

NEW YORK STATE DEPARTMENT OF STATE
COASTAL MANAGEMENT PROGRAM

Federal Consistency Assessment Form

An applicant, seeking a permit, license, waiver, certification or similar type of approval from a federal agency which is subject to the New York State Coastal Management Program (CMP), shall complete this assessment form for any proposed activity that will occur within and/or directly affect the State's Coastal Area. This form is intended to assist an applicant in certifying that the proposed activity is consistent with New York State's CMP as required by U.S. Department of Commerce regulations (15 CFR 930.57). It should be completed at the time when the federal application is prepared. The Department of State will use the completed form and accompanying information in its review of the applicant's certification of consistency.

A. **APPLICANT** (please print)

1. Name: Town of Sandy Creek
2. Address: P. O. Box 52 , 1992 Harwood Drive, Sandy Creek, NY 13145
3. Telephone: Area Code (315) 387-5456

B. **PROPOSED ACTIVITY:**

1. Brief description of activity:

The proposed Richland/Sandy Creek Joint Water Project involves the installation of approximately 36 miles of new water main and approximately 645 service laterals. See Joint Application for Permit Exhibit 2, Project Description, for details.

2. Purpose of activity:

Expansion of municipal water service to areas within the Towns that are currently dependent on private wells for potable water.

3. Location of activity:

<u>Oswego</u>	<u>Sandy Creek, Richland</u>	<u>Multiple</u>
County	City, Town, or Village	Street or Site Description

4. Type of federal permit/license required: Section 404 Clean Water Act (Nationwide Permit #12)

5. Federal application number, if known: _____

6. If a state permit/license was issued or is required for the proposed activity, identify the state agency and provide the application or permit number, if known:

NYSDEC, NYSDOS, NYSDOT, NYSDOH

C. **COASTAL ASSESSMENT** Check either "YES" or "NO" for each of these questions. The numbers following each question refer to the policies described in the CMP document (see footnote on page 2) which may be affected by the proposed activity.

1. Will the proposed activity result in any of the following: YES/NO

- a. Large physical change to a site within the coastal area which will require the preparation of an environmental impact statement? (11, 22, 25, 32, 37, 38, 41, 43)
- b. Physical alteration of more than two acres of land along the shoreline, land under water or coastal waters? (2, 11, 12, 20, 28, 35, 44)
- c. Revitalization/redevelopment of a deteriorated or underutilized waterfront site? (1)
- d. Reduction of existing or potential public access to or along coastal waters? (19, 20)
- e. Adverse effect upon the commercial or recreational use of coastal fish resources? (9,10)
- f. Siting of a facility essential to the exploration, development and production of energy resources in coastal waters or on the Outer Continental Shelf? (29)
- g. Siting of a facility essential to the generation or transmission of energy? (27)
- h. Mining, excavation, or dredging activities, or the placement of dredged or fill material in coastal waters? (15, 35)
- i. Discharge of toxics, hazardous substances or other pollutants into coastal waters? (8, 15, 35)
- j. Draining of stormwater runoff or sewer overflows into coastal waters? (33)
- k. Transport, storage, treatment, or disposal of solid wastes or hazardous materials? (36, 39)
- l. Adverse effect upon land or water uses within the State's small harbors? (4)

2. Will the proposed activity affect or be located in, on, or adjacent to any of the following: YES/NO

- a. State designated freshwater or tidal wetland? (44)
- b. Federally designated flood and/or state designated erosion hazard area? (11, 12, 17)
- c. State designated significant fish and/or wildlife habitat? (7)
- d. State designated significant scenic resource or area? (24)
- e. State designated important agricultural lands? (26)
- f. Beach, dune or Barrier Island? (12)
- g. Major ports of Albany, Buffalo, Ogdensburg, Oswego or New York? (3)
- h. State, county, or local park? (19, 20)
- i. Historic resource listed on the National or State Register of Historic Places? (23)

3. Will the proposed activity require any of the following: YES/NO

- a. Waterfront site? (2, 21, 22)
- b. Provision of new public services or infrastructure in undeveloped or sparsely populated sections of the coastal area? (5)
- c. Construction or reconstruction of a flood or erosion control structure? (13, 14, 16)
- d. State water quality permit or certification? (30, 38, 40)
- e. State air quality permit or certification? (41, 43)

4. Will the proposed activity occur within and/or affect an area covered by a State-approved local waterfront revitalization program, or State-approved regional coastal management program? (see policies in program document*)

D. ADDITIONAL STEPS

1. If all of the questions in Section C are answered "NO", then the applicant or agency shall complete Section E and submit the documentation required by Section F.
2. If any of the questions in Section C are answered "YES", then the applicant or agent is advised to consult the CMP, or where appropriate, the local waterfront revitalization program document*. The proposed activity must be analyzed in more detail with respect to the applicable state or local coastal policies. On a separate page(s), the applicant or agent shall: (a) identify, by their policy numbers, which coastal policies are affected by the activity, (b) briefly assess the effects of the activity upon the policy; and, (c) state how the activity is consistent with each policy. Following the completion of this written assessment, the applicant or agency shall complete Section E and submit the documentation required by Section F.

E. CERTIFICATION

The applicant or agent must certify that the proposed activity is consistent with the State's CMP or the approved local waterfront revitalization program, as appropriate. If this certification cannot be made, the proposed activity shall not be undertaken. If this certification can be made, complete this Section.

"The proposed activity complies with New York State's approved Coastal Management Program, or with the applicable approved local waterfront revitalization program, and will be conducted in a manner consistent with such program."

Applicant/Agent's Name: Grete L. Day (agent for applicant)

Address: 443 Electronics Parkway, Liverpool, NY 13088

Telephone: Area Code (315) 457-5200

Applicant/Agent's Signature: _____ Date: _____

F. SUBMISSION REQUIREMENTS

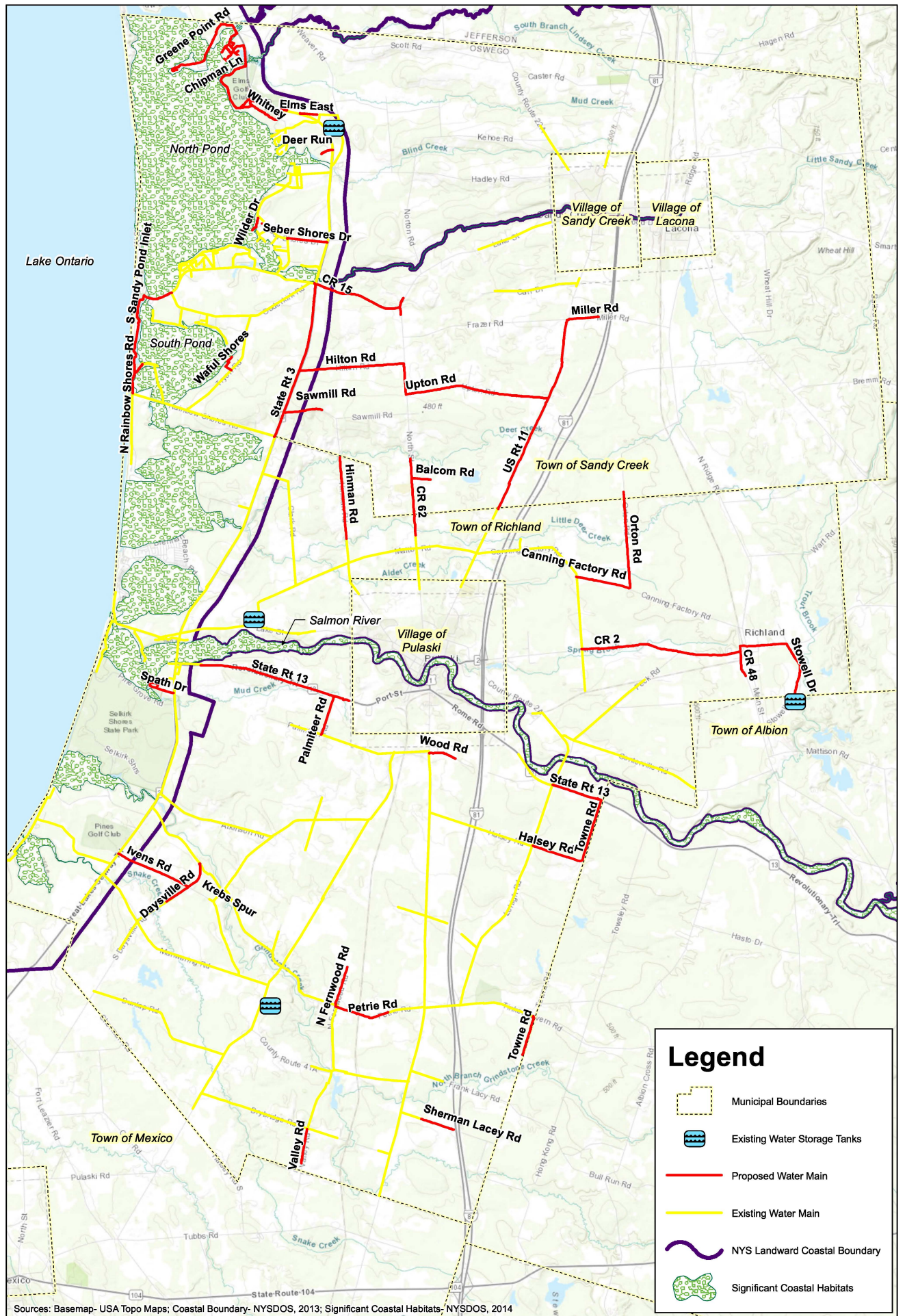
1. The applicant or agent shall submit the following documents to the **New York State Department of State, Office of Planning and Development, Attn: Consistency Review Unit, One Commerce Plaza-Suite 1010, 99 Washington Avenue, Albany, New York 12231.**

- a. Copy of original signed form.
- b. Copy of the completed federal agency application.
- c. Other available information which would support the certification of consistency.

2. The applicant or agent shall also submit a copy of this completed form along with his/her application to the federal agency.

3. If there are any questions regarding the submission of this form, contact the Department of State at (518) 474-6000.

*These state and local documents are available for inspection at the offices of many federal agencies, Department of environmental Conservation and Department of State regional offices, and the appropriate regional and county planning agencies. Local program documents are also available for inspection at the offices of the appropriate local government.



Sources: Basemap- USA Topo Maps; Coastal Boundary- NYSDOS, 2013; Significant Coastal Habitats- NYSDOS, 2014

Legend

- Municipal Boundaries
- Existing Water Storage Tanks
- Proposed Water Main
- Existing Water Main
- NYS Landward Coastal Boundary
- Significant Coastal Habitats

Exhibit 10 – Coastal Consistency Assessment Richland-Sandy Creek Joint Water Project

Section D.2. Additional Information

Questions in Section C that were answered “yes” and their corresponding policies are discussed below in further detail.

C.2.a. State designated freshwater or tidal wetlands:

- ***Policy 44*** – *Preserve and protect tidal and freshwater wetlands and preserve the benefits derived from these areas.*

No tidal wetlands, as regulated under Article 25 of the New York State Environmental Conservation Law (ECL), are located within the proposed project area. The proposed water main project will be located within or adjacent to mapped NYSDEC freshwater wetlands protected under Article 24 of the ECL. All impacts associated with the installation of water main within these wetlands and their associated 100-foot adjacent areas will be temporary in nature. Water mains crossing wetlands that are located within the bog turtle area of concern will be installed via horizontal directional drilling. All other wetland crossings within the Project Area are proposed to be installed using trench excavation. During trench excavation within wetlands, the upper 6 to 12 inches of topsoil will be stockpiled separately from the remaining spoils, and will be replaced during backfill operations. In addition, trench blocks will be installed at the end of wetland crossings (and every 100 feet within the wetland, if applicable) to prevent the trench from draining the wetland. After the new water mains are installed, temporarily disturbed areas will be restored to their pre-construction grades and re-seeded for stabilization. No permanent impacts to wetlands will occur as a result of the proposed project. This Joint Application for Permit includes a request to the NYSDEC for permit coverage under Article 24 for the proposed temporary disturbances to state-regulated wetlands and their 100-foot adjacent areas.

C.2.b. Federally designated flood and/or state designated erosion hazard area:

- ***Policy 11*** – *Buildings and other structures will be sited in the coastal area so as to minimize damage to property and the endangering of human lives caused by flooding and erosion.*
- ***Policy 12*** – *Activities or development in the coastal area will be undertaken so as to minimize damage to natural resources and property from flooding and erosion by protecting natural protective features including beaches, dunes, barrier islands and bluffs.*
- ***Policy 17*** – *Non-structural measures to minimize damage to natural resources and property from flooding and erosion shall be used whenever possible.*

The proposed project only involves the installation of new water mains and services and associated appurtenances, which will be installed subsurface. No new buildings or permanent structures will be constructed for the project. The Project Area intersects 100-year and 500-year floodplains mapped by the Federal Emergency Management Agency (FEMA) in multiple locations. Floodplains within the Project Area are associated with the following waterways: North Pond, South Pond, Skinner Creek, Lindsey

Exhibit 10 – Coastal Consistency Assessment Richland-Sandy Creek Joint Water Project

Creek, a Trib. of South Pond, Little Deer Creek, tributaries of Little Deer Creek, and the Salmon River. The new water main will be installed subsurface. Temporary impacts to floodplains will occur in areas of open-trench water main installation, but all areas of soil disturbance will be restored to their pre-construction contours and will be re-seeded for stabilization. No permanent impacts to floodplains will result from the project.

A portion of the proposed new water main is located within a designated Coastal Erosion Hazard Area along the shore of Lake Ontario. Specifically, these areas are located on N Rainbow Shores Rd, S Sandy Pond Inlet, and County Rt 15 at S Sandy Pond Inlet. The approximate Natural Protective Feature Area boundary of this CEHA, based on PDF mapping provided by the NYSDEC, is included on the design plans (sheets C-126 through C-128, Exhibit 4). A total of approximately 4,009 linear feet of water main is proposed to be installed within the Natural Protective Feature Area boundary. The majority of water main in this location will be installed within roadways or along the road right of ways along residential properties, which have been previously disturbed. In addition, water main will be installed subsurface and the original grades will be restored upon project completion. The proposed water main alignment between N Rainbow Shores Rd and S Sandy Pond Inlet Rd includes a backlot crossing along an existing overhead utility corridor to connect the water main along these two roadways. Water main within this backlot crossing will be partially installed beneath a sand dune on the shore of Lake Ontario. In this location, the water main is proposed to be installed via horizontal directional drilling. No excavation within the undeveloped dune area is proposed. It is noted that service laterals will be installed to connect the new water main to private properties within this backlot crossing, but this will require only a small amount of temporary disturbance and will occur on existing seasonal residential properties. A Stormwater Pollution Prevention Plan (SWPPP) will be developed for the project and followed during construction. Erosion and sediment control measures outlined in the SWPPP, such as silt fencing or fiber rolls along areas of disturbance, will be used during construction to minimize erosion associated with temporary soil disturbance.

C.2.c. – State designated significant fish and/or wildlife habitat:

- ***Policy 7*** – *Significant coastal fish and wildlife habitats will be protected, preserved, and, where practical, restored so as to maintain their viability as habitats.*

Three significant coastal fish and wildlife habitat areas are located adjacent to or within the Project Area. North and South Sandy Ponds, Sandy Pond Tributaries, and the Salmon River were designated as significant habitat areas on October 15, 1987. North and South Pond and their associated tributaries and wetland complexes comprise one of the largest bay ecosystems on Lake Ontario and support a wide range of fish and wildlife species. The Salmon River is the largest cold water tributary to the Great Lakes in New York State.

The water main is proposed to be installed within road right of ways in the vicinity of these significant habitat areas. No disturbances to North Pond, South Pond, or the Salmon River are proposed. The new water main is proposed to cross a tributary of South Pond on County Rt 15 (just east of S Sandy Pond

Exhibit 10 – Coastal Consistency Assessment Richland-Sandy Creek Joint Water Project

Inlet Rd), as well as Skinner Creek and Lindsey Creek on State Route 3 (both are tributaries to North Pond). All three of these stream crossings will be installed via horizontal directional drilling, which will not result in any impacts to the streams.

C.2.e. – State designated important agricultural lands:

- **Policy 26** – *Conserve and protect agricultural lands in the State’s coastal area.*

Portions of the proposed project are located in Oswego County Agricultural District 11. A Final Notice of Intent was submitted to the NYS Department of Agriculture and Markets (NYSDAM). The NYSDAM provided a letter dated September 26, 2018 indicating that the NOI was complete. Further coordination with the NYSDAM will be completed in order to obtain an approval letter prior to construction.

C.2.f. – Beach, dune, or Barrier Island:

- **Policy 12** – *Activities or development in the coastal area will be undertaken so as to minimize damage to natural resources and property from flooding and erosion by protecting natural protective features including beaches, dunes, barrier islands and bluffs.*

The Project Area along N Rainbow Shores Rd and S Sandy Pond Inlet Rd includes a backlot crossing to connect the new water main along these two roadways, and water main within this backlot area will be partially installed beneath a sand dune on the shore of Lake Ontario. In this location, the water main is proposed to be installed via horizontal directional drilling. No excavation within the undeveloped dune area is proposed. It is noted that service laterals will be installed to connect the new water main to existing seasonal residential properties within this backlot crossing, but this will require only a small amount of temporary disturbance and will occur on previously developed properties. A Stormwater Pollution Prevention Plan (SWPPP) will be developed for the project and followed during construction. Erosion and sediment control measures outlined in the SWPPP, such as silt fencing or fiber rolls along areas of disturbance, will be used during construction to minimize erosion associated with temporary soil disturbance.

C.2.h. – State, county, or local park:

- **Policy 19** – *Protect, maintain, and increase the level and types of access to public water related recreation resources and facilities.*
- **Policy 20** – *Access to the publicly-owned foreshore and to lands immediately adjacent to the foreshore or the water’s edge that are publicly-owned shall be provided and it shall be provided in a manner compatible with adjoining uses.*

The project involves the installation of new water main along County Rt 15 and S Sandy Pond Inlet Rd, which partially intersect a parcel that is part of Sandy Island Beach State Park. The new water main will be installed within existing roadways or road right of ways in these locations. Construction activities will be temporary, and access to Sandy Island Beach State Park will be maintained throughout the duration

Exhibit 10 – Coastal Consistency Assessment Richland-Sandy Creek Joint Water Project

of construction. The project is not expected to adversely impact the public's access to the park and its recreational resources. In addition, work areas near the park are within the piping plover zone (1,000 meters from the Lake Ontario shoreline) and all work in this zone will be completed between September 1 and March 31 (outside of the piping plover's breeding season). This timing will also avoid the summer months when the park would be busiest, resulting in fewer disruptions to park visitors.

C.2.i. – Historic resource listed on the National or State Register of Historic Places:

- **Policy 23** – *Protect, enhance, and restore structures, districts, areas or sites that are of significance in the history, architecture, archeology or culture of the State, its communities, or the Nation.*

The New York State Historic Preservation Office (SHPO) was consulted regarding potential impacts to cultural and historic resources related to this project. The Project Area is within archaeological sensitive areas designated by the SHPO. Due to the proximity of the Project Area to potential archaeological resources, the SHPO recommended that a Phase 1 Cultural Resource Investigation be performed. A Phase 1A Cultural Resource Investigation was completed in October 2017, which concluded that Phase 1B testing was required for portions of the Project Area. A Phase 1B Cultural Resource Investigation was completed for the Project Area in January 2019, which did not identify any archaeological sites within the Project Area and that no further archaeological testing was warranted for the project. The SHPO provided a letter dated February 6, 2019 which concluded that they concurred with the conclusions of the Phase 1B Investigation and that the project would have no impact on cultural or historic resources.

C.3.b. – Provision of new public services or infrastructure in undeveloped or sparsely populated sections of the coastal area:

- **Policy 5** – *Encourage the location of development in areas where public services and facilities essential to such development are adequate.*

The installation of water main is not expected to result in the development of natural areas in the coastal zone. The properties to be served by the new water system within the coastal zone are already developed (most are seasonal residential properties). Water main will be installed subsurface, and the project will not result in any permanent changes in land use.

C.3.d. – State water quality permit or certification:

- **Policy 30** – *Municipal, industrial, and commercial discharges of pollutants, including but not limited to, toxic and hazardous substances, into coastal waters will conform to State and National water quality standards.*
- **Policy 38** – *The quality and quantity of surface water and groundwater supplies will be conserved and protected, particularly, where such waters constitute the primary or sole source of water supply.*

Exhibit 10 – Coastal Consistency Assessment Richland-Sandy Creek Joint Water Project

- ***Policy 40*** – *Effluent discharge from major steam electric generating and industrial facilities into coastal waters will not be unduly injurious to fish and wildlife and shall conform to State water quality standards.*

The project does not involve the discharge of pollutants into coastal waters (Policy 30) or any effluent discharge into coastal waters (Policy 40). The project involves temporary disturbances to wetlands and streams that are federally regulated under Section 404 of the Clean Water Act, and therefore also requires Section 401 Water Quality Certification from the NYSDEC. The project will require an Individual Water Quality Certification from the NYSDEC under Section 401 of the Clean Water Act. Open-trench excavation installation of water main will temporarily disturb approximately 1.021 acres of wetlands (exceeding the 0.25 acre threshold in General Condition No. 3), and blanket Water Quality Certification cannot authorize projects within a Coastal Erosion Hazard Area (General Condition No. 11). The project will abide by all other general conditions outlined in the Section 401 Blanket Water Quality Certification in order to minimize adverse impacts to water quality. Part of the project involves structural upgrades to three existing wells at the Town of Richland's Schoeller Well Site, and bringing one of these wells into service as a backup water supply source, resulting in a minor additional groundwater withdrawal. The well site is not within the NYS Coastal Boundary.