or her authorized representative, said structure or work shall cause unreasonable obstruction to the free navigation of the navigable waters, the permittee will be required, upon due notice from the Corps of Engineers, to remove, relocate, or alter the structural work or obstructions caused thereby, without expense to the United States. No claim shall be made against the United States on account of any such removal or alteration.

2. Aquatic Life Movements. No activity may substantially disrupt the necessary life cycle movements of those species of aquatic life indigenous to the waterbody, including those species that normally migrate through the area, unless the activity's primary purpose is to impound water. All permanent and temporary crossings of waterbodies shall be suitably culverted, bridged, or otherwise designed and constructed to maintain low flows to sustain the movement of those aquatic species. If a bottomless culvert cannot be used, then the crossing should be designed and constructed to minimize adverse effects to aquatic life movements.

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

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

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

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

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

**Buffalo & New York Districts Final Regional Conditions, Water Quality Certification and Coastal Zone Concurrence for the 2021 Nationwide Permits for New York State
Effective February 25, 2022 - Expiration March 14, 2026**

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

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

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

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

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

13. Removal of Temporary Structures and Fills. Temporary structures must be removed, to the maximum extent practicable, after their use has been discontinued. Temporary fills must be removed in their entirety and the affected areas returned to pre-construction elevations. The affected areas must be revegetated, as appropriate.

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

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

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

(b) If a proposed NWP activity will occur in a component of the National Wild and Scenic River System, or in a river officially designated by Congress as a “study river” for possible inclusion in the system while the river is in an official study status, the permittee must submit a pre-construction notification (see general condition 32). The district engineer will coordinate the PCN with the Federal agency with direct management responsibility for that river. Permittees shall not begin the NWP activity until notified by the district engineer that the Federal agency with direct management responsibility for that river has determined in writing that the proposed NWP activity will not adversely affect the Wild and Scenic River designation or study status.

(c) Information on Wild and Scenic Rivers may be obtained from the appropriate Federal land management agency responsible for the designated Wild and Scenic River or study river (e.g., National Park Service, U.S. Forest Service, Bureau of Land Management, U.S. Fish and Wildlife Service). Information on these rivers is also available at: <http://www.rivers.gov/>.

**Buffalo & New York Districts Final Regional Conditions, Water Quality Certification and Coastal Zone Concurrence for the 2021 Nationwide Permits for New York State
Effective February 25, 2022 - Expiration March 14, 2026**

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

18. Endangered Species. (a) No activity is authorized under any NWP which is likely to directly or indirectly jeopardize the continued existence of a threatened or endangered species or a species proposed for such designation, as identified under the Federal Endangered Species Act (ESA), or which will directly or indirectly destroy or adversely modify designated critical habitat or critical habitat proposed for such designation. No activity is authorized under any NWP which “may affect” a listed species or critical habitat unless ESA section 7 consultation addressing the consequences of the proposed activity on listed species or critical habitat has been completed. See 50 CFR 402.02 for the definition of “effects of the action” for the purposes of ESA section 7 consultation, as well as 50 CFR 402.17, which provides further explanation under ESA section 7 regarding “activities that are reasonably certain to occur” and “consequences caused by the proposed action.”

(b) Federal agencies should follow their own procedures for complying with the requirements of the ESA (see 33 CFR 330.4(f)(1)). If pre-construction notification is required for the proposed activity, the Federal permittee must provide the district engineer with the appropriate documentation to demonstrate compliance with those requirements. The district engineer will verify that the appropriate documentation has been submitted. If the appropriate documentation has not been submitted, additional ESA section 7 consultation may be necessary for the activity and the respective federal agency would be responsible for fulfilling its obligation under section 7 of the ESA.

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

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

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

**Buffalo & New York Districts Final Regional Conditions, Water Quality Certification and Coastal Zone Concurrence for the 2021 Nationwide Permits for New York State
Effective February 25, 2022 - Expiration March 14, 2026**

degradation where it actually kills or injures wildlife by significantly impairing essential behavioral patterns, including breeding, feeding or sheltering.

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

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

19. Migratory Birds and Bald and Golden Eagles. The permittee is responsible for ensuring that an action authorized by an NWP complies with the Migratory Bird Treaty Act and the Bald and Golden Eagle Protection Act. The permittee is responsible for contacting the appropriate local office of the U.S. Fish and Wildlife Service to determine what measures, if any, are necessary or appropriate to reduce adverse effects to migratory birds or eagles, including whether "incidental take" permits are necessary and available under the Migratory Bird Treaty Act or Bald and Golden Eagle Protection Act for a particular activity.

20. Historic Properties. (a) No activity is authorized under any NWP which may have the potential to cause effects to properties listed, or eligible for listing, in the National Register of Historic Places until the requirements of Section 106 of the National Historic Preservation Act (NHPA) have been satisfied.

(b) Federal permittees should follow their own procedures for complying with the requirements of section 106 of the National Historic Preservation Act (see 33 CFR 330.4(g)(1)). If pre-construction notification is required for the proposed NWP activity, the Federal permittee must provide the district engineer with the appropriate documentation to demonstrate compliance with those requirements. The district engineer will verify that the appropriate documentation has been submitted. If the appropriate documentation is not submitted, then additional consultation under section 106 may be necessary. The respective federal agency is responsible for fulfilling its obligation to comply with section 106.

(c) Non-federal permittees must submit a pre-construction notification to the district engineer if the NWP activity might have the potential to cause effects to any historic properties listed on, determined to be eligible for listing on, or potentially eligible for listing on the National Register of Historic Places, including previously unidentified properties. For such activities, the pre-construction notification must state which historic properties might have the potential to be affected by the proposed NWP activity or include a vicinity map indicating the location of the historic properties or the potential for the presence of historic properties. Assistance regarding information on the location of, or potential for, the presence of historic properties can be sought from the State Historic Preservation Officer, Tribal Historic Preservation Officer, or designated tribal representative, as appropriate, and the National Register of Historic Places (see 33 CFR 330.4(g)). When reviewing pre-construction notifications, district engineers will comply with the current procedures for addressing the requirements of section 106 of the National Historic Preservation Act. The district engineer shall make a reasonable and good faith effort to carry out appropriate identification efforts commensurate with potential impacts, which may include background research, consultation, oral history interviews, sample field investigation, and/or field survey. Based on the information submitted in the PCN and these identification efforts, the district

Buffalo & New York Districts Final Regional Conditions, Water Quality Certification and Coastal Zone Concurrence for the 2021 Nationwide Permits for New York State Effective February 25, 2022 - Expiration March 14, 2026

engineer shall determine whether the proposed NWP activity has the potential to cause effects on the historic properties. Section 106 consultation is not required when the district engineer determines that the activity does not have the potential to cause effects on historic properties (see 36 CFR 800.3(a)). Section 106 consultation is required when the district engineer determines that the activity has the potential to cause effects on historic properties. The district engineer will conduct consultation with consulting parties identified under 36 CFR 800.2(c) when he or she makes any of the following effect determinations for the purposes of section 106 of the NHPA: no historic properties affected, no adverse effect, or adverse effect.

(d) Where the non-Federal applicant has identified historic properties on which the proposed NWP activity might have the potential to cause effects and has so notified the Corps, the non-Federal applicant shall not begin the activity until notified by the district engineer either that the activity has no potential to cause effects to historic properties or that NHPA section 106 consultation has been completed. For non-federal permittees, the district engineer will notify the prospective permittee within 45 days of receipt of a complete pre-construction notification whether NHPA section 106 consultation is required. If NHPA section 106 consultation is required, the district engineer will notify the non-Federal applicant that he or she cannot begin the activity until section 106 consultation is completed. If the non-Federal applicant has not heard back from the Corps within 45 days, the applicant must still wait for notification from the Corps.

(e) Prospective permittees should be aware that section 110k of the NHPA (54 U.S.C. 306113) prevents the Corps from granting a permit or other assistance to an applicant who, with intent to avoid the requirements of section 106 of the NHPA, has intentionally significantly adversely affected a historic property to which the permit would relate, or having legal power to prevent it, allowed such significant adverse effect to occur, unless the Corps, after consultation with the Advisory Council on Historic Preservation (ACHP), determines that circumstances justify granting such assistance despite the adverse effect created or permitted by the applicant. If circumstances justify granting the assistance, the Corps is required to notify the ACHP and provide documentation specifying the circumstances, the degree of damage to the integrity of any historic properties affected, and proposed mitigation. This documentation must include any views obtained from the applicant, SHPO/THPO, appropriate Indian tribes if the undertaking occurs on or affects historic properties on tribal lands or affects properties of interest to those tribes, and other parties known to have a legitimate interest in the impacts to the permitted activity on historic properties.

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

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

(a) Discharges of dredged or fill material into waters of the United States are not authorized by NWPs 7, 12, 14, 16, 17, 21, 29, 31, 35, 39, 40, 42, 43, 44, 49, 50, 51, 52, 57 and 58 for any activity within, or directly affecting, critical resource waters, including wetlands adjacent to such waters.

(b) For NWPs 3, 8, 10, 13, 15, 18, 19, 22, 23, 25, 27, 28, 30, 33, 34, 36, 37, 38, and 54, notification is required in accordance with general condition 32, for any activity proposed by permittees in the designated critical resource waters including wetlands adjacent to those waters. The district engineer

**Buffalo & New York Districts Final Regional Conditions, Water Quality Certification and Coastal Zone Concurrence for the 2021 Nationwide Permits for New York State
Effective February 25, 2022 - Expiration March 14, 2026**

may authorize activities under these NWP's only after she or he determines that the impacts to the critical resource waters will be no more than minimal.

23. Mitigation. The district engineer will consider the following factors when determining appropriate and practicable mitigation necessary to ensure that the individual and cumulative adverse environmental effects are no more than minimal:

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

(b) Mitigation in all its forms (avoiding, minimizing, rectifying, reducing, or compensating for resource losses) will be required to the extent necessary to ensure that the individual and cumulative adverse environmental effects are no more than minimal.

(c) Compensatory mitigation at a minimum one-for-one ratio will be required for all wetland losses that exceed 1/10-acre and require pre-construction notification, unless the district engineer determines in writing that either some other form of mitigation would be more environmentally appropriate or the adverse environmental effects of the proposed activity are no more than minimal, and provides an activity-specific waiver of this requirement. For wetland losses of 1/10-acre or less that require pre-construction notification, the district engineer may determine on a case-by-case basis that compensatory mitigation is required to ensure that the activity results in only minimal adverse environmental effects.

(d) Compensatory mitigation at a minimum one-for-one ratio will be required for all losses of stream bed that exceed 3/100-acre and require pre-construction notification, unless the district engineer determines in writing that either some other form of mitigation would be more environmentally appropriate or the adverse environmental effects of the proposed activity are no more than minimal, and provides an activity-specific waiver of this requirement. This compensatory mitigation requirement may be satisfied through the restoration or enhancement of riparian areas next to streams in accordance with paragraph (e) of this general condition. For losses of stream bed of 3/100-acre or less that require pre-construction notification, the district engineer may determine on a case-by-case basis that compensatory mitigation is required to ensure that the activity results in only minimal adverse environmental effects. Compensatory mitigation for losses of streams should be provided, if practicable, through stream rehabilitation, enhancement, or preservation, since streams are difficult-to-replace resources (see 33 CFR 332.3(e)(3)).

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

(f) Compensatory mitigation projects provided to offset losses of aquatic resources must comply with the applicable provisions of 33 CFR part 332.

**Buffalo & New York Districts Final Regional Conditions, Water Quality Certification and Coastal Zone Concurrence for the 2021 Nationwide Permits for New York State
Effective February 25, 2022 - Expiration March 14, 2026**

- (1) The prospective permittee is responsible for proposing an appropriate compensatory mitigation option if compensatory mitigation is necessary to ensure that the activity results in no more than minimal adverse environmental effects. For the NWP, the preferred mechanism for providing compensatory mitigation is mitigation bank credits or in-lieu fee program credits (see 33 CFR 332.3(b)(2) and (3)). However, if an appropriate number and type of mitigation bank or in-lieu credits are not available at the time the PCN is submitted to the district engineer, the district engineer may approve the use of permittee-responsible mitigation.
- (2) The amount of compensatory mitigation required by the district engineer must be sufficient to ensure that the authorized activity results in no more than minimal individual and cumulative adverse environmental effects (see 33 CFR 330.1(e)(3)). (See also 33 CFR 332.3(f).)
- (3) Since the likelihood of success is greater and the impacts to potentially valuable uplands are reduced, aquatic resource restoration should be the first compensatory mitigation option considered for permittee-responsible mitigation.
- (4) If permittee-responsible mitigation is the proposed option, the prospective permittee is responsible for submitting a mitigation plan. A conceptual or detailed mitigation plan may be used by the district engineer to make the decision on the NWP verification request, but a final mitigation plan that addresses the applicable requirements of 33 CFR 332.4(c)(2) through (14) must be approved by the district engineer before the permittee begins work in waters of the United States, unless the district engineer determines that prior approval of the final mitigation plan is not practicable or not necessary to ensure timely completion of the required compensatory mitigation (see 33 CFR 332.3(k)(3)). If permittee-responsible mitigation is the proposed option, and the proposed compensatory mitigation site is located on land in which another federal agency holds an easement, the district engineer will coordinate with that federal agency to determine if proposed compensatory mitigation project is compatible with the terms of the easement.
- (5) If mitigation bank or in-lieu fee program credits are the proposed option, the mitigation plan needs to address only the baseline conditions at the impact site and the number of credits to be provided (see 33 CFR 332.4(c)(1)(ii)).
- (6) Compensatory mitigation requirements (e.g., resource type and amount to be provided as compensatory mitigation, site protection, ecological performance standards, monitoring requirements) may be addressed through conditions added to the NWP authorization, instead of components of a compensatory mitigation plan (see 33 CFR 332.4(c)(1)(ii)).
- (g) Compensatory mitigation will not be used to increase the acreage losses allowed by the acreage limits of the NWPs. For example, if an NWP has an acreage limit of 1/2-acre, it cannot be used to authorize any NWP activity resulting in the loss of greater than 1/2-acre of waters of the United States, even if compensatory mitigation is provided that replaces or restores some of the lost waters. However, compensatory mitigation can and should be used, as necessary, to ensure that an NWP activity already meeting the established acreage limits also satisfies the no more than minimal impact requirement for the NWPs.
- (h) Permittees may propose the use of mitigation banks, in-lieu fee programs, or permittee-responsible mitigation. When developing a compensatory mitigation proposal, the permittee must consider appropriate and practicable options consistent with the framework at 33 CFR 332.3(b). For activities resulting in the loss of marine or estuarine resources, permittee-responsible mitigation may be environmentally preferable if there are no mitigation banks or in-lieu fee programs in the area that have marine or estuarine credits available for sale or transfer to the permittee. For permittee-responsible mitigation, the special conditions of the NWP verification must clearly indicate the party or parties responsible for the implementation and performance of the compensatory mitigation project, and, if required, its long-term management.

**Buffalo & New York Districts Final Regional Conditions, Water Quality Certification and Coastal Zone Concurrence for the 2021 Nationwide Permits for New York State
Effective February 25, 2022 - Expiration March 14, 2026**

(i) Where certain functions and services of waters of the United States are permanently adversely affected by a regulated activity, such as discharges of dredged or fill material into waters of the United States that will convert a forested or scrub-shrub wetland to a herbaceous wetland in a permanently maintained utility line right-of-way, mitigation may be required to reduce the adverse environmental effects of the activity to the no more than minimal level.

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

25. Water Quality. (a) Where the certifying authority (state, authorized tribe, or EPA, as appropriate) has not previously certified compliance of an NWP with CWA section 401, a CWA section 401 water quality certification for the proposed discharge must be obtained or waived (see 33 CFR 330.4(c)). If the permittee cannot comply with all of the conditions of a water quality certification previously issued by certifying authority for the issuance of the NWP, then the permittee must obtain a water quality certification or waiver for the proposed discharge in order for the activity to be authorized by an NWP.

(b) If the NWP activity requires pre-construction notification and the certifying authority has not previously certified compliance of an NWP with CWA section 401, the proposed discharge is not authorized by an NWP until water quality certification is obtained or waived. If the certifying authority issues a water quality certification for the proposed discharge, the permittee must submit a copy of the certification to the district engineer. The discharge is not authorized by an NWP until the district engineer has notified the permittee that the water quality certification requirement has been satisfied by the issuance of a water quality certification or a waiver.

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

26. Coastal Zone Management. In coastal states where an NWP has not previously received a state coastal zone management consistency concurrence, an individual state coastal zone management consistency concurrence must be obtained, or a presumption of concurrence must occur (see 33 CFR 330.4(d)). If the permittee cannot comply with all of the conditions of a coastal zone management consistency concurrence previously issued by the state, then the permittee must obtain an individual coastal zone management consistency concurrence or presumption of concurrence in order for the activity to be authorized by an NWP. The district engineer or a state may require additional measures to ensure that the authorized activity is consistent with state coastal zone management requirements.

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

28. Use of Multiple Nationwide Permits. The use of more than one NWP for a single and complete project is authorized, subject to the following restrictions:

(a) If only one of the NWPs used to authorize the single and complete project has a specified acreage limit, the acreage loss of waters of the United States cannot exceed the acreage limit of the NWP with the highest specified acreage limit. For example, if a road crossing over tidal waters is constructed under NWP 14, with associated bank stabilization authorized by NWP 13, the maximum acreage loss of waters of the United States for the total project cannot exceed 1/3-acre.

(b) If one or more of the NWPs used to authorize the single and complete project has specified acreage limits, the acreage loss of waters of the United States authorized by those NWPs cannot exceed their

Buffalo & New York Districts Final Regional Conditions, Water Quality Certification and Coastal Zone Concurrence for the 2021 Nationwide Permits for New York State Effective February 25, 2022 - Expiration March 14, 2026

respective specified acreage limits. For example, if a commercial development is constructed under NWP 39, and the single and complete project includes the filling of an upland ditch authorized by NWP 46, the maximum acreage loss of waters of the United States for the commercial development under NWP 39 cannot exceed 1/2-acre, and the total acreage loss of waters of United States due to the NWP 39 and 46 activities cannot exceed 1 acre.

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

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

(Transferee)

(Date)

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

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

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

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

**Buffalo & New York Districts Final Regional Conditions, Water Quality Certification and Coastal Zone Concurrence for the 2021 Nationwide Permits for New York State
Effective February 25, 2022 - Expiration March 14, 2026**

32. Pre-Construction Notification.

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

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

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

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

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

(2) Location of the proposed activity;

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

(4) (i) A description of the proposed activity; the activity's purpose; direct and indirect adverse environmental effects the activity would cause, including the anticipated amount of loss of wetlands, other special aquatic sites, and other waters expected to result from the NWP activity, in acres, linear feet, or other appropriate unit of measure; a description of any proposed mitigation measures intended to reduce the adverse environmental effects caused by the proposed activity; and any other NWP(s), regional general permit(s), or individual permit(s) used or intended to be used to authorize any part of the proposed project or any related activity, including other separate and distant crossings for linear projects that require Department of the Army authorization but do not require pre-construction notification. The description of the proposed activity and any proposed mitigation measures should be sufficiently detailed to allow the district engineer to determine that the adverse environmental effects of the activity will be no more than minimal and to determine the need for compensatory mitigation or other mitigation measures.

**Buffalo & New York Districts Final Regional Conditions, Water Quality Certification and Coastal Zone Concurrence for the 2021 Nationwide Permits for New York State
Effective February 25, 2022 - Expiration March 14, 2026**

(ii) For linear projects where one or more single and complete crossings require pre-construction notification, the PCN must include the quantity of anticipated losses of wetlands, other special aquatic sites, and other waters for each single and complete crossing of those wetlands, other special aquatic sites, and other waters (including those single and complete crossings authorized by an NWP but do not require PCNs). This information will be used by the district engineer to evaluate the cumulative adverse environmental effects of the proposed linear project, and does not change those non-PCN NWP activities into NWP PCNs.

(iii) Sketches should be provided when necessary to show that the activity complies with the terms of the NWP. (Sketches usually clarify the activity and when provided results in a quicker decision. Sketches should contain sufficient detail to provide an illustrative description of the proposed activity (e.g., a conceptual plan), but do not need to be detailed engineering plans);

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

(6) If the proposed activity will result in the loss of greater than 1/10-acre of wetlands or 3/100-acre of stream bed and a PCN is required, the prospective permittee must submit a statement describing how the mitigation requirement will be satisfied, or explaining why the adverse environmental effects are no more than minimal and why compensatory mitigation should not be required. As an alternative, the prospective permittee may submit a conceptual or detailed mitigation plan.

(7) For non-federal permittees, if any listed species (or species proposed for listing) or designated critical habitat (or critical habitat proposed for such designation) might be affected or is in the vicinity of the activity, or if the activity is located in designated critical habitat (or critical habitat proposed for such designation), the PCN must include the name(s) of those endangered or threatened species (or species proposed for listing) that might be affected by the proposed activity or utilize the designated critical habitat (or critical habitat proposed for such designation) that might be affected by the proposed activity. For NWP activities that require pre-construction notification, Federal permittees must provide documentation demonstrating compliance with the Endangered Species Act;

(8) For non-federal permittees, if the NWP activity might have the potential to cause effects to a historic property listed on, determined to be eligible for listing on, or potentially eligible for listing on, the National Register of Historic Places, the PCN must state which historic property might have the potential to be affected by the proposed activity or include a vicinity map indicating the location of the historic property. For NWP activities that require pre-construction notification, Federal permittees must provide documentation demonstrating compliance with section 106 of the National Historic Preservation Act;

(9) For an activity that will occur in a component of the National Wild and Scenic River System, or in a river officially designated by Congress as a "study river" for possible inclusion in the system while the river is in an official study status, the PCN must identify the Wild and Scenic River or the "study river" (see general condition 16); and

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

(c) Form of Pre-Construction Notification: The nationwide permit pre-construction notification form (Form ENG 6082) should be used for NWP PCNs. A letter containing the required information may also be

**Buffalo & New York Districts Final Regional Conditions, Water Quality Certification and Coastal Zone Concurrence for the 2021 Nationwide Permits for New York State
Effective February 25, 2022 - Expiration March 14, 2026**

used. Applicants may provide electronic files of PCNs and supporting materials if the district engineer has established tools and procedures for electronic submittals.

(d) Agency Coordination:

(1) The district engineer will consider any comments from Federal and state agencies concerning the proposed activity's compliance with the terms and conditions of the NWP's and the need for mitigation to reduce the activity's adverse environmental effects so that they are no more than minimal.

(2) Agency coordination is required for: (i) all NWP activities that require pre-construction notification and result in the loss of greater than 1/2-acre of waters of the United States; (ii) NWP 13 activities in excess of 500 linear feet, fills greater than one cubic yard per running foot, or involve discharges of dredged or fill material into special aquatic sites; and (iii) NWP 54 activities in excess of 500 linear feet, or that extend into the waterbody more than 30 feet from the mean low water line in tidal waters or the ordinary high water mark in the Great Lakes.

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

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

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

D. DISTRICT ENGINEER'S DECISION

1. In reviewing the PCN for the proposed activity, the district engineer will determine whether the activity authorized by the NWP will result in more than minimal individual or cumulative adverse environmental effects or may be contrary to the public interest. If a project proponent requests authorization by a specific NWP, the district engineer should issue the NWP verification for that activity if it meets the terms and conditions of that NWP, unless he or she determines, after considering mitigation, that the proposed activity will result in more than minimal individual and cumulative adverse effects on the aquatic environment and other aspects of the public interest and exercises discretionary authority to require an individual permit for the proposed activity. For a linear project, this determination will include an evaluation of the single and complete crossings of waters of the United States that require PCNs to determine whether they individually satisfy the terms and conditions of the NWP(s), as well as the cumulative effects caused by all of the crossings of waters of the United States authorized by an NWP. If an applicant requests a waiver of an

**Buffalo & New York Districts Final Regional Conditions, Water Quality Certification and Coastal Zone Concurrence for the 2021 Nationwide Permits for New York State
Effective February 25, 2022 - Expiration March 14, 2026**

applicable limit, as provided for in NWP 13, 36, or 54, the district engineer will only grant the waiver upon a written determination that the NWP activity will result in only minimal individual and cumulative adverse environmental effects.

2. When making minimal adverse environmental effects determinations the district engineer will consider the direct and indirect effects caused by the NWP activity. He or she will also consider the cumulative adverse environmental effects caused by activities authorized by an NWP and whether those cumulative adverse environmental effects are no more than minimal. The district engineer will also consider site specific factors, such as the environmental setting in the vicinity of the NWP activity, the type of resource that will be affected by the NWP activity, the functions provided by the aquatic resources that will be affected by the NWP activity, the degree or magnitude to which the aquatic resources perform those functions, the extent that aquatic resource functions will be lost as a result of the NWP activity (e.g., partial or complete loss), the duration of the adverse effects (temporary or permanent), the importance of the aquatic resource functions to the region (e.g., watershed or ecoregion), and mitigation required by the district engineer. If an appropriate functional or condition assessment method is available and practicable to use, that assessment method may be used by the district engineer to assist in the minimal adverse environmental effects determination. The district engineer may add case-specific special conditions to the NWP authorization to address site-specific environmental concerns.

3. If the proposed activity requires a PCN and will result in a loss of greater than 1/10-acre of wetlands or 3/100-acre of stream bed, the prospective permittee should submit a mitigation proposal with the PCN. Applicants may also propose compensatory mitigation for NWP activities with smaller impacts, or for impacts to other types of waters. The district engineer will consider any proposed compensatory mitigation or other mitigation measures the applicant has included in the proposal in determining whether the net adverse environmental effects of the proposed activity are no more than minimal. The compensatory mitigation proposal may be either conceptual or detailed. If the district engineer determines that the activity complies with the terms and conditions of the NWP and that the adverse environmental effects are no more than minimal, after considering mitigation, the district engineer will notify the permittee and include any activity-specific conditions in the NWP verification the district engineer deems necessary. Conditions for compensatory mitigation requirements must comply with the appropriate provisions at 33 CFR 332.3(k). The district engineer must approve the final mitigation plan before the permittee commences work in waters of the United States, unless the district engineer determines that prior approval of the final mitigation plan is not practicable or not necessary to ensure timely completion of the required compensatory mitigation. If the prospective permittee elects to submit a compensatory mitigation plan with the PCN, the district engineer will expeditiously review the proposed compensatory mitigation plan. The district engineer must review the proposed compensatory mitigation plan within 45 calendar days of receiving a complete PCN and determine whether the proposed mitigation would ensure that the NWP activity results in no more than minimal adverse environmental effects. If the net adverse environmental effects of the NWP activity (after consideration of the mitigation proposal) are determined by the district engineer to be no more than minimal, the district engineer will provide a timely written response to the applicant. The response will state that the NWP activity can proceed under the terms and conditions of the NWP, including any activity-specific conditions added to the NWP authorization by the district engineer.

4. If the district engineer determines that the adverse environmental effects of the proposed activity are more than minimal, then the district engineer will notify the applicant either: (a) that the activity does not qualify for authorization under the NWP and instruct the applicant on the procedures to seek authorization under an individual permit; (b) that the activity is authorized under the NWP subject to the applicant's submission of a mitigation plan that would reduce the adverse environmental effects so that they are no more than minimal; or (c) that the activity is authorized under the NWP with specific modifications or conditions. Where the district engineer determines that mitigation is required to ensure no more than minimal adverse environmental effects, the activity will be authorized within the 45-day PCN period (unless additional time is required to comply with general conditions 18, 20, and/or 31), with activity-specific conditions that state the mitigation requirements. The authorization will include the necessary conceptual or detailed mitigation plan or a requirement that the applicant submit a mitigation plan that would reduce the adverse environmental effects so that they are no more than minimal. When compensatory mitigation is required, no work in waters of the United States may occur until the district engineer has approved a

**Buffalo & New York Districts Final Regional Conditions, Water Quality Certification and Coastal Zone Concurrence for the 2021 Nationwide Permits for New York State
Effective February 25, 2022 - Expiration March 14, 2026**

specific mitigation plan or has determined that prior approval of a final mitigation plan is not practicable or not necessary to ensure timely completion of the required compensatory mitigation.

E. FURTHER INFORMATION

1. District engineers have authority to determine if an activity complies with the terms and conditions of an NWP.
2. NWPs do not obviate the need to obtain other federal, state, or local permits, approvals, or authorizations required by law.
3. NWPs do not grant any property rights or exclusive privileges.
4. NWPs do not authorize any injury to the property or rights of others.
5. NWPs do not authorize interference with any existing or proposed Federal project (see general condition 31).

F. DEFINITIONS

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

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

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

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

Discharge: The term “discharge” means any discharge of dredged or fill material into waters of the United States.

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

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

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

High Tide Line: The line of intersection of the land with the water’s surface at the maximum height reached by a rising tide. The high tide line may be determined, in the absence of actual data, by a line

**Buffalo & New York Districts Final Regional Conditions, Water Quality Certification and Coastal Zone Concurrence for the 2021 Nationwide Permits for New York State
Effective February 25, 2022 - Expiration March 14, 2026**

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

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

Independent utility: A test to determine what constitutes a single and complete non-linear project in the Corps Regulatory Program. A project is considered to have independent utility if it would be constructed absent the construction of other projects in the project area. Portions of a multi-phase project that depend upon other phases of the project do not have independent utility. Phases of a project that would be constructed even if the other phases were not built can be considered as separate single and complete projects with independent utility.

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

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

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

Non-tidal wetland: A non-tidal wetland is a wetland that is not subject to the ebb and flow of tidal waters. Non-tidal wetlands contiguous to tidal waters are located landward of the high tide line (i.e., spring high tide line).

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

Ordinary High Water Mark: The term ordinary high water mark means that line on the shore established by the fluctuations of water and indicated by physical characteristics such as a clear, natural line impressed on the bank, shelving, changes in the character of soil, destruction of terrestrial vegetation,

Buffalo & New York Districts Final Regional Conditions, Water Quality Certification and Coastal Zone Concurrence for the 2021 Nationwide Permits for New York State Effective February 25, 2022 - Expiration March 14, 2026

the presence of litter and debris, or other appropriate means that consider the characteristics of the surrounding areas.

Perennial stream: A perennial stream has surface water flowing continuously year-round during a typical year.

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

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

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

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

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

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

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

Riparian areas: Riparian areas are lands next to streams, lakes, and estuarine-marine shorelines. Riparian areas are transitional between terrestrial and aquatic ecosystems, through which surface and subsurface hydrology connects riverine, lacustrine, estuarine, and marine waters with their adjacent wetlands, non-wetland waters, or uplands. Riparian areas provide a variety of ecological functions and services and help improve or maintain local water quality. (See general condition 23.)

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

Single and complete linear project: A linear project is a project constructed for the purpose of getting people, goods, or services from a point of origin to a terminal point, which often involves multiple crossings of one or more waterbodies at separate and distant locations. The term "single and complete

Buffalo & New York Districts Final Regional Conditions, Water Quality Certification and Coastal Zone Concurrence for the 2021 Nationwide Permits for New York State Effective February 25, 2022 - Expiration March 14, 2026

project” is defined as that portion of the total linear project proposed or accomplished by one owner/developer or partnership or other association of owners/developers that includes all crossings of a single water of the United States (i.e., a single waterbody) at a specific location. For linear projects crossing a single or multiple waterbodies several times at separate and distant locations, each crossing is considered a single and complete project for purposes of NWP authorization. However, individual channels in a braided stream or river, or individual arms of a large, irregularly shaped wetland or lake, etc., are not separate waterbodies, and crossings of such features cannot be considered separately.

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

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

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

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

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

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

Tidal wetland: A tidal wetland is a jurisdictional wetland that is inundated by tidal waters. Tidal waters rise and fall in a predictable and measurable rhythm or cycle due to the gravitational pulls of the moon and sun. Tidal waters end where the rise and fall of the water surface can no longer be practically measured in a predictable rhythm due to masking by other waters, wind, or other effects. Tidal wetlands are located channelward of the high tide line.

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

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

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

**Buffalo & New York Districts Final Regional Conditions, Water Quality Certification and Coastal Zone Concurrence for the 2021 Nationwide Permits for New York State
Effective February 25, 2022 - Expiration March 14, 2026**

Waterbody: For purposes of the NWP's, a waterbody is a "water of the United States." If a wetland is adjacent to a waterbody determined to be a water of the United States, that waterbody and any adjacent wetlands are considered together as a single aquatic unit (see 33 CFR 328.4(c)(2)).

G. BUFFALO & NEW YORK DISTRICT GENERAL REGIONAL CONDITIONS
These conditions apply to ALL Nationwide Permits.

G-A. Construction Best Management Practices (BMP's): Unless specifically approved otherwise through issuance of a variance by the District Engineer, the following BMP's must be implemented to the maximum degree practicable, to minimize erosion, migration of sediments, and adverse environmental impacts. Note that at a minimum, all erosion and sediment control and stormwater management practices must be designed, installed and maintained throughout the entire construction project in accordance with the latest version of the *New York Standards and Specifications for Erosion and Sediment Control* and the *New York State Stormwater Management Design Manual*. These documents are available at: <http://www.dec.ny.gov/chemical/29066.html> and <http://www.dec.ny.gov/chemical/29072.html>, respectively. Prior to the discharge of any dredged or fill material into waters of the United States, including wetlands, authorized by NWP, the permittee must install and maintain erosion and sedimentation controls in and/or adjacent to wetlands or other waters of the United States.

1. All synthetic erosion control features (e.g., silt fencing, netting, mats), which are intended for temporary use during construction, shall be completely removed and properly disposed of after their initial purpose has been served. Only natural fiber materials, which will degrade over time, may be abandoned in place.
2. Materials resulting from trench excavation for utility line installation or ditch reshaping activities which are temporarily sidecast or stockpiled into waters of the United States must be backfilled or removed to an upland area within 30 days of the date of deposition. Note: Upland options shall be utilized prior to temporary placement within waters of the U.S., unless it can be demonstrated that it would not be practicable or if the impacts of complying with this upland option requirement would result in more adverse impacts to the aquatic environment.
3. For trenching activities in wetlands the applicant shall install impermeable trench dams or trench breakers at the wetland boundaries and every 100 feet within wetland areas to prevent inadvertent drainage of wetlands or other waters of the United States.
4. Dry stream crossing methods (e.g., diversion, dam and pump, flume, bore) shall be utilized for culvert or other pipe, or utility installations to reduce downstream impacts from turbidity and sedimentation. This may require piping or pumping the stream flow around the work area and the use of cofferdams.
5. No in-stream work shall occur during periods of high flow, except for work that occurs in dewatered areas behind temporary diversions, cofferdams or causeways.
6. Construction access and staging areas shall be by means that avoid or minimize impacts to aquatic sites (e.g. use of upland areas for access & staging, floating barges, mats, etc.). Discharges of fill material associated with the construction of temporary access roads, staging areas and work pads in wetlands shall be placed on filter fabric. All temporary fills shall be removed upon completion of the work and the disturbed area restored to pre-construction contours, elevations and wetland conditions, including cover type. All vegetation utilized in the restoration activity shall consist of native species.
7. All return flow from dredged material disposal areas shall not result in an increase in turbidity in the receiving water body that will cause a substantial visible contrast to natural conditions. (See NWP #16)
8. For activities involving the placement of concrete into waters of the U.S., the permittee must employ watertight forms. The forms shall be dewatered prior to the placement of the concrete. The use of

Buffalo & New York Districts Final Regional Conditions, Water Quality Certification and Coastal Zone Concurrence for the 2021 Nationwide Permits for New York State Effective February 25, 2022 - Expiration March 14, 2026

tremie concrete is allowed, provided that it complies with New York State water quality standards.

9. New stormwater management facilities shall be located outside of waters of the U.S. A variance of this requirement may be requested with the submission of a PCN. The PCN must include justification which demonstrates that avoidance and minimization efforts have been met.

10. To the maximum extent practicable, the placement of fill in wetlands must be designed to maintain pre-construction surface water flows/conditions between remaining on or off-site waters and to prevent draining of the wetland or permanent hydrologic alteration. This may require the use of culverts and/or other measures. Furthermore, the activity must not restrict or impede the passage of normal or expected high flows (unless the primary purpose of the fill is to impound waters). The activity may alter the pre-construction flows/conditions if it can be shown that it benefits the aquatic environment (i.e. wetland restoration and/or enhancement).

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

G-B. CULVERTS

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

a. Size: Bank-full flows shall be accommodated through maintenance of the existing bank-full channel cross sectional dimensions within a single culvert. Bank-full width is generally considered to be the top width at the stage where a stream begins to overtop its banks and spread into the floodplain. A bottomless culvert or bridge must be used to span the stream channel where practicable. If the stream cannot be spanned, the culvert width shall be minimum of 1.25 times width of the stream channel at the ordinary high water, which is generally equivalent to the width of the channel during the 2-year design storm.

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

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

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

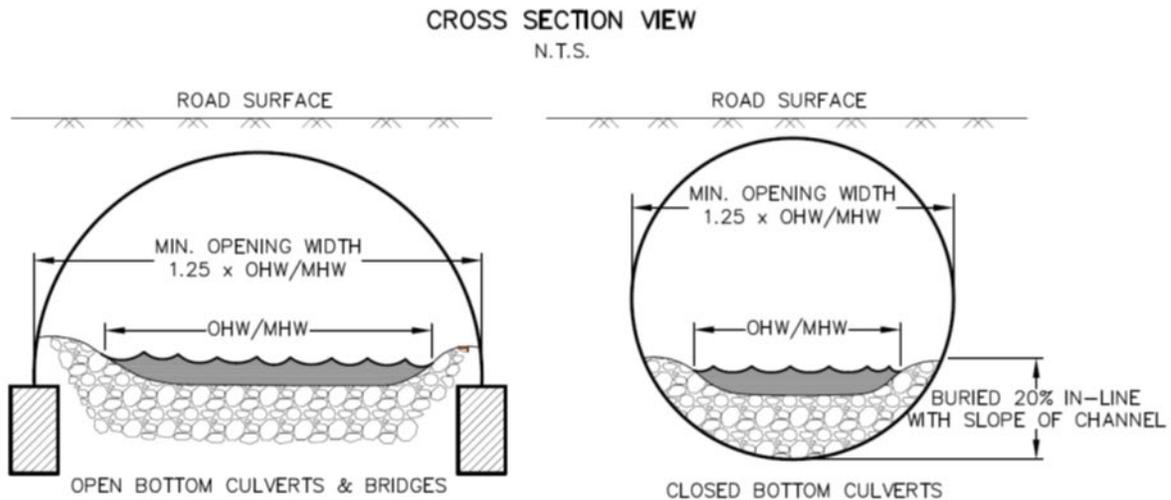
Note 1: Use of the requirements alone will not satisfy the need for proper engineering and design. In particular, appropriate engineering is required to ensure structures are sized and designed to provide adequate capacity (to pass various flood flows) and stability (bed, bed forms, footings and abutments, both upstream and downstream). It is the permittee's responsibility to ensure the structure is appropriately designed.

Note 2: This condition does not apply to temporary culverts used for construction access that are in place for less than one construction season. However, compliance with General Conditions #2 and #9 still applies.

Note 3: For further guidance on identification of the Ordinary High Water mark, please see Regulatory

**Buffalo & New York Districts Final Regional Conditions, Water Quality Certification and Coastal Zone Concurrence for the 2021 Nationwide Permits for New York State
Effective February 25, 2022 - Expiration March 14, 2026**

Guidance Letter 05-05 available at: <https://www.usace.army.mil/Missions/Civil-Works/Regulatory-Program-and-Permits/Guidance-Letters/>



Preconstruction Notification (PCN) Requirements:

A PCN is required for projects that do not meet all of the above requirements. In addition to the PCN requirements of General Condition #32, the PCN must include the following information:

- i. A statement indicating which of the above requirements will not be met by the proposed project;
- ii. Information as to why the use of such structures or measures would not be practicable;
- iii. A brief description of the stream discussing:
 - Site specific information (i.e. stream bed slope, type and size of stream bed material, stream type, existing natural or manmade barriers, etc.) assessed to determine appropriate culvert design and to ensure management of water flows and aquatic life movement.
 - Evaluation of the replacement for its impacts on: downstream flooding, upstream and downstream habitat (in-stream habitat, wetlands), potential for erosion and headcutting, and stream stability.
 - Flow/storm event the proposed culvert is designed to pass (2 year, 50 year, etc.)
- iv. Cross sections of the stream used to calculate the stream bed low point and ordinary high water width, consisting of:
 - Stream channel cross sections shall be taken at proximal locations to the crossing location to determine the average of the lowest points in elevation of the stream bed and the average width at ordinary high water.
 - For new crossing locations, the average values from at least three measurements (project location and straight sections of the stream upstream and downstream) shall be used.
 - For replacement of an existing structure, the average values from at least two cross sections (straight sections of the stream upstream and downstream from the existing structure representative of the natural channel) shall be used. Note: sections should

Buffalo & New York Districts Final Regional Conditions, Water Quality Certification and Coastal Zone Concurrence for the 2021 Nationwide Permits for New York State Effective February 25, 2022 - Expiration March 14, 2026

not be taken in the immediate vicinity of the structure as the channel width may be affected by the structure and not provide an accurate representation of the natural channel.

- This average low point shall be used to ensure low flow is maintained through the culvert and from which all embedment depths are measured.
 - If the above cross section method was not practicable to use, an alternative method may be utilized. The PCN shall include justification for the method used including the data used and an explanation as to how it provides an equivalent measure.
- v. An evaluation of the effects the crossing would have on aquatic life movement and/or water flows; and
- vi. Mitigation measures that will be employed to minimize these effects. Mitigation measures may include, but are not limited to baffles, weirs, roughened channels, and grade control structures

A variance of the requirement(s) will be issued by the Corps if it can be demonstrated that the proposal would meet General Conditions #2 & #9 and would result in a less environmentally damaging practicable alternative (e.g. If compliance with any of the requirement(s) would result in detrimental impacts to the aquatic system then an alternate design should be proposed and a variance request submitted which outlines how compliance with the general conditions will be met.).

2. ALL CULVERT REHABILITATION PROJECTS IN STREAMS, to the extent they are regulated, not including culvert replacement projects (See 1 above), shall be constructed in accordance with the following, in order to ensure compliance with NWP General Condition #2 – Aquatic Life Movement and #9 – Management of Water Flows:

- a. An evaluation of the existing culvert shall be conducted prior to the proposed culvert rehabilitation to determine if the existing culvert is in compliance with NWP GC #2 and #9. Specifically, the culvert shall be evaluated regarding its effect upon aquatic life movements and low/ high water flow. If the above requirements in General Regional Condition B. 1 (a)-(e) are met, then the culvert is considered in compliance with NWP General Conditions #2 & #9. (Potential evaluation methods to consider include: North Atlantic Aquatic Connectivity Collaborative (NAACC) (Note: Projects should not result in a reduction of the NAACC passability score by reducing passage or creating a barrier), US Forest Service Aquatic Organism Passage FishXing, etc.)
- b. A PCN is not required for projects that utilize cured-in-place pipe lining or other repair activities that do not raise the existing invert elevation such that it causes an impediment to the passage of either aquatic life movement or water flow, unless there is an existing impediment which will not be corrected by the proposed repair.
- c. A PCN is required for any culvert rehabilitation project that includes a culvert which is not in compliance with GC #2 and/or #9 (i.e. impedes aquatic life movement or water flow) and which will not be corrected by the proposed repair.
- d. A PCN is required for culvert rehabilitation projects which will involve pipe slip lining or other activities, including concrete invert paving and concrete lining that raise the existing invert elevation such that it causes an impediment to the passage of low flow or aquatic life movement. Slip lining is defined as the insertion of a smaller diameter pipe into an existing pipe by pulling pushing, or spiral winding.

Preconstruction Notification (PCN) Requirements:

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

Buffalo & New York Districts Final Regional Conditions, Water Quality Certification and Coastal Zone Concurrence for the 2021 Nationwide Permits for New York State Effective February 25, 2022 - Expiration March 14, 2026

- i. A summary of the evaluation required in Item a. above including average ordinary high water channel width and a discussion of the impediment(s) to aquatic life movement and/or water flow.
- ii. Information as to how the proposal will mitigate for the impediment. Mitigation measures may include, but are not limited to baffles, weirs, roughened channels, and grade control structures.

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

Edinger, G. J., D. J. Evans, S. Gebauer, T. G. Howard, D. M. Hunt, and A. M. Olivero (editors). 2014. *Ecological Communities of New York State*. Second Edition. A revised and expanded edition of Carol Reschke's *Ecological Communities of New York State*. New York Natural Heritage Program, New York State Department of Environmental Conservation, Albany, NY. This document is available at the following location: <https://www.nynhp.org/ecological-communities/>

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

G-E. For all proposals requiring a pre-construction notification (PCN), in addition to the requirements in General Condition 32, the applicant shall also include: (Note: the application will not be considered complete until all of the applicable information is received).

1. New York State/USACE Joint Application Form: The application form shall be completed and signed and shall clearly indicate that the submission is a PCN.

Buffalo District: <http://www.lrb.usace.army.mil/Missions/Regulatory/Application-Forms/>

New York District: <https://www.nan.usace.army.mil/Missions/Regulatory/Obtaining-a-Permit/>

2. Drawings: The PCN must include legible, project drawings on 8.5" x 11" paper. Full size drawings may be submitted in addition to the 8.5" x 11" plans to aid in the application review. Three types of illustrations are needed to properly depict the work to be undertaken. These illustrations or drawings are a Vicinity Map (i.e. a location map such as a USGS topographical map), a Plan View and a Cross-Section Map. Each illustration should identify the project, the applicant, and the type of illustration (vicinity map, plan view or cross section). The Vicinity Map shall provide the location of the entire project site. In addition, each illustration should be identified with a figure or attachment number. The location map shall include the Latitude and Longitude or UTM coordinates of the project. For linear projects, the PCN shall include a map of the entire project including a delineation of all waters of the U.S. within the corridor. Aquatic resource information shall be submitted using the Cowardin Classification System mapping conventions (e.g. PFO, PEM, etc.).

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

Buffalo & New York Districts Final Regional Conditions, Water Quality Certification and Coastal Zone Concurrence for the 2021 Nationwide Permits for New York State Effective February 25, 2022 - Expiration March 14, 2026

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

5. Mitigation (See General Conditions 23 & 32(b)(6)): The PCN should include at least a conceptual compensatory mitigation plan for all projects resulting in the loss of greater than 1/10th of an acre of wetlands and/or 3/100th of an acre of stream. Mitigation conceptual plans submitted with the PCN must include the following information at a minimum: proposed compensation type (bank or in-lieu fee credit, restoration, creation, preservation, etc.), location and brief discussion on factors considered for site selection (i.e. soils, water source, potential for invasive species, etc.), amount proposed per resource type and a discussion of how the proposal will compensate for aquatic resource functions and services lost as a result of the project.

Note 1: All mitigation projects must comply with the Federal Regulations on compensatory mitigation (33 CFR 332) entitled “Compensatory Mitigation for Losses of Aquatic Resources: Final Rule”, dated April 10, 2008, which is available at: https://www.usace.army.mil/Missions/Civil-Works/Regulatory-Program-and-Permits/mitig_info/ and any applicable District Guidelines.

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

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

Note 4: For additional information regarding natural stream channel design, please refer to <https://www.epa.gov/cwa-404/natural-stream-channel-design-techniques-and-review> for the Natural Stream Channel Design Techniques and Review Checklist as developed by U.S. EPA and U.S. Fish and Wildlife Service.

6. Nationwide Rivers Inventory: The PCN shall indicate if a river segment listed within the National Park Service Nationwide Rivers Inventory (NRI) is located within the proposed project area. [NRI river segments](#) are potential candidates for inclusion in the National Wild and Scenic River System (See General Condition #16). For project areas containing a listed NRI segment, the PCN shall also include a statement as to how adverse effects to the river have been avoided or mitigated. The list is available at: <http://www.nps.gov/ncrc/programs/rtca/nri/states/ny.html>.

7. Historic or Cultural Resources: In accordance with General Condition 20, a PCN is required for any non-federal activity which may have the potential to cause effects to any historic properties* listed, determined to be eligible for listing on, or potentially eligible for listing on the National Register of Historic Places (NR). Please refer to General Condition 20 for submission requirements. In addition, all PCNs should include:

- a) A written statement indicating if any such properties may be affected by the proposed project.
- b) A copy of any completed archaeology or building/structure survey reports. If a survey has not been performed, the statement shall include a list of resources checked in the determination.
- c) Copies of any available correspondence from the New York State Office of Parks, Recreation, and Historic Preservation State Historic Preservation Officer (SHPO) regarding historic properties.
- d) Copies of any available correspondence from federally recognized Indian Nations regarding historic properties that may be affected by the project.

Buffalo & New York Districts Final Regional Conditions, Water Quality Certification and Coastal Zone Concurrence for the 2021 Nationwide Permits for New York State Effective February 25, 2022 - Expiration March 14, 2026

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

* - see NWP definition section for further clarification

Note 1: Information regarding historic properties may be found at: <https://cris.parks.ny.gov>. In addition, assistance regarding the determination of the presence of historic or cultural resources at or near the project site should be directed to SHPO.

Note 2: As stated in General Condition 20, if any listed, eligible or potentially eligible properties are present, the applicant shall not begin the activity until notified by the district engineer in writing either that the activity has no potential to cause effects or that consultation under Section 106 of the NHPA has been completed.

8. Endangered Species and Essential Fish Habitat (EFH): In accordance with General Condition #18, non-federal applicants must submit a PCN if any listed species or designated critical habitat might be affected or is in the vicinity of the activity (See Note 2 below), or if the activity is located in designated critical habitat. Please refer to General Condition #18 for submission requirements. In addition, all PCNs must include:

1. a written statement and documentation concerning any Essential Fish Habitat (EFH) and any federally listed or proposed Threatened or Endangered (T&E) species or designated and/or proposed critical habitat that might be affected or located in the vicinity of the project (See Note 2 below).
2. an official T&E species list printed within 90 days of the PCN submission, and a copy of any correspondence from the U.S. Fish and Wildlife Service (USFWS) and/or National Oceanic and Atmospheric Administration Fisheries Service (NOAA-Fisheries), regarding the potential presence of T&E species on the project site. An applicant should use the USFWS Information for Planning and Consultation (IPAC) website (<https://ecos.fws.gov/ipac>) as the primary resource to determine if there may be listed Threatened or Endangered species. Information on NOAA-Fisheries (NMFS) species (both T&E and EFH) can be found at: <https://www.greateratlantic.fisheries.noaa.gov/>. Region-specific information on NMFS species (both T&E and EFH) can we found at: <https://www.fisheries.noaa.gov/new-england-mid-atlantic/habitat-conservation/essential-fish-habitat-consultations-greater-atlantic-region>. Region-specific ESA information can be found at: <https://www.fisheries.noaa.gov/topic/consultations#endangered-species-act-consultations>.
3. For projects where T&E species are listed, a discussion of potential T&E species habitat within the project site (See USFWS T&E website for species habitat information). <https://www.fws.gov/northeast/nyfo/es/section7.htm>
4. If there is potential habitat for any T&E species within the project site the following, as applicable, shall be submitted:

**Buffalo & New York Districts Final Regional Conditions, Water Quality Certification and Coastal Zone Concurrence for the 2021 Nationwide Permits for New York State
Effective February 25, 2022 - Expiration March 14, 2026**

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

Note 1: There are no known T&E species or EFH species under the jurisdiction of the NOAA-Fisheries (NMFS) within the Buffalo District. Therefore, all Buffalo District requests for information regarding the presence of T&E species should be directed to the USFWS. In addition, no EFH review is necessary within the following New York District counties: Clinton, Essex, Franklin, Fulton, Hamilton, Montgomery, Otsego, Schenectady, Schoharie and Warren.

Note 2: Please refer to the following websites for further guidance and information relating to regulatory permits & T&E species in New York, including protocols for defining 'vicinity' for the Indiana and Northern long-eared bats:

Buffalo District: <http://www.lrb.usace.army.mil/Missions/Regulatory/Endangered-Species/Endangered-Species-New-York/>

New York District: <https://www.nan.usace.army.mil/Missions/Regulatory/Nationwide-Permits/>

Note 3: General Condition #18 is emphasized, ... "For activities where the non-Federal applicant has identified listed species or critical habitat that might be affected or is in the vicinity of the activity, and has so notified the Corps, the applicant shall not begin work until the Corps has provided notification that the proposed activity will have "no effect" on listed species or critical habitat, or until ESA section 7 consultation has been completed. **If the non-Federal applicant has not heard back from the Corps within 45 days, the applicant must still wait for notification from the Corps.**"

Note 4: Where a PCN is required for Essential Fish Habitat consultation, refer to the following links for the Essential Fish Habitat Assessment Worksheet and Mapper utilized to inform the preparation of the worksheet:

- EFH Assessment Worksheet: <https://www.fisheries.noaa.gov/new-england-mid-atlantic/habitat-conservation/essential-fish-habitat-assessment-consultations>
- EFH Mapper: <https://www.habitat.noaa.gov/protection/efh/efhmapper/>

Note 5: Where information is required for submerged aquatic vegetation (SAV) in the permit area

Buffalo & New York Districts Final Regional Conditions, Water Quality Certification and Coastal Zone Concurrence for the 2021 Nationwide Permits for New York State Effective February 25, 2022 - Expiration March 14, 2026

or within 50 feet of the proposed work, please utilize the following map data:

- NYS Department of State SAV data: <http://opdgig.dos.ny.gov/#/search/SAV>
- NYS GIS Clearinghouse (for SAV data in the Hudson River):
<http://gis.ny.gov/gisdata/inventories/details.cfm?DSID=1209>
and <http://gis.ny.gov/gisdata/inventories/details.cfm?DSID=1350>

9. PCNs should be submitted electronically, if possible, in accordance with the instructions provided on the Districts' websites. When submitted by hard copy, without an electronic submission, then multiple copies of the PCN must be provided as follows:

- a) One (1) additional copy of the PCN package shall be provided to USACE for coordination with Department of Defense Siting Clearinghouse (See NWP # 39, 51, 52 & 57 Notes) for:
 - i. overhead utility lines proposed under NWP #57 and
 - ii. any activity that involves the construction of a wind energy generating structure, solar tower, or overhead transmission lines proposed under NWP #39, 51 or 52
- b) Two (2) additional copies of the PCN package shall be provided to USACE when the project is located within the New York City Watershed, for coordination with the New York City Department of Environmental Protection.
- c) Five (5) additional copies of the PCN package shall be submitted to USACE for agency coordination in accordance with General Condition # 32(d)(2) for:
 - i. All NWP activities that result in the loss of greater than 1/2-acre of waters of the United States,
 - ii. NWP 13 activities in excess of 500 linear feet, fills greater than one cubic yard per running foot, or involve discharges of dredged or fill material into special aquatic sites;
 - iii. NWP 54 activities in excess of 500 linear feet or that extend into the waterbody more than 30 feet from the mean low water line in tidal waters or the ordinary high water mark in the Great Lakes.

G-F. CRITICAL RESOURCE WATERS

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

Critical Resource Waters in New York State include the following:

1. **East-of-Hudson portion of the New York City Water Supply:** This area includes portions of Dutchess, Putnam and Westchester Counties as delineated on Enclosure 2.
2. **Hudson River National Estuarine Research Reserves (NERR):** The Hudson River NERR consists of four components: Piermont Marsh, Iona Island, Tivoli Bay, and Stockport Flats.

H. NYSDEC GENERAL WATER QUALITY CERTIFICATION (WQC) CONDITIONS APPLICABLE TO ALL NWPS FOR WHICH WQC HAS BEEN PROVIDED ARE AS FOLLOWS:

1. **Non-contamination of Waters** - All necessary precautions shall be taken to preclude contamination of any waters of the United States by suspended solids, resins, sediments, fuels, solvents, lubricants, epoxy coatings, paints, concrete, leachate, inadvertent returns of drilling muds ("frac-outs") or any other environmentally deleterious materials associated with the project.
2. **Installation and Replacement of Culverts** - To be covered under this blanket Water Quality Certification, all the following criteria must be met for culvert installations and replacements:

**Buffalo & New York Districts Final Regional Conditions, Water Quality Certification and Coastal Zone Concurrence for the 2021 Nationwide Permits for New York State
Effective February 25, 2022 - Expiration March 14, 2026**

- a. Culverts shall be designed to pass a storm event with an annual chance of 2% or less (i.e., 50-year storm event or greater) such that the water surface remains below the top of the inlet opening.
- b. All culverts with closed bottoms and culvert pipes must be appropriately embedded. Round culverts must be installed so that at least 20% of the culvert's vertical height is embedded below the existing stream bed at the outlet end of the culvert.
- c. Width of the structure must be a minimum of 1.25 times (1.25X) width of the Mean High-Water Channel.
- d. The slope of the stream bed within or under the culvert shall remain consistent with the slope of the adjacent stream channel. For slopes greater than 3%, an open bottom culvert must be used.
- e. This culvert must not be located under a roadway that provide sole access to "Critical Facilities"².
- f. This certification does not authorize culvert rehabilitation projects that involve slip lining, invert paving, or similar treatments.
- g. This certification does authorize the rehabilitation of culverts utilizing Cure in Place Pipe Lining (CIPP) or concrete spray lining for culverts which currently meet Nationwide Permit General Condition # 2 - Aquatic Life Movements.

²Critical Facilities are defined as facilities designed for bulk storage of chemicals, petrochemicals, hazardous or toxic substances or floatable materials; hospitals, rest homes, correctional facilities, dormitories, patient care facilities; major power generation, transmission or substation facilities, except for hydroelectric facilities; major communications centers, such as civil defense centers; or major emergency service facilities, such as central fire and police stations. (See 6 NYCRR Part 502.4(a)(17).)

3. **Discharges and Disturbances Limits** - The following discharge and disturbance limits apply to this certification:
 - a. For NWPs 5, 7, 13, 14, 15, 18, 19, 23, 25, 32, 34, 36, 37, 45, and 46, the following discharge limits apply:
 - i. Temporary or permanent discharges of dredged or fill material into wetlands and other waters of the United States must not exceed $\frac{1}{4}$ acre;
 - ii. Temporary or permanent impacts (i.e., loss) to stream beds, lake shorelines, and ocean shorelines must not exceed 300 linear feet; and
 - iii. The discharge area limit under paragraph (a) plus the equivalent stream, lake, or ocean impact area limit under paragraph (b) must not exceed $\frac{1}{4}$ acre total.
 - b. For NWPs 3, 4, 6, 20, 22, 27, 30, 31, 33, and 41, this certification authorizes discharges and disturbances up to the limit of the respective Nationwide Permit or regional conditions, whichever is most restrictive.
 - c. If a project requiring coverage under two or more Nationwide Permits results in a temporary or permanent discharge or disturbance, the most restrictive threshold applies to the project.
4. **Bulkheads** - Activities involving bulkheads are restricted as follows:
 - a. This certification does not authorize the construction of new bulkheads or vertical walls.
 - b. This certification does not authorize the waterward extension of existing bulkheads, except where minimally necessary to reface the bulkhead when in-place replacement is not feasible.
 - c. New toe-stone protection may not extend more than 36 inches waterward from the existing bulkhead face.
5. **Maintenance of Water Levels** - This certification does not authorize any activity that results in a permanent water level alteration in waterbodies, such as draining or impounding, except for activities authorized by NWP 27.
6. **Dewatering** - Dewatering activities must be conducted in the following manner:
 - a. Authorized dewatering is limited to immediate work areas that are within coffer dams or otherwise isolated from the larger waterbody or waters of the United States.

Buffalo & New York Districts Final Regional Conditions, Water Quality Certification and Coastal Zone Concurrence for the 2021 Nationwide Permits for New York State Effective February 25, 2022 - Expiration March 14, 2026

- b. Dewatering must be localized and must not drain extensive areas of a waterbody or reduce the water level such that fish and other aquatic organisms are killed, or their eggs and nests are exposed to desiccation, freezing or depredation in areas outside of the immediate work site.
 - c. Cofferdams or diversions shall not be constructed in a manner that causes or exacerbates erosion of the bed or banks of a waterbody.
 - d. All dewatering structures must be permanently removed, and disturbed areas must be graded and stabilized immediately following completion of work. Return flows from the dewatering structure shall be as visibly clear as the receiving waterbody.
7. **Horizontal and Directional Drilling** - For projects that involve horizontal or directional drilling, the permittee must prepare and implement a plan that addresses prevention, containment and cleanup of inadvertent drilling fluid returns or “frac-outs”.
8. **Endangered or Threatened Species** - This certification does not authorize discharges likely to result in the take or taking of any species listed as endangered or threatened in 6 NYCRR Part 182.5 (a) or (b) or discharges likely to destroy or adversely modify the habitat of such listed species. To be eligible for coverage under this certification, applicants must either verify that the activity is outside of the occupied habitat of such species or, if located within the habitat of such species, obtain a determination from the NYS Department of Conservation Regional Office that the proposed activity is not likely to result in the take or taking of any species listed as endangered or threatened species listed in 6 NYCRR Part 182. Information on New York State endangered or threatened species may be obtained from the NYS Department of Environmental regional offices, the New York Natural Heritage Program in Albany, New York or on the NYSDEC website at <https://www.dec.ny.gov/animals/38801.html>.
9. **Rare Mollusks** - This certification does not authorize disturbances or discharges to waters of the United States that support mollusks listed as S-1 or S-2 on the New York State Natural Heritage database, unless NYSDEC staff have determined that the project location does not contain mussels listed as S-1 or S-2 on the Natural Heritage database.
10. **Prohibition Period for In-water Work** - In-water work is prohibited in cold water trout fisheries (waterbodies classified under Article 15 of New York State Environmental Conservation Law with a "t" or "ts" designation), beginning October 1 and ending May 31.
- Water classification values can be found on the NYSDEC’s Environmental Resource Mapper available on the Department’s website at <https://gisservices.dec.ny.gov/gis/erm/>. Applicants may also contact the Regional Fisheries Manager in the appropriate New York State Department of Environmental Conservation regional office to determine the classification of the water body and whether the prohibition period applies.
11. **Significant Coastal Fish and Wildlife Habitats** - This certification does not authorize any discharge occurring in a designated Significant Coastal Fish and Wildlife Habitat area pursuant to 19 NYCRR Part 602 (NYCRR, Title 19, Chapter XIII, Waterfront Revitalization of Coastal Areas and Inland Waterways). <https://www.dos.ny.gov/opd/programs/consistency/scfwhabitats.html>
12. **Coastal Erosion Hazard Areas** - This certification does not authorize projects that disturb greater than ¼ acre or 300 linear feet of waters of the United States within mapped Coastal Erosion Hazard Areas, as identified in New York State Environmental Conservation Law Article 34, and its implementing regulations, 6 NYCRR Part 505. <https://www.dec.ny.gov/lands/86541.html>
13. **Federal Energy Regulatory Commission** - This certification does not authorize activities regulated by the United States Federal Energy Regulatory Commission (FERC). An individual Section 401 Water Quality Certification from NYSDEC is required for all projects regulated by FERC.
14. **Preventing the Spread of Aquatic Invasive Species** - To prevent the unintentional introduction or spread of invasive species, the permittee must ensure that all construction equipment be cleaned of mud, seeds, vegetation, and other debris before entering any approved construction areas within

**Buffalo & New York Districts Final Regional Conditions, Water Quality Certification and Coastal Zone Concurrence for the 2021 Nationwide Permits for New York State
Effective February 25, 2022 - Expiration March 14, 2026**

waters of the United States. When using construction equipment, projects authorized under this Certification shall take reasonable precautions to prevent the spread of aquatic invasive species as required under the provisions in ECL § 9-1710.

15. **Utility Projects** - The following restrictions and conditions apply to activities involving utility projects:
 - a. This certification does not authorize maintenance or other activities associated with hydroelectric power generation projects.
 - b. This certification does not authorize the construction of substation facilities or permanent access roads in wetlands or within the Federal Emergency Management Agency mapped 100-year floodplain.
 - c. Excess materials resulting from trench excavation must be permanently removed from the waters of the United States and contained so that they do not re-enter any waters of the United States.

16. **NYSDEC Emergency Authorizations** – This certification also applies to any regulated discharges to Waters of the U.S. covered under an NWP where NYSDEC makes a finding of emergency pursuant to New York States Uniform Procedures Act regulations at 6 NYCRR § 621.12. Such a finding may also, but is not required to, include NYSDEC emergency authorizations under ECL Article 15, Title 5 (Protection of Waters), Article 15, Title 27 (Wild, Scenic, and Recreational Rivers), Article 24 (Freshwater Wetlands), Article 25 (Tidal Wetlands) or Article 34 (Coastal Erosion Management). Where such certification is granted, only NYSDEC General WQC Conditions 1, 4, 5, and 6 shall apply.

17. **NYSDEC General Permits** – This certification also applies to any regulated discharges to Waters of the U.S. covered under an NWP where NYSDEC issues project authorization under a general permit pursuant to ECL Article 15, Title 5 (Protection of Waters), Article 15, Title 27 (Wild, Scenic, and Recreational Rivers), Article 24 (Freshwater Wetlands), Article 25 (Tidal Wetlands), or Article 34 (Coastal Erosion Management). Where such certification is granted, all other NYSDEC General WQC Conditions shall not apply.

18. **NYSDEC Individual Permits** – This certification also applies to any regulated discharges to Waters of the U.S. covered under an NWP where NYSDEC issues individual project authorization pursuant to ECL Article 15, Title 5 (Protection of Waters), Article 15, Title 27 (Wild, Scenic, and Recreational Rivers), Article 24 (Freshwater Wetlands), Article 25 (Tidal Wetlands), or Article 34 (Coastal Erosion Management). Where such certification is granted, all other NYSDEC General WQC Conditions shall not apply.

I. NEW YORK STATE DEPARTMENT OF STATE (NYSDOS) COASTAL ZONE MANAGEMENT CONSISTENCY DETERMINATION ADDITIONAL INFORMATION (APPLICABLE TO ALL NWPS LOCATED WITHIN OR AFFECTING THE NYS COASTAL ZONE):

Where NYSDOS has objected to the USACE consistency determination, as outlined in the specific NWP listing in Section B above, the applicant must submit a request for an individual consistency determination to NYSDOS.

Further Information:

- Unless NYSDOS issues consistency concurrence or USACE has determined that NYSDOS concurrence is presumed, NWPs are not valid within the Coastal Zone.

- All consistency concurrence determination requests must be submitted directly to NYSDOS with a copy provided to USACE with any required Preconstruction Notification submissions.

- Limits of the coastal zone and details regarding NYSDOS submission requirements, including application forms can be obtained at:

**Buffalo & New York Districts Final Regional Conditions, Water Quality Certification and Coastal Zone Concurrence for the 2021 Nationwide Permits for New York State
Effective February 25, 2022 - Expiration March 14, 2026**

<https://www.dos.ny.gov/opd/programs/consistency/index.html>.

- For additional information regarding the NYSDOS Coastal Zone Management program, their application forms, and requirements, please contact NYSDOS. See Section K for NYSDOS contact information.

J. INFORMATION ON NATIONWIDE PERMIT VERIFICATION

Verification of the applicability of these Nationwide Permits is valid until March 14, 2026, unless the Nationwide Permit is modified, suspended, revoked, or the activity complies with any subsequent permit modification.

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

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

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

**Buffalo & New York Districts Final Regional Conditions, Water Quality Certification and Coastal Zone Concurrence for the 2021 Nationwide Permits for New York State
Effective February 25, 2022 - Expiration March 14, 2026**

K. AGENCY CONTACT INFORMATION

NYS Board on Electric Generation Siting and the Environment (Siting Board)

Three Empire State Plaza
Albany, NY 12223-1350
(518) 949-0798
Email: Houtan.Moaveni@dps.ny.gov
www.dps.ny.gov/SitingBoard

NYS Department of Environmental Conservation
www.dec.ny.gov

NYS DEC REGION 1

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

NYS DEC REGION 2

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

NYS DEC REGION 3

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

NYS DEC REGION 4

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

NYS DEC REGION 4 Sub-Office

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

NYS DEC REGION 5

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

NYS DEC REGION 5 Sub-Office

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

NYS DEC REGION 6

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

NYS DEC REGION 6 Sub-Office

Deputy Regional Permit Administrator
207 Genesee Street, Room 1404
Utica, NY 13501-2885
(315) 793-2555

NYS DEC REGION 7

Regional Permit Administrator
615 Erie Blvd. West, Room 206
Syracuse, NY 13204-2400
(315) 426-7438

NYS DEC REGION 8

Regional Permit Administrator
6274 E. Avon - Lima Road
Avon, NY 14414-9519
(585) 226-5400

NYS DEC REGION 9

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

NYS DEC REGION 9 Sub-Office

Deputy Regional Permit Administrator
182 East Union Street, Suite 3
Allegany, NY 14706-1328
(716) 372-0645

NYS Department of Public Service (NYS DPS)

Three Empire State Plaza
Albany, NY 12223-1350
(518) 949-0798
Email: Houtan.Moaveni@dps.ny.gov
www.dps.ny.gov

**Buffalo & New York Districts Final Regional Conditions, Water Quality Certification and Coastal Zone Concurrence for the 2021 Nationwide Permits for New York State
Effective February 25, 2022 - Expiration March 14, 2026**

NYS Department of State (NYSDOS)

Office of Planning, Development
And Community Infrastructure
Consistency Review Unit
One Commerce Plaza
99 Washington Avenue, Suite 1010
Albany, NY 12231-00001
(518) 474-6000
Email: cr@dos.ny.gov
<https://www.dos.ny.gov/opd/programs/consistency/index.html>

NYS Office of Renewable Energy Siting (ORES)

Empire State Plaza
240 State Street
P-1 South, J Dock
Albany, NY 12242
(518) 949-0798
Email: Houtan.Moaveni@ores.ny.gov
www.ores.ny.gov

Saint Regis Mohawk Tribe

Water Resources Program
449 Frogtown Road
Akwesasne, NY 13655
www.srmt-nsn.gov

Seneca Nation

Environmental Protection Department
84 Iroquois Drive
Irving, NY 14081
(716) 532-2546

US Army Corps of Engineers

(For DEC Regions 1, 2 and 3)
US Army Corps of Engineers, NY District (NAN)
ATTN: Regulatory Branch, Room 16-406
26 Federal Plaza
New York, NY 10278-0090
For DEC Regions 1 & 2 - (917) 790-8511
For DEC Region 3 - (917) 790-8411
Email: CENAN-PublicNotice@usace.army.mil

(For DEC Regions 4, 5)
US Army Corps of Engineers, NY District (NAN)
Upstate Regulatory Field Office
ATTN: CENAN-OP-RU, Bldg. 10, 3rd Floor North
1 Buffington Street, Watervliet Arsenal
Watervliet, NY 12189-4000
(518) 266-6350 - Permits Processing Team
(518) 266-6360 - Compliance & Enforcement Team
Email: cenan.rfo@usace.army.mil

NAN Electronic Application Email:
CENAN-R-Permit-App@usace.army.mil

NAN website:
<http://www.nan.usace.army.mil/Missions/Regulatory/>

(For DEC Regions 6, 7, 8, 9)
**US Army Corps of Engineers,
Buffalo District (LRB)**

ATTN: Regulatory Branch
1776 Niagara Street
Buffalo, NY 14207-3199
(716) 879-4330

LRB Electronic Application Email:
LRB.NewYork.RegActions@usace.army.mil

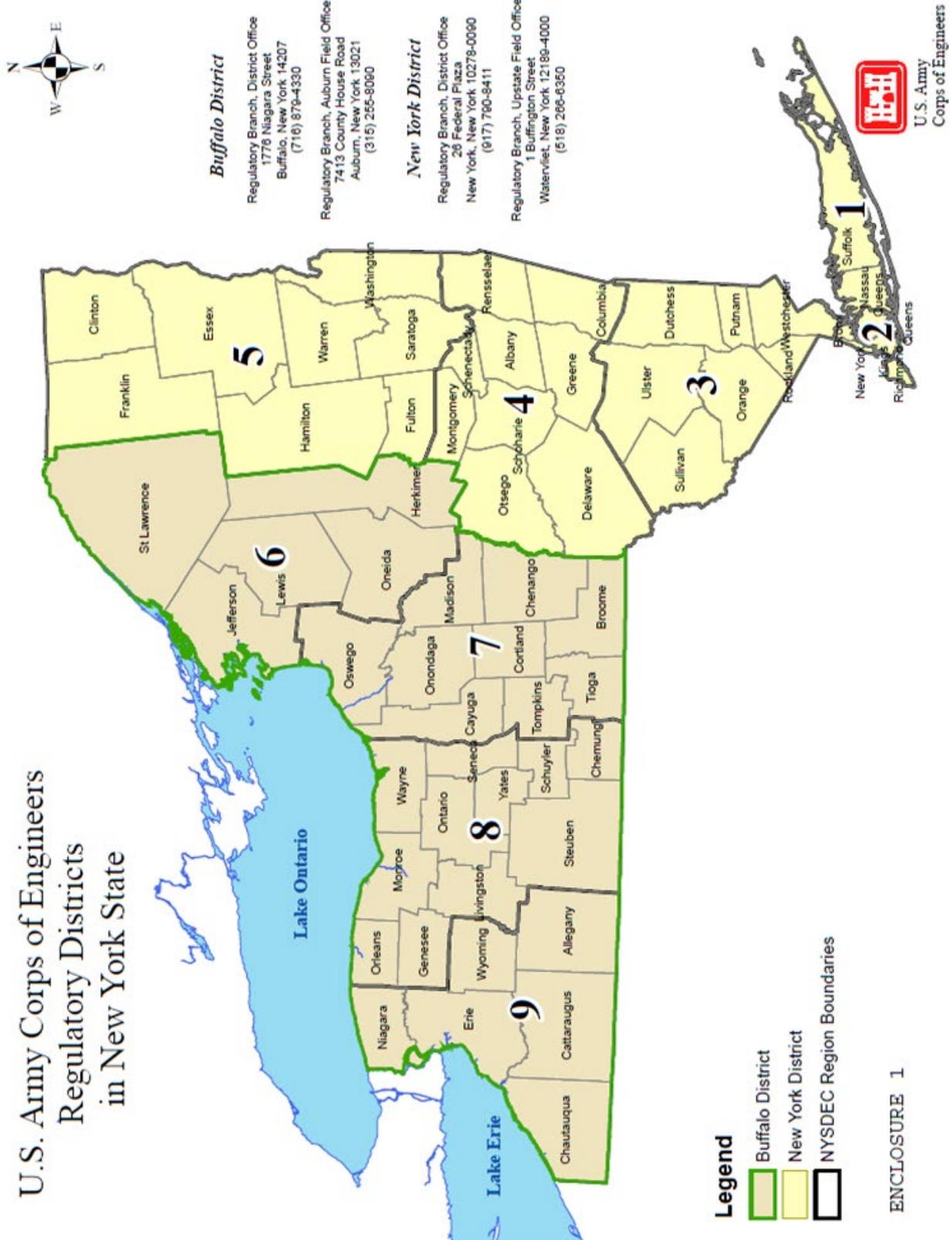
LRB website:
www.lrb.usace.army.mil/Missions/Regulatory/

US Environmental Protection Agency Region 2

Wetlands Protection Section
290 Broadway, 24th Floor
New York, NY 10007
212-637-3838
Email: Region2_CWA404@epa.gov

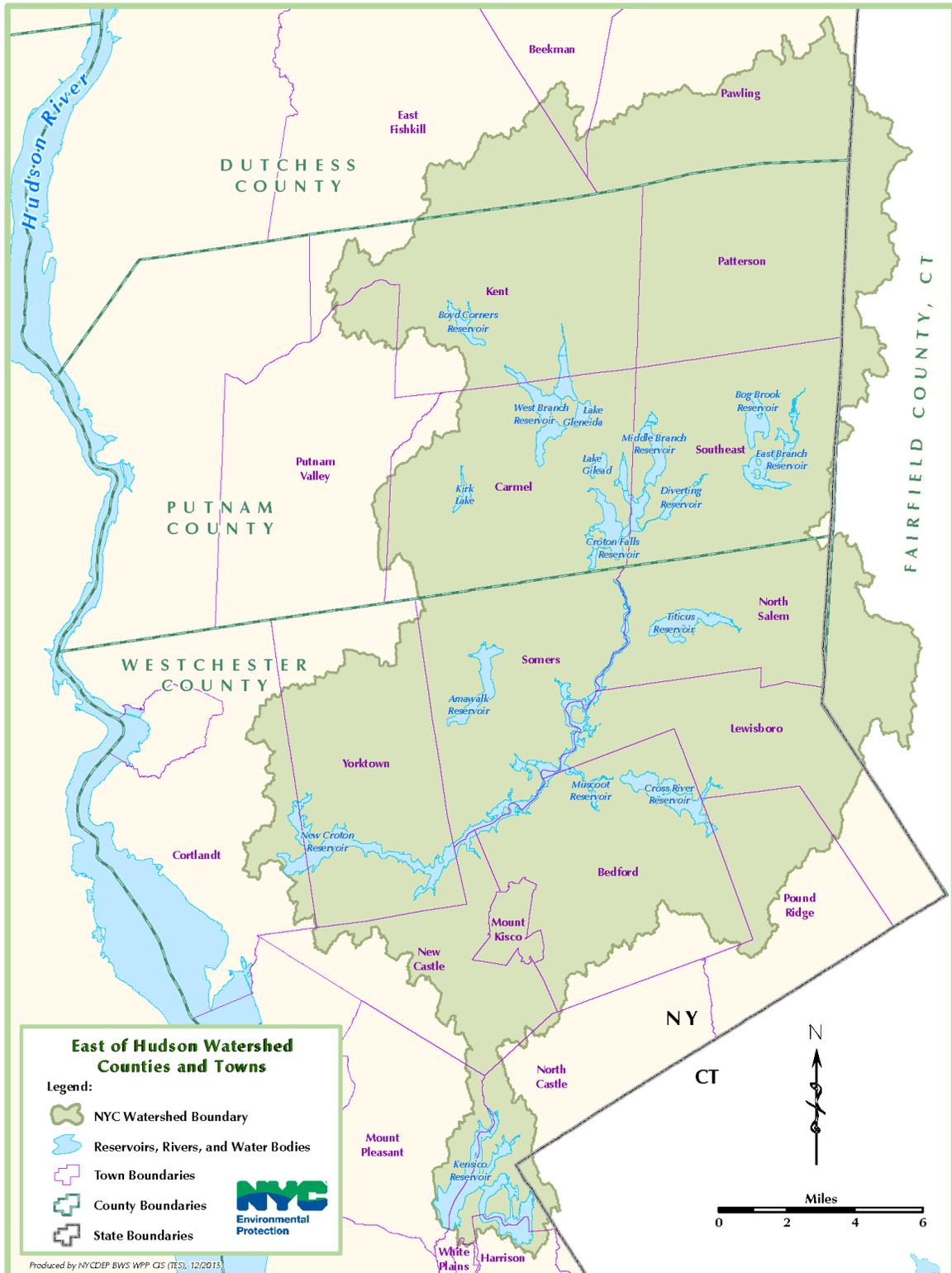
**Buffalo & New York Districts Final Regional Conditions, Water Quality Certification and Coastal Zone Concurrence for the 2021 Nationwide Permits for New York State
Effective February 25, 2022 - Expiration March 14, 2026**

ENCLOSURE 1



**Buffalo & New York Districts Final Regional Conditions, Water Quality Certification and Coastal Zone Concurrence for the 2021 Nationwide Permits for New York State
Effective February 25, 2022 - Expiration March 14, 2026**

ENCLOSURE 2



**Buffalo & New York Districts Final Regional Conditions, Water Quality Certification and Coastal Zone Concurrence for the 2021 Nationwide Permits for New York State
Effective February 25, 2022 - Expiration March 14, 2026**

ENCLOSURE 3



REPLY TO
ATTENTION OF

DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS, NEW YORK DISTRICT
JACOB K. JAVITS FEDERAL BUILDING
26 FEDERAL PLAZA
NEW YORK NEW YORK 10278-0090

REGULATORY BRANCH

Attn: _____

Commercial Mooring Buoy Application Additional Information

Permit Application Number NAN-_____

Company Name: _____ Phone: _____

Attn: _____

Address: _____

Initial Renewal

If Renewal, USCG Permit No. _____

Purpose: _____

LOCATION OF MOORING:

Anchorage: _____ Chart: _____ On Scene Depth (ft.): _____

Position*: _____ N _____ W

MOORING BUOY DATA:

No. of anchors: _____ Lbs. per anchor: _____ Type: _____

Chain size (in.): _____ Scope (yds.): _____

Pennant length (yds.): _____ Circ. /dia. (in.): _____ Type: _____

VESSEL/BARGE DATA:

Max size (LxBxD): _____ x _____ x _____ Max No. of barges: _____

Configuration (# abreast x # astern): _____ x _____ Watch circle** (yds.): _____

Swing Radius (yards): _____

* Please provide a copy of the NOAA chart showing your proposed mooring buoy location and the swing radius; also identify the Anchorage Ground, if applicable

** Watch Circle = $\sqrt{(\text{length of scope})^2 - (\text{water depth})^2}$
Swing Radius = (Watch circle) + (Barge(s) length astern) + (Pendant length(s)) + (10% of swing radius). You must maintain an additional 10% of your Swing Radius from any adjacent mooring buoy Swing Radius for safety and maneuvering.

