PUBLIC NOTICE

US Army Corps
of Engineers
New York District
Jacob K. Javits Federal Building
New York, N.Y. 10278-0090
ATTN: Regulatory Branch

In replying refer to:
Public Notice Number: NAN-2008-00359-WDE
Issue Date: May 07, 2009
Expiration Date: N/A

The U.S. Army Corps of Engineers announces the issuance of a

REGIONAL GENERAL PERMIT

Authorizing activities in waters of the United States to facilitate the remediation of sites that are damaged from major storms that result in a Federal and/or State disaster declaration. It applies to waters of the United States that lie within the jurisdiction of the New York District (see attached map – Enclosure 1) in the specific towns or counties in New York State that are identified in the disaster declaration.

What is a general permit?

A general permit is a blanket authorization for construction in waters of the United States, including navigable waters, that substantially reduces the time needed by the Corps to process applications for activities that cause only minimal individual and cumulative environmental impacts, when those activities are substantially similar in nature. This allows adequate control of minor construction while avoiding the more lengthy and time-consuming processing required to issue an individual permit.

What does this general permit authorize?

This general permit authorizes the installation of structures and dredging in navigable waters and the discharge of dredged or fill material, including discharges associated with excavation activities, into waters of the United States to facilitate the remediation of sites that are damaged from major storms that result in a Federal and/or State disaster declaration. Activities that are authorized include the installation of structures or placement of fill material used to facilitate the repair or replacement of collapsed roads or other structures or fills which failed as a result of the storm event (i.e. rip-rap, culverts, abutments, etc.); dredging or the placement of fill material for the restoration and protection of stream bed and banks damaged as a result of the storm event (i.e. rip-rap, rock vanes, cross vanes, etc.); the placement of fill material to facilitate the construction of temporary access roads and/or staging areas at work sites and cofferdams to temporarily dewater a work site. Although the overall expiration date of this general permit is April 21, 2014, each project authorized under the general permit must be completed within one year of the date of the Federal and/or State disaster declaration, whichever is later. Extensions may be granted on a case-by-case basis. This general permit may be used in conjunction with the Nationwide Permit Program.

Are there any restrictions to this permit?

This general permit does not authorize any channelization, channel widening, deepening or straightening activity that contributes to stream instability; this general permit does not authorize the permanent loss of mudflats, vegetated shallows, or submerged aquatic vegetation; and this general permit cannot be used to reclaim historic lands lost, over an extended period, to normal erosion processes. In addition, applicants must comply with all of the general and special permit conditions that can be found on the attached copy of the general permit (Enclosure 2).

How can I find out if my work is covered under this permit?

The conditions of the attached general permit, specifically special conditions 5, 6, 7, 8, 16, 18, 20, 29 and 43, outline which projects do or do not require notification and written approval from the Corps of Engineers prior to the commencement of work. In addition, the attached table (Enclosure 3) summarizes which activities do and do not require notification to the New York District. If you are uncertain as to whether or not you may proceed under the terms and conditions of the general permit, it is recommended that you contact the appropriate New York District office as soon as possible for a determination. The general permit indicates which District office to contact for your particular geographic area.

It is the intent of this general permit to save both time and paperwork for those applying. The Corps is developing procedures that will insure that all applications are reviewed with dispatch, and that those proposals meeting the terms and conditions of this permit will be authorized as quickly as possible. Nevertheless, all applications should be accurately filled out so that they can be promptly reviewed.

For more information on New York District Corps of Engineers programs, visit our website at http://www.nan.usace.army.mil

FOR THE DISTRICT ENGINEER:

Richard L. Tomer
Chief, Regulatory Branch

Enclosures

Corps of Engineers

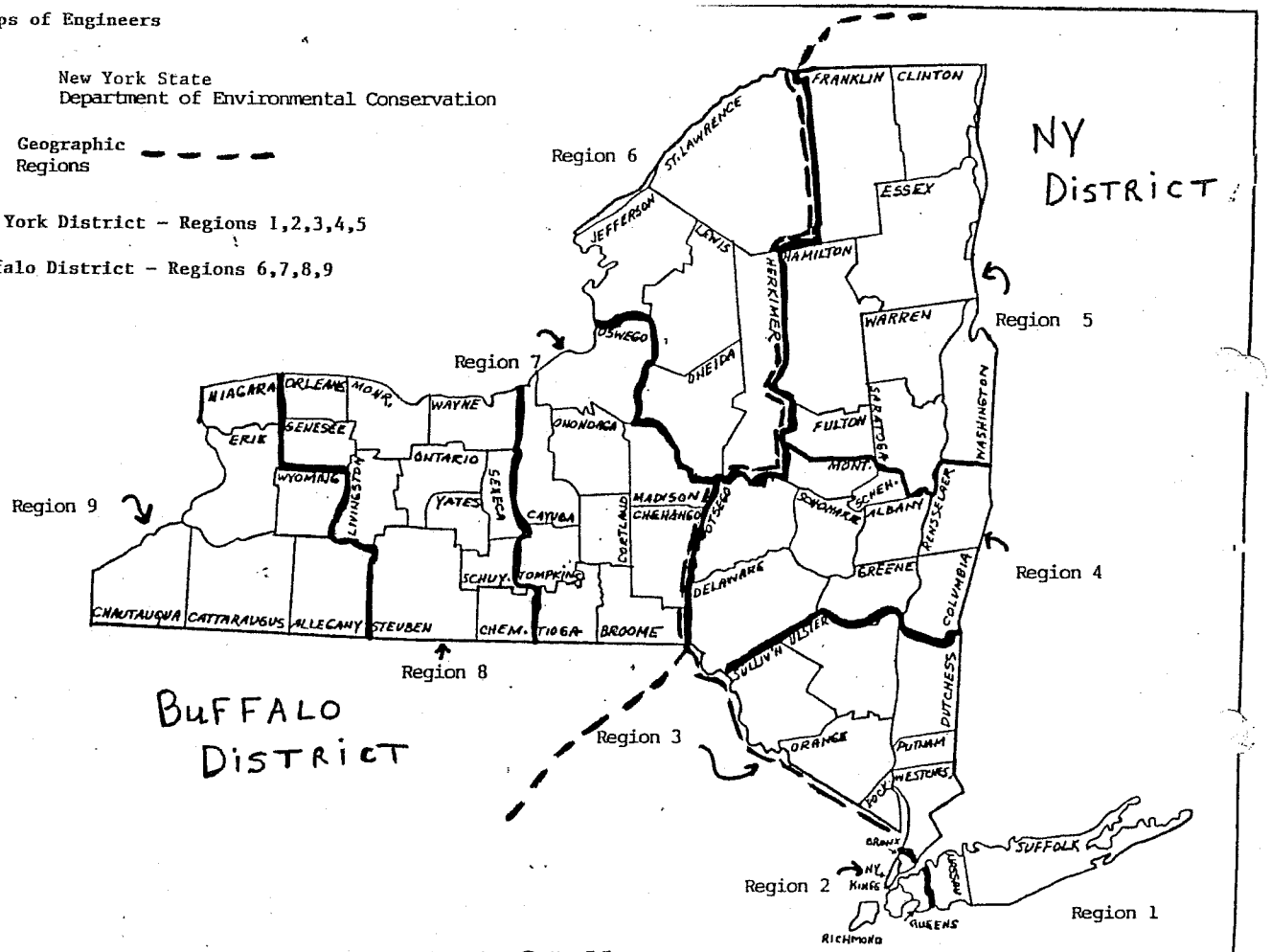
and

New York State
Department of Environmental Conservation

Geographic
Regions

New York District - Regions 1,2,3,4,5

Buffalo District - Regions 6,7,8,9



NEW YORK

Figure 1 of 2

APR 2 1 2009

Enclosure 1

DEPARTMENT OF THE ARMY PERMIT

Permittee:

Permit No.: NYDGP-15

APR 2 1 2009

Issuing Office: New York District Corps of Engineers

NOTE: The term "you" and its derivatives, as used in this permit, means the permittee or any future transferee. The term "this office" refers to the appropriate district or division office of the Corps of Engineers having jurisdiction over the permitted activity or the appropriate official of that office acting under the authority of the commanding officer.

You are authorized to perform work in accordance with the terms and conditions specified below.

Project Description:

Install structures and dredge in navigable waters, and discharge dredged or fill material, including discharges associated with excavation activities, into waters of the United States to facilitate the remediation of sites that are damaged from major storms that result in a Federal and/or State disaster declaration. The attached document describes the specific terms and Special Permit Conditions for this permit.

Project Location: Navigable waters and waters of the United States that lie within the jurisdiction of the New York District in New York State (see attached map), including the Fort Drum Military Reservation.

Permit Conditions:

General Conditions:

1. The time limit for completing the work authorized ends one year from the date of the Federal and/or State disaster declaration or the date of a verification letter from the New York District, whichever is later. If you find that you need more time to complete the authorized activity, submit your request for a time extension to this office for consideration at least one month before the above date is reached.

2. You must maintain the activity authorized by this permit in good condition and in conformance with the terms and conditions of this permit. You are not relieved of this requirement if you abandon the permitted activity, although you may make a good faith transfer to a third party in compliance with General Condition 4 below. Should you wish to cease to maintain the authorized activity or should you desire to abandon it without a good faith transfer, you must obtain a modification of this permit from this office, which may require restoration of the area.

3. If you discover any previously unknown historic or archeological remains while accomplishing the activity authorized by this permit, you must immediately notify this office of what you have found. We will initiate the Federal and state coordination required to determine if the remains warrant a recovery effort or if the site is eligible for listing in the National Register of Historic Places.

4. If you sell the property associated with this permit, you must obtain the signature of the new

Enclosure 2

owner in the space provided and forward a copy of the permit to this office to validate the transfer of this authorization.

5. If a conditioned water quality certification has been issued for your project, you must comply with the conditions specified in the certification as special conditions to this permit. For your convenience, a copy of the certification is attached if it contains such conditions.

6. You must allow representatives from this office to inspect the authorized activity at any time deemed necessary to ensure that it is being or has been accomplished in accordance with the terms and conditions of your permit.

Special Conditions:

SEE ATTACHED SHEETS FOR SPECIAL CONDITIONS "1" THROUGH "41".

Further Information:

1. Congressional Authorities: You have been authorized to undertake the activity described above pursuant to:

(X) Section 10 of the Rivers and Harbors Act of 1899 (33 U.S. Code 403).

(X) Section 404 of the Clean Water Act (33 U.S. Code 1344).

( ) Section 103 of the Marine Protection, Research and Sanctuaries Act of 1972 (33 U.S.C. 1413).

2. Limits of this authorization:

a. This permit does not obviate the need to obtain other Federal, state, or local authorizations required by law.

b. This permit does not grant any property rights or exclusive privileges.

c. This permit does not authorize any injury to the property or rights of others.

d. This permit does not authorize interference with any existing or proposed Federal project.

3. Limits of Federal Liability: In issuing this permit, the Federal Government does not assume any liability for the following:

a. Damages to the permitted project or uses thereof as a result of other permitted or unpermitted activities or from natural causes.

b. Damages to the permitted project or uses thereof as a result of current or future activities undertaken by or on behalf of the United States in the public interest.

c. Damages to persons, property, or to other permitted or unpermitted activities or structures caused by the activity authorized by this permit.

d. Design or construction deficiencies associated with the permitted work.

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

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

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

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

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

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

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

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

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

21 APR 2009

(DISTRICT ENGINEER) (DATE)

Aniello L. Tortora
Colonel, U.S. Army
District Engineer

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

(TRANSFEREE) (DATE)

EFFECTIVE DATE: APR 2 1 2009 (NYDGP-15)

EXPIRATION DATE: APR 2 1 2014

DEPARTMENT OF THE ARMY
NEW YORK DISTRICT CORPS OF ENGINEERS
REGIONAL GENERAL PERMIT AUTHORIZING REMEDIAL ACTIVITIES
UNDERTAKEN IN RESPONSE TO MAJOR STORMS

AUTHORITIES: This general permit is issued pursuant to Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403) and Section 404 of the Clean Water Act (33 U.S.C. 1344).

AUTHORIZED ACTIVITIES: This general permit authorizes the installation of structures and dredging in navigable waters and the discharge of dredged or fill material, including discharges associated with excavation activities, into waters of the United States to facilitate the remediation of sites that are damaged from major storms that result in a Federal and/or State disaster declaration. This general permit may be used in conjunction with the Nationwide Permit Program.

The specific activities that this general permit authorizes include:

a. The dredging or excavation of sediments and debris deposited from the major storm, including the discharge of fill associated with the excavation through the use of land clearing equipment, from waters of the United States where such an activity would prevent loss of property, or where such activity is necessary to reduce flooding and/or erosion. This general permit **DOES NOT** authorize any channelization, channel widening, deepening or straightening activity that contributes to stream instability.

b. The installation of structures in navigable waters and/or discharge of fill material into waters of the United States to facilitate the repair or replacement of collapsed roads or other structures or fills which failed as a result of the storm event (i.e. rip-rap, culverts, abutments, etc.).

c. The discharge of dredged or fill material into waters of the United States for the restoration and protection of stream bed and banks damaged as a result of the storm event. Stream restoration activities may include but are not limited to: bank stabilization, minor realignment, the installation of current deflectors, the enhancement, restoration or creation of riffle and pool stream structures, the placement of in-stream habitat structures, the modification of the stream bed and/or banks to restore or establish stream meanders, and the installation of structures to improve fish passage and spawning habitats.

d. The discharge of fill material into waters of the United States to facilitate the construction of temporary access roads and/or staging areas at work sites provided no practicable upland alternatives exist.

e. The installation of structures in navigable waters and/or discharge of fill material into waters of the United States to be used as cofferdams to temporarily dewater a work site.

LOCATION OF AUTHORIZED ACTIVITIES: Waters of the United States located within the jurisdiction of the New York District (see attached map) in the specific towns or counties in New York State that are identified in the disaster declaration.

Activities authorized under this general permit do not require further authorization under the provisions contained in Title 33 of the Code of Federal Regulations, Parts 320 through 330, which is the Department of Defense regulation entitled "Corps of Engineers, Department of the Army: Regulatory Programs of the Corps of Engineers; Final Rule", published in the Federal Register on November 13, 1986, provided that they are carried out in accordance with the general and special conditions that follow and unless the District Engineer determines, on a case-by-case basis, that additional processing is in the public interest or the work does not comply with the terms and conditions of this permit. Also, see **General Permit Notification Requirements**.

DEFINITIONS:

The following definitions will apply:

High Tide Line: The line of intersection of the land with the water's surface at the maximum height reached by a rising tide. The high tide line may be determined, in the absence of actual data, by a line of oil or scum along shore objects, a more or less continuous deposit of fine shell or debris on the foreshore or berm, other physical markings or characteristics, vegetation lines, tidal gages, or other suitable means that delineate the general height reached by a rising tide. The line encompasses spring high tides and other high tides that occur with periodic frequency but does not include storm surges in which there is a departure from the normal or predicted reach of the tide due to the piling up of water against a coast by strong winds such as those accompanying a hurricane or other intense storm. In the absence of adjacent non-tidal waters, the high tide line identifies the shoreward limit of tidal waters of the United States.

Navigable Waters: Those waters that are subject to the ebb and flow of the tide and/or are presently used, or have been used in the past, or may be susceptible for use to transport interstate or foreign commerce. A determination of navigability, once made, applies laterally over the entire surface of the waterbody, and is not extinguished by later actions or events which impede or destroy navigable capacity. Geographic and jurisdictional limits of navigable rivers, lakes, oceanic and tidal waters are defined in Title 33 of the Code of Federal Regulations, Parts 329.11 and 329.12.

Ordinary High Water Mark: The line on the shore established by the fluctuations of water as 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, the presence of litter and debris, or other appropriate means that consider the

characteristics of the surrounding areas. In the absence of adjacent wetlands, the ordinary high water mark identifies the shoreward limit of waters of the United States.

Single and Complete Project: The total project at a specific site that is proposed or accomplished by an applicant, developer or other entity. The Corps of Engineers would review impacts associated with all activities which constitute a single and complete project in a cumulative manner.

Waters of the United States: All waters which are currently used, or were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide; all interstate waters including interstate wetlands; all other waters such as lakes, rivers, streams (including intermittent streams), mudflats, sandflats, sloughs, prairie potholes, playa lakes, or natural ponds, the use, degradation or destruction of which could affect interstate or foreign commerce...(see 33 C.F.R. Part 328.3 for complete definition).

Wetlands: Those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas (33 C.F.R. 328.3(b)). Areas that meet this definition are considered wetlands, **regardless of their size**.

GENERAL PERMIT NOTIFICATION REQUIREMENTS:

Many activities may proceed without the need to obtain written verification of the applicability of this general permit from the New York District Corps of Engineers prior to the commencement of work. Special Conditions 4, 5, 6, 7, 15, 17, 19, 27 and 41 in the next section identify which activities require written verification of the applicability of this general permit from the New York District prior to the commencement of work. The notification procedures are as follows:

Activities that do NOT require prior notification:

If your activity does NOT require prior confirmation from the New York District, and you meet all of the terms and conditions of this permit, you may proceed with your work. Within 30 days of the completion of the work authorized by this permit, you are required to complete and submit the attached compliance certification form to the New York District office.

Activities that DO require prior notification:

For projects that DO require notification to the Corps of Engineers prior to the commencement of work, the following information must be submitted:

1. A complete New York State Joint Application Form. Please write "EMERGENCY" on the top of the form to ensure immediate response. The New York State Joint

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Application Form can be obtained by contacting our offices or from our website. As listed in the instructions section of the form, the following additional information must be provided with your application:

A. Location map identifying project site, and disposal area (if applicable).

B. A brief description of the single and complete project.

C. Project plans depicting proposed work in reference to the ordinary high water mark, high tide line or mean high water mark of the waterway as appropriate and/or wetland limits. Include the length of proposed access roads or length of road repair in feet, the square footage of staging areas, the cubic yardage of sediment to be excavated, the dimensions of the area to be excavated, the type of cofferdam, the dimensions of the area to be dewatered, the length of stream bank to be stabilized and the cubic yardage of fill to be used, the existing and proposed sizes of structures, and any other appropriate project specifications.

2. Information concerning the presence or absence of Federally listed threatened or endangered species, or their critical habitat, in the project area, and information concerning the presence or absence of historic properties in or eligible for inclusion in the National Register of Historic Places in the project area.

Please submit the required information to the appropriate New York District address as follows:

A. For projects located in New York State Department of Environmental Conservation (NYSDEC) Regions 1 through 3:

New York District, U.S. Army Corps of Engineers
Attn: Regulatory Branch, Room 1937
26 Federal Plaza
New York, New York 10278-0090

B. For projects located in NYSDEC Regions 4 and 5, and the Fort Drum Military Reservation:

New York District, U.S. Army Corps of Engineers
Upstate Regulatory Field Office
Bldg. 10, 3rd Floor
1 Buffington Street
Watervliet, New York 12189-4000

Upon receipt of the required information, a site inspection may be scheduled by the New York District. A New York District Project Manager will have the ability to verify the applicability of this general permit on-site. Work shall not commence in waters of the United States until the applicant receives written verification from this office that the work may proceed under the terms and conditions of this general permit.

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GENERAL PERMIT SPECIAL CONDITIONS:

Conditions Applicable to All Activities:

1. Within thirty (30) days of the completion of any work authorized by this permit, you are required to complete and submit the attached compliance certification form to the New York District office.

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

3. Each individual project involving the discharge of dredged or fill material into waters of the United States, including the discharge of fill associated with excavation activities, shall receive a Water Quality Certification (or modification or waiver thereof) approved by the New York State Department of Environmental Conservation (NYSDEC) prior to the commencement of work.

4. Each individual project proposed within the coastal zone of New York State shall receive a Coastal Zone Consistency Concurrence from the New York State Department of State (NYSDOS) prior to the commencement of work. **Notification** is required to this office for activities located within the following Special Management Areas: The Long Island Sound Regional Coastal Management Program; Local Waterfront Revitalization Programs; Significant Coastal Fish and Wildlife Habitats; Scenic Areas of Statewide Significance; and Harbor Management Plans.

Information on the New York State Coastal Management Program, including consistency review and a map of the coastal zone and the Special Management Areas listed above can be found at the following website: www.nyswaterfronts.com/consistency.asp

5. This general permit does not apply to activities which may jeopardize the continued existence of species listed as endangered or threatened under the Endangered Species Act of 1973, as amended, or result in the likelihood of the destruction or adverse modification of a habitat which is determined by the Secretary of the Interior or Commerce, as appropriate, to be a critical habitat under the Endangered Species Act of 1973, as amended.

Notification to this office is required for activities that may affect Federally listed threatened or endangered species, or species proposed for such designation, or their critical habitat. The New York District will consult with the U.S. Fish and Wildlife Service (USFWS) and the National Oceanic and Atmospheric Administration's Fisheries

Service (NOAA-FS) as appropriate to assure that the requirements of Section 7 of the Endangered Species Act are satisfied. Applicants shall not commence work at these sites until the notification process has been completed and the applicant receives written verification from the New York District that the work may proceed.

Information on the location of threatened or endangered species and their critical habitat can be obtained directly from the offices of the USFWS and NOAA-FS or at their websites as follows:

USFWS: www.fws.gov/northeast/nyfo/es/section7.htm
NOAA-FS: www.nmfs.noaa.gov/pr/species/esa_species.htm

6. **Notification** to this office is required for any activity located in the Upper Delaware National Wild and Scenic River (Delaware River from Hancock to Port Jervis, New York; the segment 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) or in any tributary that discharges directly into it. The New York District will coordinate with the National Park Service as appropriate to assure that the requirements of the Wild and Scenic Rivers Act are satisfied. Applicants shall not commence work at these sites until the notification process has been completed and the applicant receives written verification that the work may proceed.

7. **Notification** to this office is required for activities that may affect historic properties in or eligible for inclusion in the National Register of Historic Places. The New York District will coordinate with the State Historic Preservation Office (SHPO) and other consulting parties as appropriate to assure that the requirements of Section 106 of the National Historic Preservation Act are satisfied. Applicants shall not commence work at these sites until the notification process has been completed and the applicant receives written verification that the work may proceed.

8. This general permit may not be used where the material to be dredged or excavated contains toxic pollutants in toxic amounts (see Section 307 of the Clean Water Act).

9. Construction Best Management Practices (BMP's): The following BMP's must be implemented to the maximum degree practicable, to minimize erosion, migration of sediments, and adverse environmental impacts:

i. Mulch, hay bales, silt fences, filter fabric barriers or other means must be properly employed, including the downslope edge of any disturbed areas, to minimize erosion and migration of sediments during construction. These erosion controls are to be put in place before any disturbance of the ground occurs and are to be maintained in effective operating order until all disturbed ground is at final grade and is suitably stabilized. All synthetic temporary erosion controls must be removed immediately after the site is suitably stabilized.

ii. Turbidity controls in the form of silt curtains or similar type cloth material shall be properly installed at the project area and shall remain in place during all excavation, dredging and restoration operations.

iii. In-stream work shall be isolated from flowing water by use of sandbags, cofferdam, or piping or pumping around the work area. Waters accumulated in the isolated work area shall be discharged to an upland settling basin, field or wooded area to provide for settling and filtering of solids and sediments before water is returned to the stream. Return waters must be as clear as the water upstream from the work area.

iv. To the maximum extent practicable, construction access shall be by means that avoid or minimize impacts to aquatic sites (e.g. upland access, floating barges, mats, etc.).

v. Except as approved under Special Conditions 22 and 28 of this permit, all excess dredged or excavated material shall be disposed of in uplands out of any floodplain, be properly contained and permanently stabilized to prevent erosion. All impacted land surfaces shall also be permanently stabilized to prevent erosion.

vi. No interruption of water flow shall occur during construction in order to sustain aquatic life downstream.

vii. Avoid in-stream work during predicted periods of high flow.

10. Disturbance of vegetation on stream banks shall be kept to the minimum necessary to perform the permitted work. All stream banks disturbed as a result of any activity authorized by this general permit shall be seeded and mulched immediately upon completion of the bank work, unless otherwise protected from erosion.

11. This permit does not authorize the permanent loss of mudflats, vegetated shallows, or submerged aquatic vegetation, including seagrass beds.

12. All authorized work shall proceed to completion as one continuous operation.

13. Pressure treated wood used for the construction of in-water structures must not be treated with creosote, must be treated with a preservative and treatment process currently approved by the American Wood Preservers Association and must be aged in the open air for at least three months prior to in-water use. Wood with surface deposits shall be washed for at least five (5) minutes under running water prior to use and the washing shall occur greater than 100 feet from a wetland or waterbody. Any wood debris such as sawdust or wash water must not enter any waterbody, including wetlands.

14. The District Engineer reserves the right to include any additional special conditions or require an individual permit as may be necessary to safeguard the public interest or protect important public resources on a case-by-case basis.

Special Conditions Applicable ONLY to Dredging or Excavation Activities:

15. Debris and sediment dredging or excavation in waters of the United States shall be limited to the amount that was deposited as a direct result of the discrete storm event. In tidal waters **notification** to this office is required for dredging over 500 cubic yards of

material. The New York District will consult with federal resource agencies, as needed, to determine whether additional measures are necessary to protect aquatic habitats.

16. The excavation or dredging of debris and sediment within 100 feet upstream or downstream from a structure (i.e. bridge, culvert, or facility) may proceed without prior confirmation from this office provided no other excavation or dredging beyond that range would occur as part of the single and complete project.

17. Projects involving the dredging or excavation of debris and sediment beyond 100 feet upstream and downstream of a structure may be authorized by this permit on a case-by-case basis provided the permittee **notifies** this office and receives written verification prior to commencing the work.

18. Dredging or excavation of storm deposited material (i.e. gravel, silt, etc.) for a maximum length of 200 linear feet at a single location may proceed without prior confirmation from this office provided no other dredging or excavation beyond that range would occur as part of a single and complete project.

19. Projects involving the dredging or excavation of storm deposited material in excess of 200 linear feet at a single location may be authorized by this permit on a case-by-case basis provided the permittee **notifies** this office and receives written verification prior to commencing the work.

20. The final configuration of the stream channel shall match the geomorphology (i.e. channel dimension, plan and profile) of stable stream channel upstream and downstream of the work site. This shall include the establishment of a low flow channel as appropriate and the bottom elevation shall not be lower than the adjoining upstream and downstream sections.

21. Whenever practicable, bank grading and in-water removal of debris and sediment shall be carried out by land based equipment rather than from the streambed or flowing water. Work shall proceed from the downstream end to the upstream end of the project reach.

22. All debris and sediment dredged or excavated from waters of the United States and not used as bank stabilization shall be deposited in uplands, outside of any floodplain, and be contained from re-entering any waters of the United States, including wetlands. Under no circumstances shall dredged or excavated materials be side-cast or temporarily stored within waters of the United States, including wetlands.

23. This permit does not authorize the removal of stream gravel for the express purpose of sale as part of a gravel mining operation.

24. This permit does not authorize dredging or excavation in wetlands as defined above, or in mudflats or vegetated shallows (as defined at 40 CFR Parts 230.42 and 230.43, respectively), including submerged aquatic vegetation.

Subject: New York District Regional General Permit NYDGP-15 for Remedial Activities Undertaken in response to Major Storms

Special Conditions Applicable ONLY to Repair and Replacement Activities and to the Restoration and Protection of Stream Bed and Banks:

25. For repair and replacement activities, minor deviations in the structure's configuration or filled area including those due to changes in materials, construction techniques, or current construction codes or safety standards which are necessary to make repair, rehabilitation or replacement are permitted, provided the adverse environmental effects resulting from the work are minimal.

26. Culverts to be repaired or replaced must be installed to maintain low flow conditions, allow for fish passage in fish bearing streams, and shall not restrict normal stream flow. The width of the culvert to be repaired or replaced shall be equal to or wider than the bankfull width of the stream and be able to accommodate expected high flows. The culvert shall be installed to match the grade of the existing streambed with at least 20% of the vertical rise of the entire culvert embedded below the streambed or be a bottomless culvert, when practicable.

27. The stream restoration shall be conducted in accordance with the following:

a. No material is placed in excess of the minimum needed for erosion protection;

b. **Notification** is required for bank stabilization activities in excess of 500 linear feet; or for the installation of bulkheads or retaining walls where none previously existed, regardless of length;

c. **Notification** is required for activities resulting in more than an average of one cubic yard per running foot of fill material placed along the bank below the plane of the high tide line, mean high water mark or ordinary high water mark as appropriate;

d. The repair, rehabilitation or reconstruction of existing bulkheads or retaining walls shall be in place or landward of the existing structure where practicable. **Notification** is required for any structure proposed to be placed waterward of the existing bulkhead or retaining wall, which shall not extend 18 inches waterward of the existing structure, and shall include justification as to why in place or landward repair, rehabilitation or reconstruction is not practicable.

e. **Notification** is required for projects involving the realignment of more than 100 linear feet of stream channel when associated with culvert and bridge repair or replacement activities, and **notification** is required for any length of stream channel realignment when it is not associated with these structures.

f. The work shall not result in the loss of wetlands.

g. No material is of the type, or is placed in any location, or in any manner, to impair surface water flow into or out of any wetland area.

h. No material is placed in a manner that will be eroded by normal or expected high flows (properly anchored trees and treetops may be used in low energy areas.

i. The activity is part of a single and complete project.

28. On-site material may be used as fill material for bank stabilization provided that the material is placed, and is appropriately stabilized in such a manner that it is not eroded by normal or expected high flows.

29. Fluvial geomorphology restoration techniques and/or bioengineering techniques for stream bank stabilization should be considered in project design when feasible and practicable. Bioengineering methods include: planting native vegetation such as grey dogwood (*Cornus racemosa*), silky dogwood (*Cornus amomum*), arrowwood viburnum (*Viburnum dentatum*), or other appropriate species to provide habitat for fish and wildlife; the installation of coir (coconut fiber) logs, willow wattles, dogwood fascines; and use of erosion control fabric.

30. All modified/restored stream channels shall be designed with a parabolic shaped bottom, or be otherwise designed to concentrate flows during low water periods. The channel shall not be wider and the bottom elevation shall not be lower than the adjoining natural upstream and downstream sections.

31. This permit cannot be used to reclaim historic lands lost, over an extended period, to normal erosion processes.

Special Conditions Applicable ONLY to Temporary Access or Dewatering Activities:

32. This general permit only authorizes the temporary access to, or dewatering of, those areas where sediment and debris removal would occur, where repair and replacement activities would occur, or where the restoration and protection of stream bed and banks would occur.

33. All temporary fills or structures placed in waters of the United States, including wetlands, shall be removed in their entirety immediately upon completion of the work and the affected areas shall be restored to pre-construction contours, and re-vegetated with native species to restore natural cover and stabilize soils. All material removed shall be disposed of at an upland site, outside of any floodplain, and shall be adequately contained to preclude re-entry into these waters.

34. Mats or geotextile fabric shall be placed under any temporary fill and shall be removed following construction.

35. Discharges of fill material into wetlands to construct temporary access roads are authorized if no practicable available upland areas exist for access to the waterway and the impacted area is the minimum necessary to accomplish its purpose.

36. Staging areas in waterways shall be constructed within the confines of a water control structure and shall consist of clean non-erodible material such as broken concrete, stone, timber, steel or other inert materials. The staging area shall not be installed until the water control structure is in place and the area has been completely dewatered, and shall be removed prior to removal of the water control structure. Staging areas shall not be located in wetlands.

37. Mechanized landclearing shall be limited to the minimum necessary to construct the access road or staging area.

38. Forested wetlands cleared to facilitate access road construction shall be re-planted with the same or similar native woody species immediately upon completion of the work.

39. The use of cofferdams or other water control structures and ancillary features shall be limited to the immediate work areas and shall be placed in such a manner that minimizes adverse impacts to fish and other aquatic wildlife, water quality, to stream flow and flooding, to navigation, and to access and use of navigable waters by the public.

40. Cofferdams shall consist of an impermeable core with a non-erodible exterior. If fine grained material (such as clay) is used as a core, a layer of filter fabric or heavy plastic shall be placed securely over the surface of the core.

41. In non-tidal navigable and/or perennial waters, the temporary water control structures shall extend no further than one-half the width of the channel at any one crossing site. **Notification** to the New York District is required for any temporary water control structures proposed in tidal waters, and if additional width is needed to accomplish the work in non-tidal navigable and/or perennial waters.

Corps of Engineers

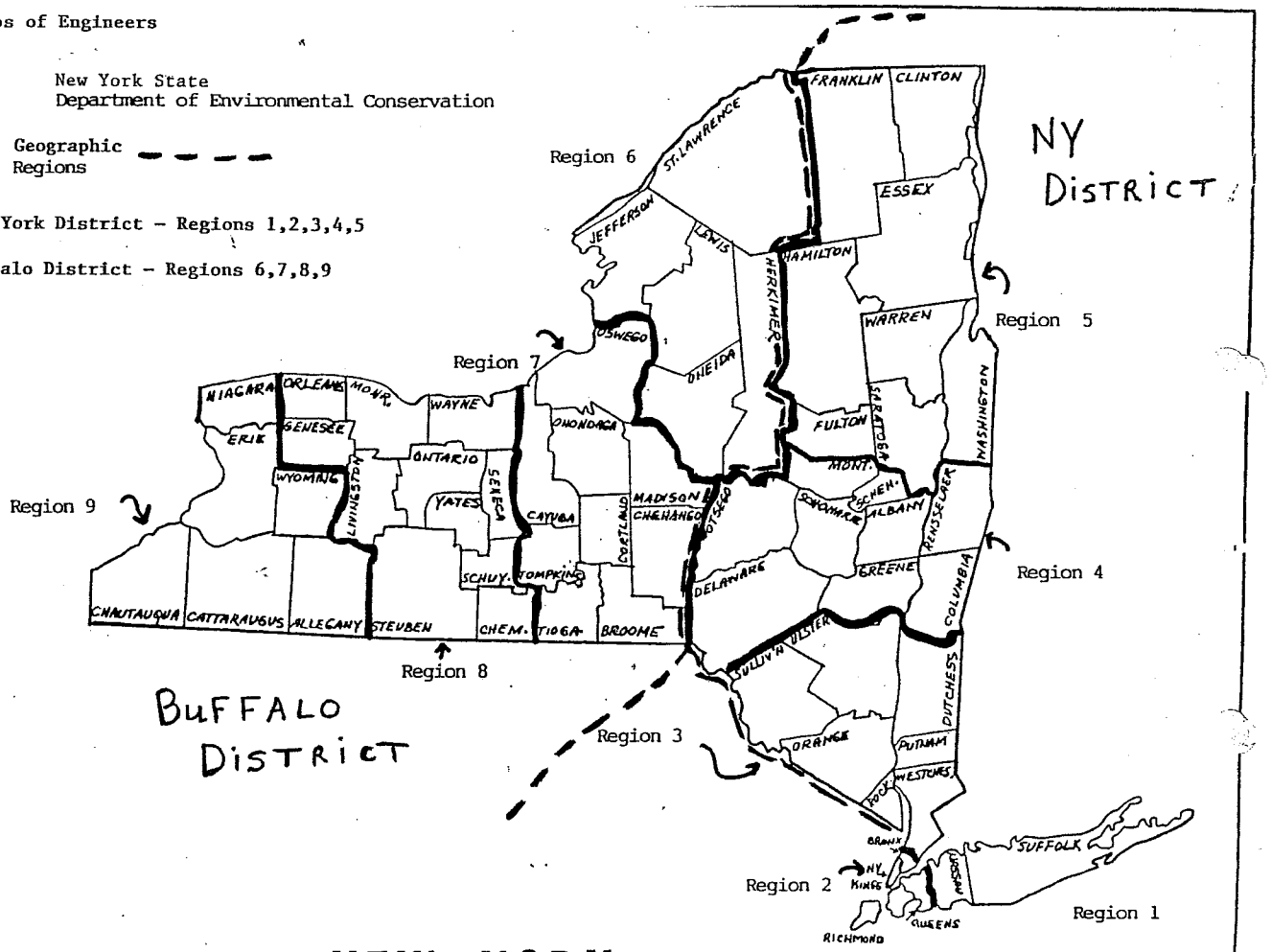
and

New York State
Department of Environmental Conservation

Geographic Regions

New York District - Regions 1,2,3,4,5

Buffalo District - Regions 6,7,8,9



NEW YORK

Figure 1 of 2

APR 21 2009

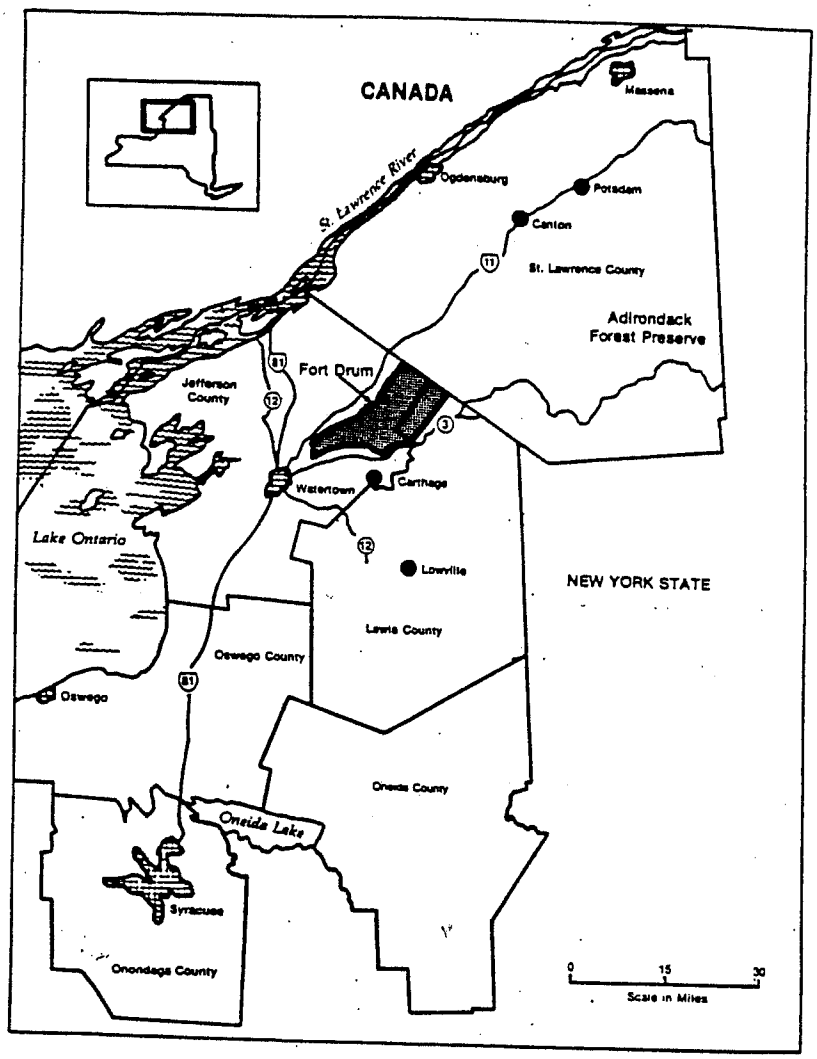


FIGURE 2 OF 2

APR 2 1 2009

THE EASTERN LAKE ONTARIO AND ST. LAWRENCE REGION

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

REPLY TO
ATTENTION OF:
CENAN-OP-R

REGIONAL GENERAL PERMIT (NYDGP-15) COMPLIANCE CERTIFICATION AND REPORT FORM

Permittee/Authorized Agent: _____

Address: _____

Telephone Number: _____

Location (Please attach a location map and list town, county and waterway):

_____

Brief Work Description (Please attach a copy of any plans):

_____

_____

_____

Date Activity Completed: _____

* Please attach color photographs of the project site which illustrate the completed work.

Within 30 days of the completion of the activity authorized by this permit and any mitigation required by the permit, sign this certification and return it to the address listed at the top of this form.

Please note that your permitted activity is subject to a compliance inspection by a U.S. Army Corps of Engineers representative. If you fail to comply with this permit you are subject to permit suspension, modification or revocation.

I hereby certify that the work authorized by the above referenced permit has been completed in accordance with the terms and conditions of said permit.

_____ _____

Signature of Permittee Date

SUMMARY OF NYDGP-15 NOTIFICATION REQUIREMENTS

ACTIVITY CATEGORY	Projects meeting the requirements in Column 1 below and all conditions of NYDGP-15 may proceed without receiving prior written approval from the New York District however you must submit a completed compliance certification form to this office within 30 days of completing the work. All activities in Columns 2 and 3 below require, at minimum, notification prior to the commencement of work and the work shall not proceed until you receive written authorization from the New York District that the work may proceed.		
	Prior Notification to New York District Not Required	Prior Notification to New York District Required	NYDGP-15 Not Applicable
(a) All Activities			
i. Coastal Zone	Activities located outside of the Coastal Zone, or located within the Coastal Zone but outside of designated Special Management Areas.	Activities located within Special Management Areas in the Coastal Zone: The Long Island Sound Regional Coastal Management Program; Local Waterfront Revitalization Programs; Significant Coastal Fish and Wildlife Habitats; Scenic Areas of State Significance; and Harbor Management Plans.	
ii. Endangered Species	Activities that have no effect upon federal threatened or endangered species, or their critical habitat (see attached list).	Activities that may affect federal threatened or endangered species, or their critical habitat.	Activities that may jeopardize the continued existence of federal threatened or endangered species, or result in the likelihood of the destruction or adverse modification of critical habitat.
iii. Wild and Scenic Rivers	Activities that are not located in the Upper Delaware National Wild and Scenic River or in any tributary that discharges directly into it.	Activities located in the Upper Delaware National Wild and Scenic River or in any tributary that discharges directly into it.	

INCLOSURE NO: 3

ACTIVITY CATEGORY	Prior Notification to New York District Not Required	Prior Notification to New York District Required	NYDGP-15 Not Applicable
(a) All Activities, cont.			
iv. Historic Properties	Activities that have no effect upon historic properties in or eligible for inclusion in the National Register of Historic Places.	Activities that may affect historic properties in or eligible for inclusion in the National Register of Historic Places.	
v. Miscellaneous			Where material to be dredged or excavated contains toxic pollutants in toxic amounts; and any activity that would result in the permanent loss of mudflats, vegetated shallows, or submerged aquatic vegetation, including seagrass beds.
(b) Dredging or Excavation Activities	Dredging or excavation of less than 500 cubic yards of storm deposited debris and sediment in tidal waters.	Dredging or excavation of greater than 500 cubic yards of storm deposited debris and sediment in tidal waters.	Dredging or excavation of sediment or debris that was not deposited from the major storm, or is not necessary to prevent loss of property or reduce flooding and/or erosion.
	Dredging or excavation of debris and sediment within 100 feet upstream or downstream from a structure, with no further dredging or excavation beyond that range as part of the single and complete project.	Dredging or excavation of debris and sediment beyond 100 feet upstream and downstream of a structure.	Any channelization, channel widening, deepening or straightening activity that contributes to stream instability.

ACTIVITY CATEGORY	Prior Notification to New York District Not Required	Prior Notification to New York District Required	NYDGP-15 Not Applicable
(b) Dredging or Excavation Activities, cont.	Dredging or excavation of storm deposited material for a maximum length of 200 linear feet at a single location with no other dredging or excavation beyond that range as part of the single and complete project.	Dredging or excavation of storm deposited material in excess of 200 linear feet at a single location.	The removal of stream gravel for the express purpose of sale as part of a gravel mining operation. Dredging or excavation in wetlands, mudflats or vegetated shallows, including submerged aquatic vegetation.
(c) Repair and Replacement Activities	The repair or replacement of collapsed roads or other structures or fills which failed as a result of the storm event (i.e. rip-rap, culverts, etc.). Minor deviations in the structure's configuration or filled area that are necessary, including those due to changes in materials, construction techniques, or current construction codes or safety standards, provided the adverse environmental effects from the work are minimal.		More than minor deviations in the structure's configuration or filled area, and repair and replacement activities with more than minimal adverse environmental effects from the work.
	The in-place or landward repair, rehabilitation or reconstruction of bulkheads or retaining walls.	Any repair, rehabilitation or reconstruction of bulkheads or retaining walls waterward, but within 18 inches, of the existing bulkhead or retaining wall.	Any repair, rehabilitation or reconstruction of bulkheads or retaining walls waterward, in excess of 18 inches, of the existing bulkhead or retaining wall.

ACTIVITY CATEGORY	Prior Notification to New York District Not Required	Prior Notification to New York District Required	NYDGP-15 Not Applicable
(d) Restoration of Stream Bed and Banks	Bank stabilization activities less than 500 linear feet that do not involve the installation of bulkheads or retaining walls where none previously existed.	Bank stabilization activities greater than 500 linear feet. The installation of bulkheads or retaining walls where none previously existed, regardless of length.	Any stream bed and bank restoration activity that would result in the loss of wetlands.
	Bank stabilization using less than one cubic yard of fill material per running foot placed below the plane of the high tide line, mean high water mark or ordinary high water mark as appropriate.	Bank stabilization using greater than one cubic yard of fill material per running foot placed below the plane of the high tide line, mean high water mark or ordinary high water mark as appropriate.	
	The realignment of up to 100 linear feet of stream channel associated with culvert and bridge repair or replacement activities.	The realignment of greater than 100 linear feet of stream channel associated with culvert and bridge repair or replacement activities. Any stream realignment activity that is not associated with culvert and bridge repair or replacement activities, regardless of length.	Any work in waters of the United States to reclaim historic lands lost, over an extended period of time, to normal erosion processes.
(e) Temporary Access and Dewatering Activities	Temporary access and dewatering structures and fills, with water control structures that are outside of tidal waters and do not extend any further than one-half the width of the channel at any one crossing site in non-tidal navigable and perennial waters.	Any use of water control structures in tidal waters, and any water control structure that extends further than one-half the width of the channel at any one crossing site in non-tidal navigable and perennial waters.	The use of temporary access and dewatering structures for work that is not otherwise authorized by NYDGP-15; and any staging area located in wetlands.

Federal Threatened and Endangered Species within the New York District, U.S. Army Corps of Engineers Area of Responsibility in New York State

A. Species under the primary jurisdiction of the U.S. Fish and Wildlife Service:

Bog turtle (*Clemmys [=Glyptemys] muhlenbergii*)
Dwarf wedge mussel (*Alasmidonta heterodon*)
Indiana bat (*Myotis sodalis*)
Karner blue butterfly (*Lycaeides Melissa samuelis*)
Northern monkshood (*Aconitum noveboracense*)
Piping plover (*Charadrius melodus*)
Roseate tern (*Sterna dougallii dougallii*)
Sandplain gerardia (*Agalinis acuta*)
Seabeach amaranth (*Amaranthus pumilus*)
Small whorled pogonia (*Isotria medeoloides*)

The U.S. Fish and Wildlife Service maintains a list of threatened and endangered species in New York State by county, and provides guidance on consultation and determining whether your project may affect a threatened or endangered species, or their critical habitat, which is on their website at: www.fws.gov/northeast/nyfo/es/section7.htm
It is recommended that you check the species list every 90 days to ensure that listed species presence/absence information is current.

B. Species under the primary jurisdiction of the National Oceanic and Atmospheric Administration's National Marine Fisheries Service:

Fin whale (*Balaenoptera physalus*)
Green turtle (*Chelonia mydas*)
Humpback whale (*Megaptera novaeangliae*)
Kemp's ridley turtle (*Lepidochelys kempi*)
Leatherback turtle (*Dermochelys coriacea*)
Loggerhead turtle (*Caretta caretta*)
North Atlantic right whale (*Eubalaena glacialis*)
Shortnose sturgeon (*Acipenser brevirostrum*)

The whales and turtles may be found in waters off of the south shore of Long Island, in Long Island Sound and in New York Harbor. Shortnose sturgeon occur within the Hudson River (from the Federal Troy Lock and Dam to Staten Island), and may also be present in the East River. Additional information concerning these species and consultation requirements can be found at:
www.nmfs.noaa.gov/pr/species/esa_species/htm