

OSWEGO CANAL CORRIDOR BOA

APPENDIX Q: PERMITTING - TRANSIENT DOCK



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

PLEASE SIGN AND SUBMIT
THE COMPLETION FORM
ATTACHED TO THIS PERMIT

August 3, 2018

Regulatory Branch

SUBJECT: Department of Army Application No. LRB-2018-00457, Letter of Permission and Nationwide Permit No. 25, as Published in the Federal Register, Volume 82, No. 4, on Friday, January 6, 2017, New York State Department of Environmental Conservation No. 7-3512-00146/00002

City of Oswego
20 West Oneida Street
Oswego, New York 13126
Attn: William Barlow, Mayor

Dear Mayor Barlow:

This pertains to your proposal to perform work along the west side of the Oswego River at the Riverfront Park located parallel to West 1st Street, City of Oswego, Oswego County, New York.

Upon recommendation of the Chief of Engineers, pursuant to Section 10 of the Rivers and Harbors Act of 3 March 1899 (33 USC 403), the City of Oswego, designated the permittee, is hereby granted permission to annually install a seasonal floating docking facility parallel to the existing seawall on the western side of the Oswego River using a pre-manufactured removable docking system. The docking system consists of a 300-foot long by eight (8)-foot wide (2,400 square feet) floating dock with an 80-foot long by six (6)-foot wide (480 square feet) gangway anchored to a 125 square foot permanent platform supported by six (6), 12-inch concrete filled steel piers. Installation of the piers will require excavation of approximately 30 cubic yards of the river bottom which will be disposed of at an upland location. All work shall be in accordance with attached permit provisions, conditions and drawings which are incorporated in and made a part hereof.

In addition to this Letter of Permission (LOP) and pursuant to Section 10 of the Rivers and Harbors Act of 3 March 1899 (33 USC 403) and Section 404 of the Clean Water Act (33 USC 1344), I am also affirming the attached Nationwide Permit (NWP) No. 25, authorizing the placement of concrete within the six (6) steel piers after they are driven into the river bottom.

Verification of the applicability of this NWP is valid until March 18, 2022, unless the NWP is modified, suspended, revoked, or the activity complies with any subsequent permit modification. 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 NWP 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.

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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>. Finally, 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 or reverification.

PLEASE 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 U. S. Army Corps of Engineers having jurisdiction over the permitted activity under the authority of the commanding officer.

This letter is an initial proffered permit for your proposed project. If you object to this decision, you may request an administrative appeal under Corps regulations at 33 CFR Part 331. Enclosed you will find a Notification of Appeal Process (NAP) fact sheet and Request for Appeal (RFA) form. If you request to appeal the above decision, you must submit a completed RFA form to our office within **60 days** of the date on this letter.

In order for an RFA to be accepted, the Corps must determine that it is complete; that it meets the criteria for appeal under 33 CFR Part 331.5, and that it has been received by the District Office within 60 days of the date of the NAP. Should you decide to submit an RFA form, it must be received at the above address by October 2nd, 2018. It is not necessary to submit an RFA if you do not object to the decision in this letter.

The District Commander must be informed of commencement and completion of the authorized work. Please use the forms enclosed. Commencement indicates your acceptance and agreement to comply with the permit terms and conditions.

A copy of this correspondence has been sent to Lindsey Russell (Bergmann Associates).

Questions pertaining to this matter should be directed to Judy Robinson, who may be contacted by calling 716-879-6330, by writing to the following address: U.S. Army Corps of Engineers, 7413 County House Road, Auburn, New York 13021, or by e-mail at: judy.a.robinson@usace.army.mil.

Dated this 3rd day of August 2018.

BY AUTHORITY OF THE SECRETARY OF THE ARMY:


for Diane C. Kozlowski
Chief, Regulatory Branch

Enclosures

Regulatory Branch

SUBJECT: Department of Army Application No. LRB-2018-00457, Letter of Permission and Nationwide Permit No. 25, as Published in the Federal Register, Volume 82, No. 4, on Friday, January 6, 2017, New York State Department of Environmental Conservation No. 7-3512-00146/00002

PERMIT CONDITIONS

GENERAL CONDITIONS:

1. The time limit for completing the work authorized ends on August 3rd, 2023. 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 must 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 may 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 archaeological 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 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.
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.
7. 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.

Regulatory Branch

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SPECIAL CONDITIONS:

1. Your use of the permitted activity must not interfere with the public's right to free navigation on all navigable waters of the United States.
2. The Permittee shall install floating turbidity barriers with weighted skirts that extend to within one foot of the bottom around all work areas that are in, or adjacent to, surface waters and shall be positioned to enclose the work area. The turbidity barriers shall remain in place and be functionally maintained until the authorized work has been completed and turbidity inside the curtain no longer exceeds ambient levels.
3. This permit does not authorize side-casting or any other temporary or permanent disposal of dredged or fill material in the Oswego River, or any other water of the United States including freshwater wetlands.
4. All dredged material shall be disposed of within the upland area indicated on Sheet 7 of 7. The material must be contained with siltation control measures to prevent erosion and potential sedimentation into any water of the United States, including wetlands.
5. The Permittee must adhere to the following guidelines for construction of all wooden structures:
 - a) use of creosote treated wood is prohibited in New York State,
 - b) all treated wood must be aged in the open air for at least three months prior to in-water use,
 - c) wood must be clean and free of surface deposits,
 - d) timber with surface deposits must be washed for at least five minutes under running water prior to use,
 - e) any wood debris, such as sawdust or wash water, must not enter any waterbody including wetlands and must be washed more than 100 feet from a wetland or waterbody.

For more information, contact the applicable New York State Department of Environmental Conservation Regional Office and U.S. Environmental Protection Agency Regional Office.

FURTHER INFORMATION:

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

SECTION 10 OF THE RIVERS AND HARBORS ACT OF 3 MARCH 1899 (33 U.S.C. 403)

2. Limits of this authorization.

Regulatory Branch

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- 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).

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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 this 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.

**TRANSFeree HEREBy AGREES TO COMPLY WITH
THE TERMS AND CONDITIONS OF THIS PERMIT*.**

Transferee

Date

*** Note: 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 in the space provided. A copy of this signed permit and statement shall be forwarded to the Buffalo District at the following address:**

**U.S. Army Corps of Engineers
Buffalo District
New York Regulatory Branch
1776 Niagara Street
Buffalo, New York 14207**

IMPORTANT

This form must be completed and mailed to the District Commander at: Regulatory Branch, US Army Corps of Engineers, 1776 Niagara Street, Buffalo, New York 14207, prior to commencement of any work authorized by Department of the Army Permit No. 2018-00457

(Letter of Permission)

Date: _____
City of Oswego
Oswego County, New York

Mr. David Leput
Regulatory Branch
U.S. Army Corps of Engineers
1776 Niagara Street
Buffalo, New York 14207

Dear Mr. Leput:

You are hereby notified that the work authorized under Department of the Army Permit No. 2018-00457, issued to the City of Oswego, to annually install a seasonal floating docking facility parallel to the existing seawall on the western side of the Oswego River using a pre-manufactured removable docking system. The docking system consists of a 300-foot long by eight (8)-foot wide (2,400 square feet) floating dock with an 80-foot long by six (6)-foot wide (480 square feet) gangway anchored to a 125 square foot permanent platform supported by six (6), 12-inch concrete filled steel piers, and excavation of approximately 30 cubic yards of the river bottom for pier installation, will be started on or about (Month/Day/Year).

_____.

The first work to be undertaken is as follows: _____

In commencing the work, I accept and agree to comply with the terms and conditions of the permit.

By: _____
Authorized Signature

Title

Date: _____

Permittee Telephone Number: 315-343-3795

File Closed: 08/03/2018

IMPORTANT

This form must be completed and mailed to the District Commander at: Regulatory Branch, US Army Corps of Engineers, 1776 Niagara Street, Buffalo, New York 14207, immediately upon completion of work authorized by Department of the Army Permit No. 2018-00457

(Letter of Permission)

Date: _____
City of Oswego
Oswego County, New York

Mr. David Leput
Regulatory Branch
U.S. Army Corps of Engineers
1776 Niagara Street
Buffalo, New York 14207

Dear Mr. Leput:

You are hereby notified that the work authorized under Department of the Army Permit No. 2018-00457, issued to the City of Oswego, to annually install a seasonal floating docking facility parallel to the existing seawall on the western side of the Oswego River using a pre-manufactured removable docking system. The docking system consists of a 300-foot long by eight (8)-foot wide (2,400 square feet) floating dock with an 80-foot long by six (6)-foot wide (480 square feet) gangway anchored to a 125 square foot permanent platform supported by six (6), 12-inch concrete filled steel piers, and excavation of approximately 30 cubic yards of the river bottom for pier installation, was (completed/discontinued) on (Month/Day/Year)_____.

If Discontinued:

The work is _____ percent complete. The following activities remain to be done before all work authorized by this permit has been completed:

By: _____
Authorized Signature

Title

Date: _____

Permittee Telephone Number: 315-343-3795

File Closed: 08/03/2018

NOTIFICATION OF ADMINISTRATIVE APPEAL OPTIONS AND PROCESS AND REQUEST FOR APPEAL

Applicant: Oswego, City of (Seasonal Docks, Riverfront Park)		File Number: 2018-00457	Date: 08/03/2018
Attached is:			See Section below
X	INITIAL PROFFERED PERMIT (Standard Permit or Letter of Permission)	A	
	PROFFERED PERMIT (Standard Permit or Letter of Permission)	B	
	PERMIT DENIAL	C	
	APPROVED JURISDICTIONAL DETERMINATION	D	
	PRELIMINARY JURISDICTIONAL DETERMINATION	E	

SECTION I - The following identifies your rights and options regarding an administrative appeal of the above decision. Additional information may be found at

http://www.usace.army.mil/CECW/Pages/reg_materials.aspx or Corps regulations at 33 CFR Part 331.

A: INITIAL PROFFERED PERMIT: You may accept or object to the permit.

- **ACCEPT:** If you received a Standard Permit, you may sign the permit document and return it to the district engineer for final authorization. If you received a Letter of Permission (LOP), you may accept the LOP and your work is authorized. Your signature on the Standard Permit or acceptance of the LOP means that you accept the permit in its entirety, and waive all rights to appeal the permit, including its terms and conditions, and approved jurisdictional determinations associated with the permit.
- **OBJECT:** If you object to the permit (Standard or LOP) because of certain terms and conditions therein, you may request that the permit be modified accordingly. You must complete Section II of this form and return the form to the district engineer. Your objections must be received by the district engineer within 60 days of the date of this notice, or you will forfeit your right to appeal the permit in the future. Upon receipt of your letter, the district engineer will evaluate your objections and may: (a) modify the permit to address all of your concerns, (b) modify the permit to address some of your objections, or (c) not modify the permit having determined that the permit should be issued as previously written. After evaluating your objections, the district engineer will send you a proffered permit for your reconsideration, as indicated in Section B below.

B: PROFFERED PERMIT: You may accept or appeal the permit

- **ACCEPT:** If you received a Standard Permit, you may sign the permit document and return it to the district engineer for final authorization. If you received a Letter of Permission (LOP), you may accept the LOP and your work is authorized. Your signature on the Standard Permit or acceptance of the LOP means that you accept the permit in its entirety, and waive all rights to appeal the permit, including its terms and conditions, and approved jurisdictional determinations associated with the permit.
- **APPEAL:** If you choose to decline the proffered permit (Standard or LOP) because of certain terms and conditions therein, you may appeal the declined permit under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

C: PERMIT DENIAL: You may appeal the denial of a permit under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

D: APPROVED JURISDICTIONAL DETERMINATION: You may accept or appeal the approved JD or provide new information.

- **ACCEPT:** You do not need to notify the Corps to accept an approved JD. Failure to notify the Corps within 60 days of the date of this notice, means that you accept the approved JD in its entirety, and waive all rights to appeal the approved JD.
- **APPEAL:** If you disagree with the approved JD, you may appeal the approved JD under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

E: PRELIMINARY JURISDICTIONAL DETERMINATION: You do not need to respond to the Corps regarding the preliminary JD. The Preliminary JD is not appealable. If you wish, you may request an approved JD (which may be appealed), by contacting the Corps district for further instruction. Also you may provide new information for further consideration by the Corps to reevaluate the JD.

SECTION II - REQUEST FOR APPEAL or OBJECTIONS TO AN INITIAL PROFFERED PERMIT

REASONS FOR APPEAL OR OBJECTIONS: (Describe your reasons for appealing the decision or your objections to an initial proffered permit in clear concise statements. You may attach additional information to this form to clarify where your reasons or objections are addressed in the administrative record.)

ADDITIONAL INFORMATION: The appeal is limited to a review of the administrative record, the Corps memorandum for the record of the appeal conference or meeting, and any supplemental information that the review officer has determined is needed to clarify the administrative record. Neither the appellant nor the Corps may add new information or analyses to the record. However, you may provide additional information to clarify the location of information that is already in the administrative record.

POINT OF CONTACT FOR QUESTIONS OR INFORMATION:

If you have questions regarding this decision and/or the appeal process you may contact:

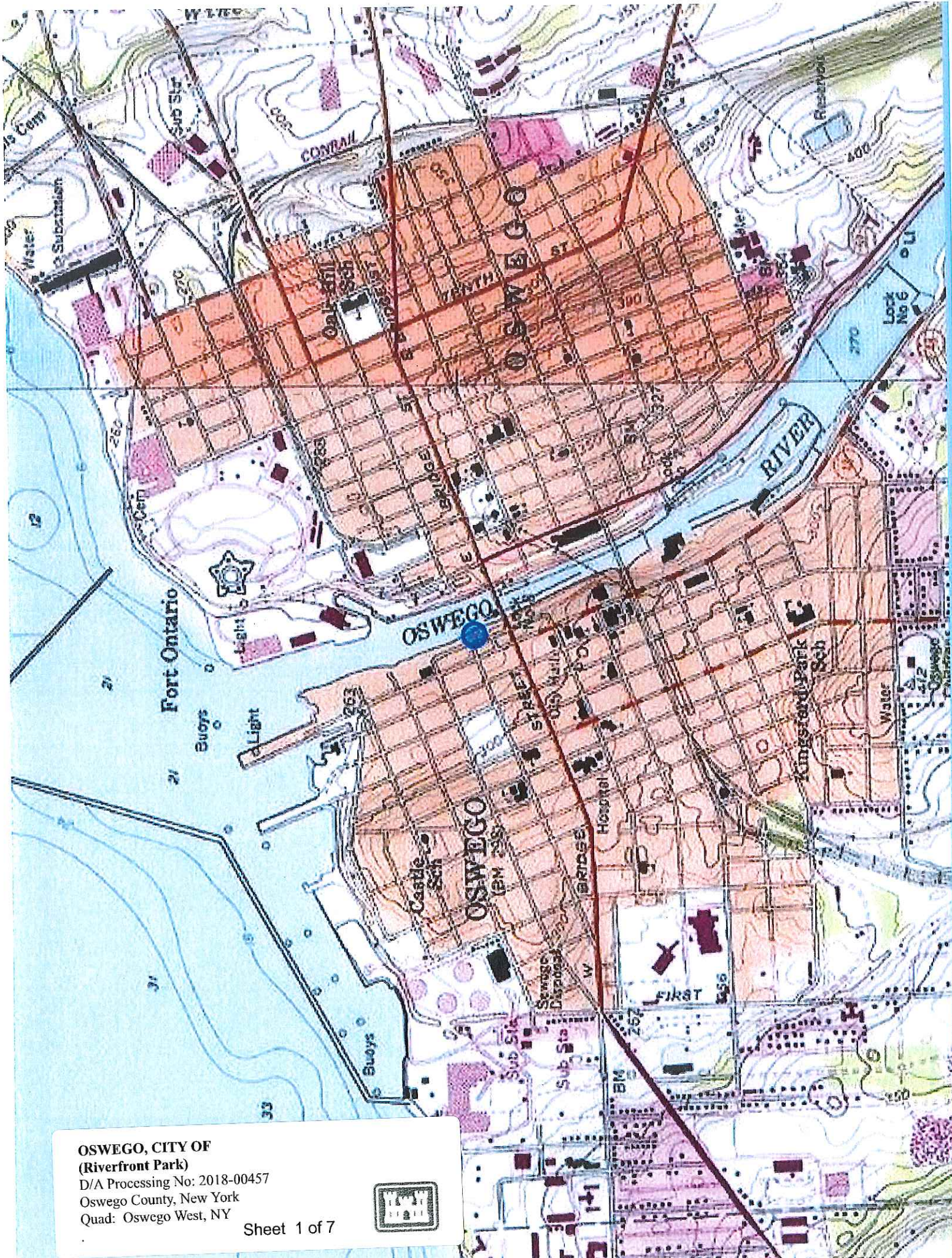
Judy A. Robinson
U.S. Army Corps of Engineers
New York Regulatory Branch
Auburn Field Office
7413 County House Road
Auburn, New York 13021
716-879-6330
Judy.a.robinson@usace.army.mil

If you only have questions regarding the appeal process you may also contact:

Review Officer
Great Lakes and Ohio River Division
CELRD-PDS-O
550 Main Street, Room 10524
Cincinnati, OH 45202-3222
Phone: 513-684-6212 Fax: 513-684-2460

RIGHT OF ENTRY: Your signature below grants the right of entry to Corps of Engineers personnel, and any government consultants, to conduct investigations of the project site during the course of the appeal process. You will be provided a 15 day notice of any site investigation, and will have the opportunity to participate in all site investigations.

<hr/>	Date	Telephone Number
Signature of Appellant or Agent		



**OSWEGO, CITY OF
(Riverfront Park)**

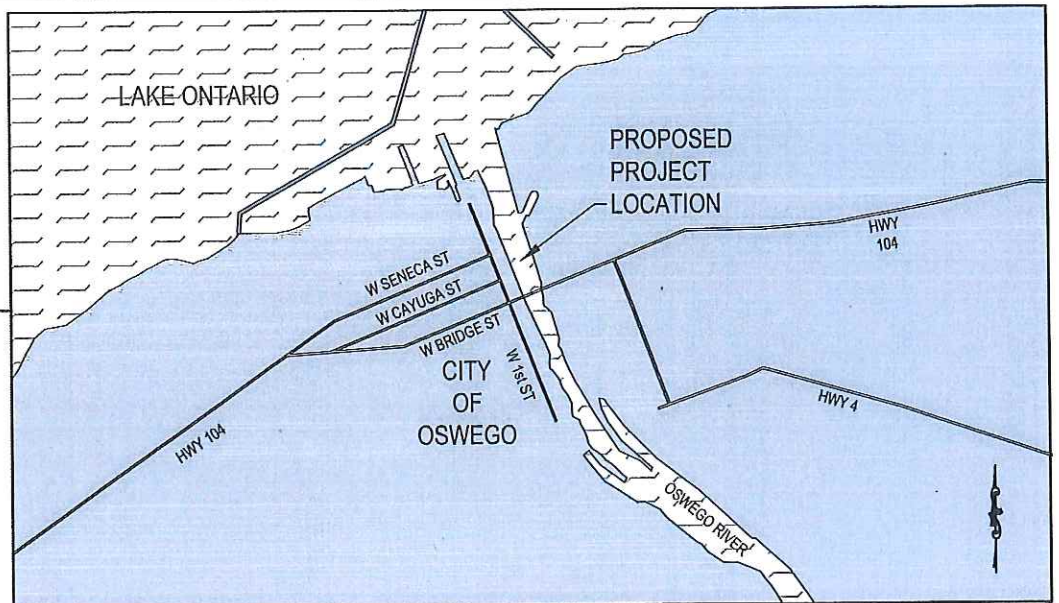
D/A Processing No: 2018-00457
Oswego County, New York
Quad: Oswego West, NY

Sheet 1 of 7





SCALE: NOT TO SCALE



ONTARIO, CA

QUEBEC, CA

VERMONT

LAKE ONTARIO

PROJECT LOCATION

NEW YORK

MASSACHUSETTS

LAKE ERIE

CONNECTICUT

LONG ISLAND

ATLANTIC OCEAN

**OSWEGO, CITY OF
(Riverfront Park)**

D/A Processing No: 2018-00457

Oswego County, New York

Quad: Oswego West, NY

Sheet 2 of 7



 **Edgewater**
resources

518 BROAD STREET, SUITE 200
ST. JOSEPH, MI 49085
P: 269 932 4502
F: 269 932 3542

LOCATION MAP

APPLICANT: CITY OF OSWEGO
WATERWAY: OSWEGO RIVER
CITY: OSWEGO, NY
COUNTY: OSWEGO
DATE: 3/29/2018
DATUM: IGLD85

SHEET: 1 OF 5

W SENECA ST

NOTES:

1. VERTICAL DATUM IS IGLD85.
2. SURVEY PERFORMED BY OTHERS.
3. UPLAND ELEMENTS ARE APPROXIMATE AND SHOWN FOR REFERENCE ONLY.

ADJACENT PROPERTY OWNER:
CITY OF OSWEGO
SENECA ST R.O.W.

PROPERTY OWNER:
CITY OF OSWEGO
1 W CAYUGA ST
OSWEGO, NY 13126
TAX MAP I.D. NUMBER:
128.46-05-05

EXISTING STEEL SHEET PILE SEAWALL

OHW
247.3

OSWEGO RIVER

EXISTING RIVERFRONT PARK

ADJACENT PROPERTY OWNER:
CITY OF OSWEGO
CAYUGA ST R.O.W.

ADJACENT PROPERTY OWNER
(PARCEL TO THE SOUTH):
CITY OF OSWEGO
21 WATER ST
OSWEGO, NY 13126
TAX MAP I.D. NUMBER:
128.55-02-02

SCALE: 1"=60'

W CAYUGA ST

**OSWEGO, CITY OF
(Riverfront Park)**

D/A Processing No: 2018-00457

Oswego County, New York

Quad: Oswego West, NY

Sheet 3 of 7



518 BROAD STREET, SUITE 200
ST. JOSEPH, MI 49085
P: 269 932 4502
F: 269 932 3542

EXISTING CONDITIONS

APPLICANT: CITY OF OSWEGO
WATERWAY: OSWEGO RIVER
CITY: OSWEGO, NY
COUNTY: OSWEGO
DATE: 3/29/2018
DATUM: IGLD85

SHEET: 2 OF 5

W SENECA ST

NOTES:

1. VERTICAL DATUM IS IGLD85.
2. SURVEY PERFORMED BY OTHERS.
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APPROXIMATE TURBIDITY CURTAIN LOCATION

OSWEGO RIVER

EXISTING BUILDING

EXISTING STEEL SHEET PILE SEAWALL - TO REMAIN

EXISTING RIVERFRONT PARK - TO REMAIN

PROPOSED FLOATING DOCK (8' x 300')

EXISTING BUILDING

PROPOSED 6' x 80' ADA GANGWAY

PROPOSED PILE SUPPORTED PLATFORM (APPROX. 125 SF)

APPROXIMATE PROPERTY BOUNDARY

W CAYUGA ST

SCALE: 1"=60'



518 BROAD STREET, SUITE 200
ST. JOSEPH, MI 49085
P: 269 932 4502
F: 269 932 3542

OSWEGO, CITY OF
(Riverfront Park)

D/A Processing No: 2018-00457
Oswego County, New York
Quad: Oswego West, NY

Sheet 4 of 7

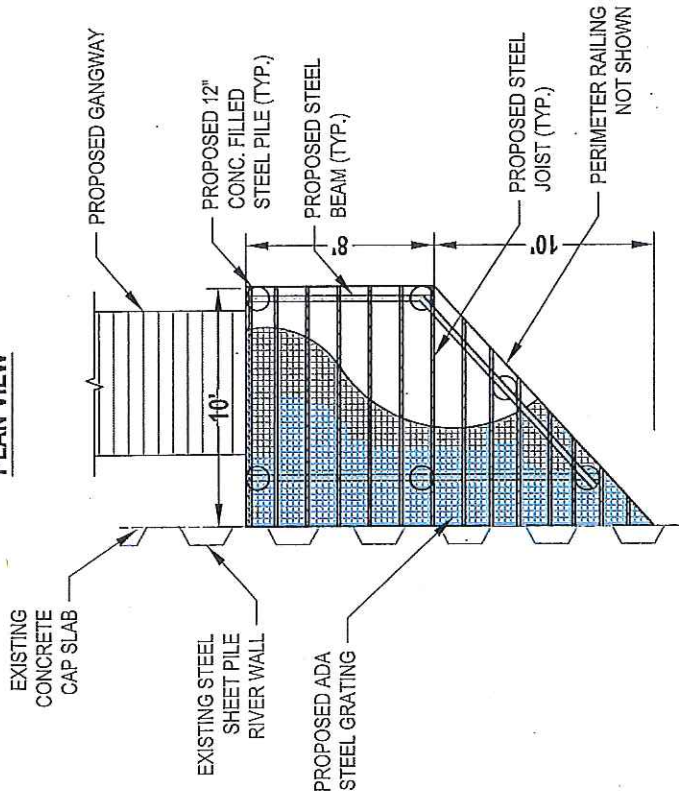


PROPOSED SITE PLAN (REVISED 3/29/18)

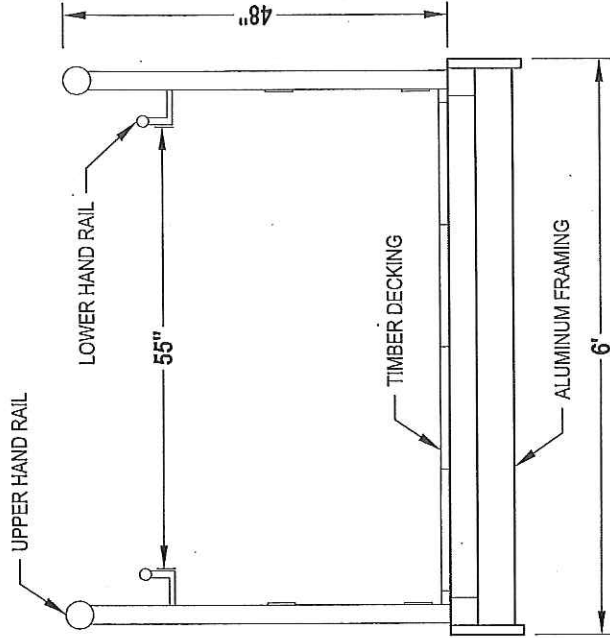
CLIENT: CITY OF OSWEGO
PROJECT: OSWEGO RIVER
LOCATION: OSWEGO, NY
COUNTY: OSWEGO
DATE: 3/29/2018
DRAWN BY: JLM
SCALE: IGLD85

SHEET: 3 OF 5

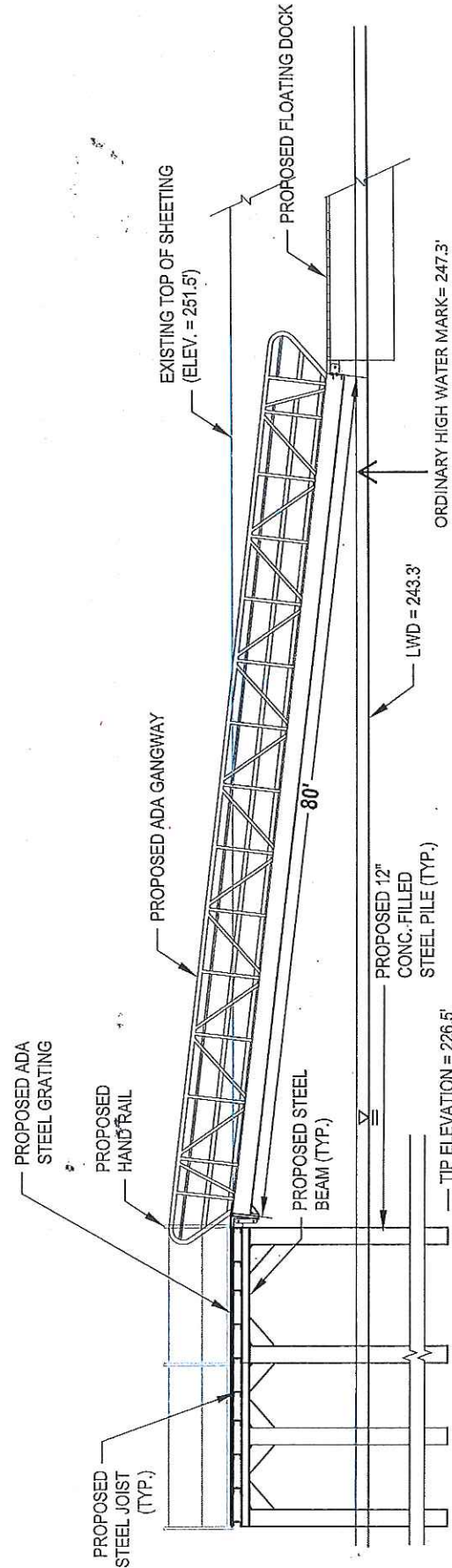
PLAN VIEW



TYPICAL GANGWAY SECTION



PROFILE VIEW



- NOTES:
1. VERTICAL DATUM IS IGLD85.
 2. SURVEY PERFORMED BY OTHERS.
 3. UPLAND ELEMENTS ARE APPROXIMATE AND SHOWN FOR REFERENCE ONLY.

SCALE: NTS

OSWEGO, CITY OF
(Riverfront Park)
D/A Processing No: 2018-00457
Oswego County, New York
Quad: Oswego West, NY

Sheet 5 of 7

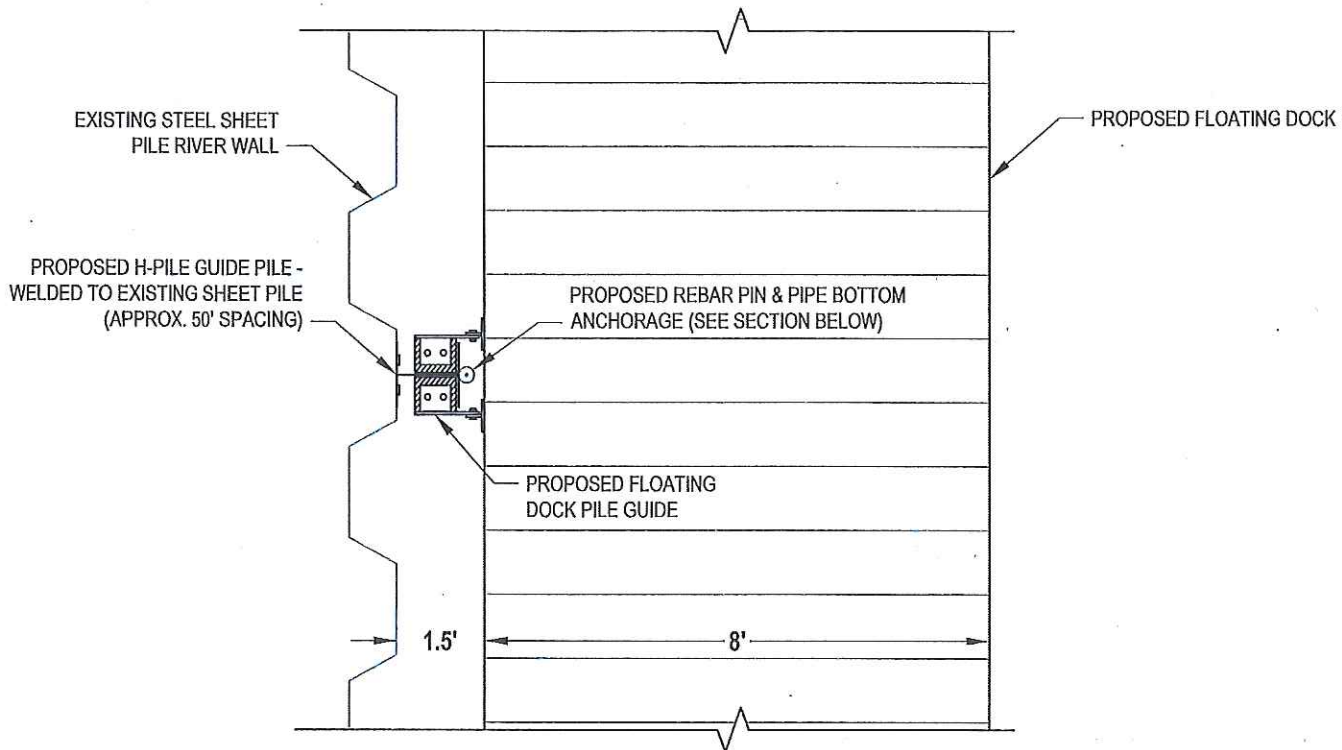


518 BROAD STREET,
ST. JOSEPH, MI 4908
P: 269 932 4502
F: 269 932 3542

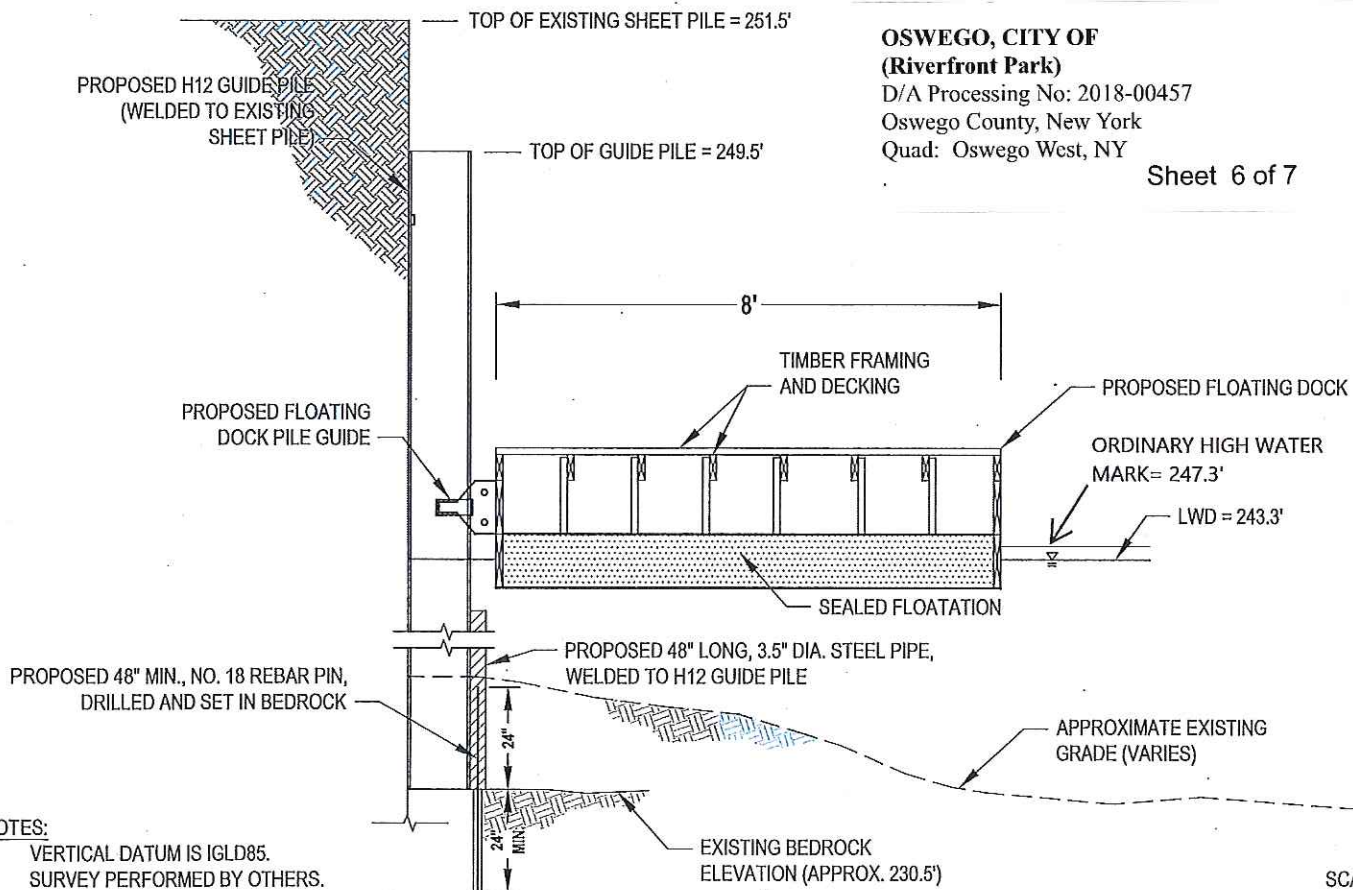
APPLICANT: CITY OF OSWEGO
WATERWAY: OSWEGO RIVER
CITY: OSWEGO, NY
COUNTY: OSWEGO
DATE: 3/29/2018
DATUM: IGLD85

SHEET: 4 OF 5

PLAN VIEW



TYPICAL SECTION



NOTES:

1. VERTICAL DATUM IS IGLD85.
2. SURVEY PERFORMED BY OTHERS.
3. UPLAND ELEMENTS ARE APPROXIMATE AND SHOWN FOR REFERENCE ONLY.

FLOATING DOCK DETAILS

APPLICANT: CITY OF OSWEGO
WATERWAY: OSWEGO RIVER
CITY: OSWEGO, NY
COUNTY: OSWEGO
DATE: 5/31/2018
DATUM: IGLD85

REVISED
SHEET: 5 OF 5

City of Oswego Oswego River Oswego County, New York Transient Docks Project

Figure 6. Sediment Disposal Site

1 in = 2,000 ft



NYS Orthos Online, Esri, HERE, DeLorme, Intermap, increment P Corp., GEBCO, USGS, FAO, NPS, NRCAN, GeoBase, IGN, Kadaster NL, Ordnance Survey, Esri Japan, METI, Esri China (Hong Kong), swisstopo, MapmyIndia ©, OpenStreetMap contributors, and the GIS User Community



BERGMANN
ARCHITECTS ENGINEERS PLANNERS

**ACTIVITIES AUTHORIZED BY 2017 NATIONWIDE PERMIT
WITHIN THE STATE OF NEW YORK**
Expiration March 18, 2022

B. Nationwide Permits

25. Structural Discharges. Discharges of material such as concrete, sand, rock, etc., into tightly sealed forms or cells where the material will be used as a structural member for standard pile supported structures, such as bridges, transmission line footings, and walkways, or for general navigation, such as mooring cells, including the excavation of bottom material from within the form prior to the discharge of concrete, sand, rock, etc. This NWP does not authorize filled structural members that would support buildings, building pads, homes, house pads, parking areas, storage areas and other such structures. The structure itself may require a separate section 10 permit if located in navigable waters of the United States. (Authority: Section 404)

Buffalo District Only Permit-specific Regional Conditions: None

Section 401 Water Quality Certification:

The New York State Department of Environmental Conservation (NYSDEC) has granted blanket Section 401 Water Quality Certification in New York State provided that the project complies with **all** the Special Conditions listed below and General Conditions listed in Section H. Where the Special Conditions differ from the General Conditions, the Special Conditions shall prevail. Any party conducting the activities authorized by this NWP that cannot comply with **all** these conditions must apply for and obtain an individual Section 401 Water Quality Certification from the NYSDEC.

NYSDEC WQC NWP #25 Special Conditions:

- This certification does not authorize structural discharges for any pile-supported structure with a surface area greater than 4,000 square feet.
- This certification does not authorize any structural support member with an area footprint greater than 64 square feet.
- This certification does not authorize piles or structural support members with spacing that has the effect of fill or that causes the buildup of bottom sediments due to wave action or shoreline drift.

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) objects to the USACE' consistency determination and therefore, an individual consistency concurrence determination from NYSDOS is required for this NWP to be valid in the New York coastal area. See Section I below for further information.

C. Nationwide Permit General Conditions

Note: To qualify for NWP authorization, the prospective permittee must comply with the following general conditions, as applicable, in addition to any regional or case-specific conditions imposed by the division engineer or

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

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

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

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

2. Aquatic Life Movements. No activity may substantially disrupt the necessary life cycle movements of those species of aquatic life indigenous to the waterbody, including those species that normally migrate through the area, unless the activity's primary purpose is to impound water. All permanent and temporary crossings of waterbodies shall be suitably culverted, bridged, or otherwise designed and constructed to maintain low flows to sustain the movement of those aquatic species. 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.

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 Fills. Temporary fills must be removed in their entirety and the affected areas returned to pre-construction elevations. The affected areas must be revegetated, as appropriate.

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

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

16. Wild and Scenic Rivers. (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. The permittee 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/>.

17. Tribal Rights. No NWP activity may cause more than minimal adverse effects on tribal rights (including treaty rights), protected tribal resources, or tribal lands.

18. Endangered Species. (a) No activity is authorized under any NWP which is likely to directly or indirectly jeopardize the continued existence of a threatened or endangered species or a species proposed for such designation, as identified under the Federal Endangered Species Act (ESA), or which will directly or indirectly destroy or adversely modify the critical habitat of such species. No activity is authorized under any NWP which "may affect" a listed species or critical habitat, unless ESA section 7 consultation addressing the effects of the proposed activity has been completed. Direct effects are the immediate effects on listed species and critical habitat caused by the NWP activity. Indirect effects are those effects on listed species and critical habitat that are caused by the NWP activity and are later in time, but still are reasonably certain to occur.

(b) Federal agencies should follow their own procedures for complying with the requirements of the ESA. 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 designated critical habitat might be affected or is in the vicinity of the activity, or if the activity is located in designated critical habitat, and shall not begin work on the activity until notified by the district engineer that the requirements of the ESA have been satisfied and that the activity is authorized. For activities that might affect Federally-listed endangered or threatened species or designated critical habitat, the pre-construction notification must include the name(s) of the endangered or threatened species that might be affected by the proposed activity or that utilize the designated critical habitat 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. In cases where the non-Federal applicant has identified listed species or critical habitat that might be affected or is in the vicinity of the 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.

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

(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 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 their action complies with the Migratory Bird Treaty Act and the Bald and Golden Eagle Protection Act. The permittee is responsible for contacting appropriate local office of the U.S. Fish and Wildlife Service to determine applicable measures to reduce impacts 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) In cases where the district engineer determines that the activity may have the potential to cause effects to properties listed, or eligible for listing, in the National Register of Historic Places, the activity is not authorized, until the requirements of Section 106 of the National Historic Preservation Act (NHPA) have been satisfied.

(b) Federal permittees should follow their own procedures for complying with the requirements of section 106 of the National Historic Preservation Act. 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 36 CFR 330.4(g)). When reviewing pre-construction notifications, district engineers will comply with the current procedures for addressing the requirements of section 106 of the National Historic Preservation Act. The district engineer shall make a reasonable and good faith effort to carry out appropriate identification efforts, which may include background research, consultation, oral history interviews, sample field investigation, and field survey. Based on the information submitted in the PCN and these identification efforts, the district 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. Where the non-Federal applicant has identified historic properties on which the activity might have the potential to cause effects and so notified the Corps, the non-Federal applicant shall not begin the activity until notified by the district engineer either that the activity has no potential to cause effects to historic properties or that NHPA section 106 consultation has been completed.

(d) 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. If you discover any previously unknown historic, cultural or archeological remains and artifacts while accomplishing the activity authorized by this permit, you must immediately notify the district engineer of what you have found, and to the maximum extent practicable, avoid construction activities that may affect the remains and artifacts until the required coordination has been completed. The district engineer will initiate the Federal, Tribal, and state coordination required to determine if the items or remains warrant a recovery effort or if the site is eligible for listing in the National Register of Historic Places.

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

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

(b) For 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 in the designated critical resource waters including wetlands adjacent to those waters. The district engineer may authorize activities under these NWPs only after it is determined that the impacts to the critical resource waters will be no more than minimal.

23. Mitigation. The district engineer will consider the following factors when determining appropriate and practicable mitigation necessary to ensure that 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) For losses of streams or other open waters that require pre-construction notification, the district engineer may require compensatory mitigation to ensure that the activity results in no more than 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. Restored riparian areas should consist of native species. The width of the required riparian area will address documented water quality or aquatic habitat loss concerns. Normally, the riparian area will be 25 to 50 feet wide on each side of the stream, but the district engineer may require slightly wider riparian areas to address documented water quality or habitat loss concerns. If it is not possible

to 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.

(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)).

(5) If mitigation bank or in-lieu fee program credits are the proposed option, the mitigation plan only needs to address the baseline conditions at the impact site and the number of credits to be provided.

(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.

(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 dam safety criteria or have been designed by qualified persons. The district engineer may also require documentation that the design has been independently reviewed by similarly qualified persons, and appropriate modifications made to ensure safety.

25. Water Quality. Where States and authorized Tribes, or EPA where applicable, have not previously certified compliance of an NWP with CWA section 401, individual 401 Water Quality Certification must be obtained or waived (see 33 CFR 330.4(c)). The district engineer or State or Tribe may require additional water quality management measures to ensure that the authorized activity does not result in more than minimal degradation of water quality.

26. Coastal Zone Management. In coastal states where an NWP has not previously received a state coastal zone management consistency concurrence, an individual state coastal zone management consistency concurrence must be obtained, or a presumption of concurrence must occur (see 33 CFR 330.4(d)). The district engineer or a State may require additional measures to ensure that the authorized activity is consistent with state coastal zone management requirements.

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

28. Use of Multiple Nationwide Permits. The use of more than one NWP for a single and complete project is prohibited, except when the acreage loss of waters of the United States authorized by the NWPs does not exceed the acreage limit of the NWP with the highest specified acreage limit. For example, if a road crossing over tidal waters is constructed under NWP 14, with associated bank stabilization authorized by NWP 13, the maximum acreage loss of waters of the United States for the total project cannot exceed 1/3-acre.

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

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

(Transferee)

(Date)

30. Compliance Certification. Each permittee who receives an NWP verification letter from the Corps must provide a signed certification documenting completion of the authorized activity and 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 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 is not authorized by NWP until the appropriate Corps office issues the section 408 permission to alter, occupy, or use the USACE project, and the district engineer issues a written NWP verification.

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. Also, work cannot begin under NWPs 21, 49, or 50 until the permittee has received written approval from the Corps. If the proposed activity requires a written waiver to exceed specified limits of an NWP, the permittee may not begin the activity until the district engineer issues the waiver. If the district or division engineer notifies the permittee in writing that an individual permit is required within 45 calendar days of receipt of a complete PCN, the permittee cannot begin the activity until an individual permit has been obtained. Subsequently, the

permittee's right to proceed under the NWP may be modified, suspended, or revoked only in accordance with the procedure set forth in 33 CFR 330.5(d)(2).

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

- (1) Name, address and telephone numbers of the prospective permittee;
- (2) Location of the proposed activity;
- (3) Identify the specific NWP or NWP(s) the prospective permittee wants to use to authorize the proposed activity;
- (4) 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. For single and complete linear projects, 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. 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, intermittent, and ephemeral streams, on the project site. Wetland delineations must be prepared in accordance with the current method required by the Corps. The permittee may ask the Corps to delineate the special aquatic sites and other waters on the project site, but there may be a delay if the Corps does the delineation, especially if the project site is large or contains many 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 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 designated critical habitat might be affected or is in the vicinity of the activity, or if the activity is located in designated critical habitat, the PCN must include the name(s) of those endangered or threatened species that might be affected by the proposed activity or utilize the designated critical habitat 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 activity that requires 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 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 the Corps office having jurisdiction over that USACE project.

(c) Form of Pre-Construction Notification: The standard individual permit application form (Form ENG 4345) may be used, but the completed application form must clearly indicate that it is an NWP PCN and must include all of the applicable information required in paragraphs (b)(1) through (10) of this general condition. A letter containing the required information may also be 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 NWPs 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 21, 29, 39, 40, 42, 43, 44, 50, 51, and 52 activities that require pre-construction notification and will result in the loss of greater than 300 linear feet of stream bed; (iii) 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 (iv) 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 NWPs, including the need for mitigation to ensure 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 individual crossings of waters of the United States to determine whether they individually satisfy the terms and conditions of the NWP(s), as well as the cumulative effects caused by all of the crossings authorized by NWP. If an applicant requests a waiver of the 300 linear foot limit on impacts to streams or of an otherwise applicable limit, as provided for in NWPs 13, 21, 29, 36, 39, 40, 42, 43, 44, 50, 51, 52, 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. For those NWPs that have a waivable 300 linear foot limit for losses of intermittent and ephemeral stream bed and a 1/2-acre limit (i.e., NWPs 21, 29, 39, 40, 42, 43, 44, 50, 51, and 52), the loss of intermittent and ephemeral stream bed, plus any other losses of jurisdictional waters and wetlands, cannot exceed 1/2-acre.

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 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, 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 (e.g., streams). 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 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, or to evaluate PCNs for activities authorized by NWPs 21, 49, and 50), 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 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.

Ephemeral stream: An ephemeral stream has flowing water only during, and for a short duration after, precipitation events in a typical year. Ephemeral stream beds are located above the water table year-round. Groundwater is not a source of water for the stream. Runoff from rainfall is the primary source of water for stream flow.

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

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

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

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

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

Intermittent stream: An intermittent stream has flowing water during certain times of the year, when groundwater provides water for stream flow. During dry periods, intermittent streams may not have flowing water. Runoff from rainfall is a supplemental source of water for stream flow.

Loss of waters of the United States: Waters of the United States that are permanently adversely affected by filling, flooding, excavation, or drainage because of the regulated activity. Permanent adverse effects include permanent discharges of dredged or fill material that change an aquatic area to dry land, increase the bottom elevation of a waterbody, or change the use of a waterbody. The acreage of loss of waters of the United States is a threshold measurement of the impact to jurisdictional waters for determining whether a project may qualify for an NWP; it is not a net threshold that is calculated after considering compensatory mitigation that may be used to offset losses of aquatic functions and services. The loss of stream bed includes the acres or linear feet of stream bed that are filled or excavated as a result of the regulated activity. 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 NWP, 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: An ordinary high water mark is a line on the shore established by the fluctuations of water and indicated by physical characteristics, or by other appropriate means that consider the characteristics of the surrounding areas.

Perennial stream: A perennial stream has flowing water year-round during a typical year. The water table is located above the stream bed for most of the year. Groundwater is the primary source of water for stream flow. Runoff from rainfall is a supplemental source of water for stream flow.

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

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

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

Protected tribal resources: Those natural resources and properties of traditional or customary religious or cultural importance, either on or off Indian lands, retained by, or reserved by or for, Indian tribes through treaties, statutes, judicial decisions, or executive orders, including tribal trust resources.

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

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

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

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

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

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

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

Tidal wetland: A tidal wetland is a 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.

Waterbody: For purposes of the NWP, a waterbody is a jurisdictional 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)). Examples of "waterbodies" include streams, rivers, lakes, ponds, and wetlands.

G. Buffalo and 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 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).

G-B. CULVERTS

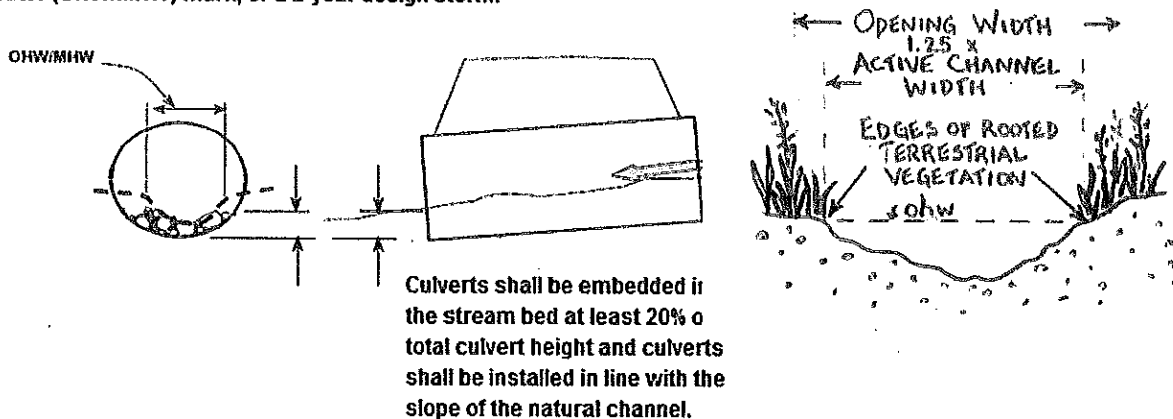
1. **ALL NEW OR REPLACEMENT CULVERTS** in streams shall be constructed/installed in accordance with the following, in order to ensure compliance with NWP General Condition #2 – Aquatic Life Movement and #9 Management of Water Flows:

- a. Size: Bank-full flows shall be accommodated through maintenance of the existing bank-full channel cross sectional dimensions within one 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. Either a bottomless culvert or bridge must be used 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, or a 2 year design storm.
- b. Depth: To maintain low flow and aquatic life movement within culverts with a bottom, the culvert invert 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.
- e. 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.

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.

The diameter of the culvert shall accommodate bankfull flows by sizing the culvert 1.25 times the stream width at ordinary high water/mean high water (OHW/MHW) mark, or a 2-year design storm.



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.
- 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 the least environmentally damaging practicable alternative (e.g. compliance with any of the requirement(s) would result in detrimental impacts to the aquatic system).

2. ALL CULVERT REHABILITATION PROJECTS in streams, not including culvert replacement projects, 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), 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.
- 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:

- i. A summary of the evaluation required in Item a. above including 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:

Reschke, C. 1990. *Ecological Communities of New York State*. New York Natural Heritage Program. New York State Department of Environmental Conservation. Latham, N.Y. 96p. This document is available at the following location: <http://www.dec.ny.gov/animals/29389.html>

G-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.
(<http://www.lrb.usace.army.mil/Missions/Regulatory/Application-Forms/>)

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

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

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

5. Mitigation (See General Conditions 23 & 32(b)(6)): The PCN must include at least a conceptual compensatory mitigation plan for all projects resulting in the loss of greater than 1/10th of an acre of waters of the United States; or for which a waiver of the 300 linear foot limit on intermittent and ephemeral streams is being requested. Mitigation conceptual plans submitted with the PCN must include the following information at a minimum: proposed compensation type (bank or in-lieu fee credit, restoration, creation, preservation, etc.), location and brief discussion on factors considered for site selection (i.e. soils, water source, potential for invasive species, etc.), amount proposed per resource type and a discussion of how the proposal will compensate for aquatic resource functions and services lost as a result of the project.

Note 1: All mitigation projects must comply with the Federal Regulations on compensatory mitigation (33 CFR 332) entitled "Compensatory Mitigation for Losses of Aquatic Resources: Final Rule", dated April 10, 2008, which is available at:

<http://www.lrb.usace.army.mil/Portals/45/docs/regulatory/MitandMon/FinalMitigaitonRuleApril2008.pdf> 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.

6. Nationwide Rivers Inventory: The PCN shall indicate if a river segment listed within the National Park Service Nationwide Rivers Inventory (NRI) is located within the proposed project area. For project areas containing a listed NRI segment, the PCN shall also include a statement as to how adverse effects to the river have been avoided or mitigated. The list is available at:
<http://www.nps.gov/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 must include:

- A written statement indicating if any such properties may be affected by the proposed project.
- 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.
- 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.
- Copies of any available correspondence from federally recognized Indian Nations regarding historic properties that may be affected by the project.
- 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.
- 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: 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, 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:

- a written statement and documentation concerning any Essential Fish Habitat (EFH) and any federally listed or proposed Threatened, Endangered, or Candidate (TE&C) species or designated and/or proposed critical habitat that might be affected or located in the vicinity of the project.
- 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 TE&C species on the project site. USFWS TE&C website: <http://www.fws.gov/northeast/nyfo/es/section7.htm> . Information on NOAA-Fisheries (NMFS) species (both TE&C and EFH) can be found at: <https://www.greateratlantic.fisheries.noaa.gov/>
- an official TE&C species list printed within 90 days of the PCN submission from the USFWS Website.
- For projects where TE&C species are listed, a discussion of potential TE&C species habitat within the project site (See USFWS T&E website for species habitat information).
- If there is potential habitat for any TE&C species within the project site the following, as applicable, shall be submitted:
 - a. The results of any habitat surveys and presence/absence surveys. Note: all surveys should be coordinated with the USFWS and/or NOAA-Fisheries (NMFS) prior to initiation.
 - b. A detailed description of the proposed project, including secondary impacts and approximate proposed project construction schedule of project activities (e.g. land clearing, utilities, stormwater management).
 - c. A description of the natural characteristics of the property and surrounding area (e.g. forested areas, freshwater wetlands, open waters, and soils) and a description of surrounding land use (residential, agricultural, or commercial).
 - d. A description of the area to be impacted by the proposed project, including the species, typical sizes (d.b.h.) and number or acres of trees to be removed.
 - e. The location of the above referenced property and extent of any project related activities or discharges clearly indicated on a copy of a USGS 7.5 minute topographic quadrangle (quad) with the name of the quad(s) and latitude/longitude clearly labeled.
 - f. A description of conservation measures to avoid, minimize and/or mitigate impacts to listed species.

NOTE 1: There are no known TE&C 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 TE&C 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 website for further guidance and information relating to regulatory permits & TE&C species in New York:

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

NOTE 3: General Condition #18 is emphasized, ... "In cases where the non-Federal applicant has identified listed species or critical habitat that might be affected or is in the vicinity of the project, and has so notified the Corps, the applicant shall not begin work until the Corps has provided notification the proposed work will have "no effect" on listed species or critical habitat, or until Section 7 consultation has been completed."

9. 100 Year Floodplain: For permanent fills within waters of the United States within the 100 year floodplain, documentation of compliance with FEMA-approved state or local floodplain management requirements.

10. Submission of Multiple Copies of PCN:

- a) One (1) additional copy of the application drawings shall be provided to USACE for coordination with National Oceanic and Atmospheric Administration (NOAA) for utility lines to be constructed or installed in navigable waters of the U.S. proposed under NWP #12, (See Note 1 of NWP #12)
- b) One (1) additional copy of the PCN package shall be provided to USACE for coordination with Department of Defense Siting Clearinghouse (See NWP #12, 39, 51 & 52 Notes) for:
 - i. overhead utility lines proposed under NWP #12 and
 - ii. any activity that involves the construction of a wind energy generating structure, solar tower, or overhead transmission lines proposed under NWP #39, 51 or 52
- c) Two (2) additional copies of the PCN package shall be provided to USACE when the project is located within the New York City Watershed, for coordination with the New York City Department of Environmental Protection.
- d) Five (5) additional copies of the PCN package shall be submitted to USACE for agency coordination in accordance with General Condition # 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 21, 29, 39, 40, 42, 43, 44, 50, 51, and 52 activities that will result in the loss of greater than 300 linear feet of intermittent & ephemeral stream bed,
 - iii. 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;
 - iv. 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 wetland or waterway 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 of the following criteria must be met:

- Culvert pipes shall be designed to safely pass a 2% annual chance storm event.
- This certification does not authorize the installation of any culverts that are not embedded beneath the existing grade of the stream channel.
- Width of the structure must be a minimum of 1.25 times (1.25X) width of the Mean (Ordinary) High Water Channel.
- The culvert bed slope shall remain consistent with the slope of the adjacent stream channel. For slopes greater than 3%, an open bottom culvert must be used.
- This certification does not authorize work on culverts that provide sole access to "Critical Facilities": An individual WQC must be obtained for work on these culverts.
- This certification does not authorize culvert rehabilitation projects that involve slip lining, or similar treatments.
- This certification does authorize the rehabilitation of culverts utilizing Cure in Place Pipe Lining (CIPP) or concrete spray lining for culverts which currently meet Nationwide Permit General Condition # 2 - Aquatic Life Movements.

3. Discharge and Disturbance Limits of the Blanket WQC

- For Nationwide Permits # 5, 7, 12, 13, 14, 15, 18, 19, 23, 25, 29, 31, 32, 34, 36, 37, 39, 40, 42, 45, 46, 48, 51, utility line replacement projects under Nationwide Permit #3 and non-maintenance activities under Nationwide Permit #43.
- The following discharge limits apply:
 - a) Temporary or permanent discharges of dredged or fill material into wetlands and other waters of the U.S. must not exceed ¼ acre;
 - b) Temporary or permanent impacts (i.e., loss) to stream beds must not exceed 300 linear feet.
 - c) The discharge area limit under paragraph (a) plus the equivalent stream impact area limit under paragraph (b) must not exceed ¼ acre total.

• For Nationwide Permits # 3, 4, 6, 20, 22, 27, 30, 33, 41 and maintenance activities under Nationwide Permit # 43, this certification authorizes discharges and disturbances up to the limit of the respective Nationwide Permit or regional conditions, whichever is most restrictive.

• 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

- This certification does not authorize the construction of new bulkheads or vertical walls.
- This certification does not authorize the waterward extension of existing bulkheads.
- 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, with the exception of activities authorized by Nationwide Permit #27.

6. Dewatering

- 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.

- 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.
- Cofferdams or diversions shall not be constructed in a manner that causes or exacerbates erosion of the bed or banks of a waterbody.
- 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. Endangered or Threatened Species

- This certification does not authorize projects likely to result in the take or taking of any species listed as endangered or threatened species listed in 6 NYCRR Part 182.5 (a), (b) or projects likely to destroy or adversely modify the habitat of such species. 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 will not be 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 DEC website at <http://www.dec.ny.gov/animals/29338.html>

If it is determined that the project is likely to result in the take of (or modify the habitat of such species) a New York listed endangered or threatened species, then this blanket water quality certification is not applicable, and the applicant will need an individual water quality certification from the department.

8. Rare Mollusks

- This Certification may not be issued for and does not authorize disturbances or discharges to waters of the state listed as supporting mollusks S-1 or S-2 on the New York State Natural Heritage database. <http://www.dec.ny.gov/animals/29338.html>

9. Prohibition Period for In-water Work

In-water work is prohibited during the following time period:

- 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.

To determine if the prohibition period is in effect for a particular water, contact the Regional Natural Resources Supervisor in the appropriate New York State Department of Environmental Conservation regional office. Water Classification values can be determined on the DEC's Environmental Resource Mapper available on the Departments Website @ <http://www.dec.ny.gov/gis/erm/> Work windows may be extended by the Regional Natural Resources Supervisor or their designee.

10. Significant Coastal Fish and Wildlife Habitat

- This certification does not authorize any discharge occurring in a designated Significant Coastal Fish and Wildlife Habitat area pursuant to 19 NYCRR Part 602; Title 19 Chapter 13, Waterfront Revitalization and Coastal Resources. <https://www.dos.ny.gov/opd/programs/consistency/scfwhabitats.html>

11. Coastal Erosion Hazard Areas

- This certification does not authorize projects in Coastal Erosion Hazard Areas, as identified in New York State Environmental Conservation Law Article 34, and its implementing regulations, 6 NYCRR Part 505. <http://www.dec.ny.gov/lands/86541.html>

12. State-owned Underwater Lands

Prior to undertaking any Nationwide Permit activity that will involve or occupy state-owned lands now or formerly under the waters of New York State, the party proposing the activity must first obtain all necessary approvals from:

New York State Office of General Services
Division of Real Estate Development
Corning Tower Building, 26th Floor
Empire State Plaza
Albany, NY 12242
Tel. (518) 474-2195

13. Tidal Wetlands

- This certification does not authorize any activities in tidal wetlands as defined in Article 25 of New York State Environmental Conservation Law, with the exception of activities authorized by Nationwide Permits # 4, 20 and 48. <http://www.dec.ny.gov/lands/4940.html>

14. Wild, Scenic and Recreational Rivers

- This certification does not authorize activities in any Wild, Scenic or Recreational River pursuant to 6 NYCRR Part 666 or state designated Wild, Scenic or Recreational River corridors.
<http://www.dec.ny.gov/permits/6033.html>

15. Floodplains

- Authorized projects subject to this certification must first be in compliance with State and Local Floodplain Regulations prior to commencement of construction.

16. Public Service Commission

- This certification does not authorize activities regulated pursuant to Article VII or Article 10 of the New York State Public Service Law. For such projects, Section 401 Water Quality Certification is obtained from the New York State Public Service Commission.

17. Utility Projects

- This certification does not authorize maintenance or other activities associated with hydroelectric power generation projects.
- This certification does not authorize the construction of substation facilities or permanent access roads in wetlands.
- 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.

18. Preventing the Spread of Terrestrial and 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 waters of the U.S. 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.

I. New York State Department of State (NYSDOS) Coastal Zone Management Consistency Determination Additional Information (applicable to all NWP's located within or affecting the NYS Coastal Zone):

Where NYSDOS has objected to the USACE consistency determination or where the project will not comply with the NYSDOS NWP specific condition(s), as outlined in the specific NWP listing in Section B above, the applicant must submit a request for an individual consistency determination to NYSDOS. See Section K for NYSDOS contact information.

Further Information:

- Unless NYSDOS issues consistency concurrence or USACE has determined that NYSDOS concurrence is presumed, NWP's 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: <https://www.dos.ny.gov/opd/programs/consistency/index.html>

J. INFORMATION ON NATIONWIDE PERMIT VERIFICATION

Verification of the applicability of these Nationwide Permits is valid until March 18, 2022 unless the Nationwide Permit is modified, suspended revoked, or the activity complies with any subsequent permit modification.

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

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

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

K. AGENCY CONTACT INFORMATION

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 Pitt Corners Road
New Paltz, NY 12561-1620
(845) 256-3054

NYS DEC REGION 4
Regional Permit Administrator
1130 North Westcott Road
Schenectady, NY 12306-2014
(518) 357-2069

NYS DEC REGION 4 Sub-Office
Deputy Regional Permit Administrator
65561 State Hwy 10
Stamford, NY 12167-9503
(607) 652-7741

NYS DEC REGION 5
Regional Permit Administrator
PO Box 296
1115 Route 86
Ray Brook, NY 12977-0296
(518) 897-1234

NYS DEC REGION 5 Sub-Office
Deputy Regional Permit Administrator
PO Box 220
232 Golf Course Rd
Warrensburg, NY 12885-0220
(518) 623-1281

NYS DEC REGION 6
Regional Permit Administrator
317 Washington Street
Watertown, NY 13601-3787
(315) 785-2245

NYS DEC REGION 6 Sub-Office
Deputy Regional Permit Administrator
207 Genesee Street
Utica, NY 13501-2885
(315) 793-2555

NYS DEC REGION 7
Regional Permit Administrator
615 Erie Blvd. West
Syracuse, NY 13204-2400
(315) 426-7438

NYS DEC REGION 7 Sub-Office
Deputy Regional Permit Administrator
1285 Fisher Avenue
Cortland, NY 13045-1090
(607) 753-3095

NYS DEC REGION 8
Regional Permit Administrator
6274 E. Avon - Lima Road
Avon, NY 14414-9519
(585) 226-2466

NYS DEC REGION 9
Regional Permit Administrator
270 Michigan Avenue
Buffalo, NY 14203-2915
(716) 851-7165

NYS DEC REGION 9 Sub-Office
Deputy Regional Permit Administrator
182 East Union Street
Allegany, NY 14706-1328
(716) 372-0645

NYS Department of State

Division of Coastal Resources
Consistency Review Unit
One Commerce Plaza
99 Washington Avenue, Suite 1010
Albany, NY 12231-00001
(518) 474-6000
<https://www.dos.ny.gov/opd/programs/consistency/index.html>

US Army Corps of Engineers

<http://www.nan.usace.army.mil>

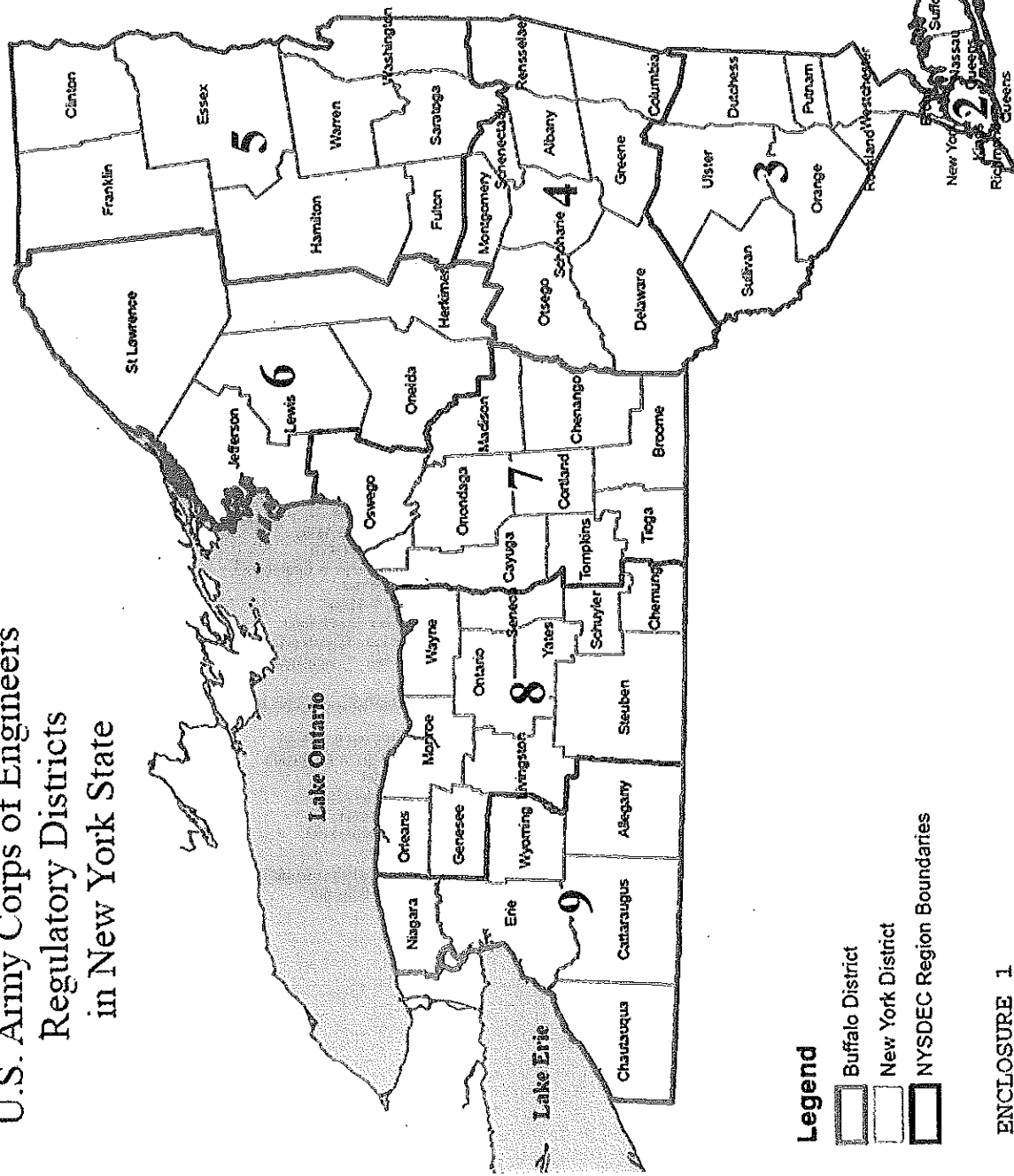
(For DEC Regions 1, 2 and 3)
US Army Corps of Engineers NY District
ATTN: Regulatory Branch
26 Federal Plaza, Room 1937
New York, NY 10278-0090
Email: CENAN.PublicNotice@usace.army.mil
For DEC Regions 1, 2, Westchester County
and Rockland County (917) 790-8511
For the other counties of DEC Region 3 -
(917) 790-8411

(For DEC Regions 4, 5)
Department of the Army
ATTN: CENAN-OP-R
NY District, Corps of Engineers
1 Buffington Street
Building 10, 3rd Floor
Watervliet, NY 12189-4000
(518) 266-6350 - Permits team
(518) 266-6360 - Compliance Team

Email: cenan.rfo@usace.army.mil

(For DEC Regions 6, 7, 8, 9)
US Army Corps of Engineers
Buffalo District
ATTN: Regulatory Branch
1776 Niagara Street
Buffalo, NY 14207-3199
(716) 879-4330
Email: LRB.Regulatory@usace.army.mil
www.lrb.usace.army.mil

U.S. Army Corps of Engineers Regulatory Districts in New York State



Buffalo District

Regulatory Branch, District Office
1776 Niagara Street
Buffalo, New York 14207
(716) 878-4330

Regulatory Branch, Auburn Field Office
7413 County House Road
Auburn, New York 13021
(315) 255-8080

New York District

Regulatory Branch, District Office
28 Federal Plaza
New York, New York 10278-0030
(917) 760-8411

Regulatory Branch, Upstate Field Office
1 Buffington Street
Watervliet, New York 12180-4000
(518) 266-8350



U.S. Army
Corps of Engineers

Legend

- Buffalo District
- New York District
- NYSDEC Region Boundaries

ENCLOSURE 1

ENCLOSURE 2

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

Division of Environmental Permits, Region 7

615 Erie Boulevard West, Syracuse, NY 13204-2400

P: (315) 426-7438 | F: (315) 426-7425

www.dec.ny.gov

Mayor William Barlow
City of Oswego
20 W. Oneida St.
Oswego, NY 13126

INSTRUCTIONS TO ALL PERMITTEES

Enclosed is your permit under New York State's Environmental Conservation Law. Please take some time to review it and note:

1. The permit is valid for only that activity specifically represented in your permit application and authorized in writing in the permit itself. Any deviation from the activity authorized in the permit or described in your application may require additional approval(s) or corrective action;
2. Review the General and Special Conditions carefully. If you are unsure of your obligations under the permit, please bring your questions to our attention;
3. If, for any reason, you believe you will be unable to comply or remain in compliance with the terms of your permit, please contact us;
4. Please check the expiration date and any requirements for renewal or modification of your permit;
5. Please keep the permit in a safe place for reference and a copy at the work site; and
6. The identification numbers help us communicate with you. Please reference them in any subsequent communications.
7. The Uniform Procedures Regulations provide that an applicant may request an adjudicatory hearing if a permit is denied or contains conditions which are unacceptable to them (6NYCRR Part 621.10(a)). Any such request must be made in writing within 30 calendar days of the date of this letter and must be addressed to the Regional Permit Administrator, Department of Environmental Conservation, 615 Erie Boulevard West, Syracuse, New York, 13204-2400.

If you have any questions, please contact me at 315-426-7493. Thank you.

Sincerely,



Kevin Balduzzi
Deputy Regional Permit Administrator
Division of Environmental Permits

ecc: US ACOE
Tiffany Toukatly, R7 BOH
David Plante, Bergmann Associates



Department of
Environmental
Conservation

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PERMIT
Under the Environmental Conservation Law (ECL)

Permittee and Facility Information

Permit Issued To:
CITY OF OSWEGO
CITY HALL W ONEIDA ST

OSWEGO, NY 13126

Facility:
TRANSIENT DOCKS ON OSWEGO RIVER
21 WATER ST|ALONG THE W BANK OF THE
OSWEGO RIVER, PARALLEL TO W 1ST ST,
BTW FRONT ST AND RTE 104
OSWEGO, NY 13126

Facility Location: in OSWEGO in OSWEGO COUNTY

Facility Principal Reference Point: NYTM-E: 377.753 NYTM-N: 4812.825
Latitude: 43°27'30.1" Longitude: 76°30'39.9"

Authorized Activity: Modification 1 permits the City of Oswego to install approximately 400 LF of timber fenders, attached to the existing sheet pile wall of the Oswego River along W. First Street adjacent to Riverfront Park. Steel beams will be attached to the sheet pile upon which rough sawn timbers will be affixed. The beams and timbers will extend approximately seven feet below the top of the existing sheeting. There will be no disturbance to the bed of the Oswego River.

Work window timing restrictions have been removed as this project will not disturb the bed of the Oswego River, will not create turbidity, and all machinery will be operated from the upland area.

Permit Authorizations

Excavation & Fill in Navigable Waters - Under Article 15, Title 5

Permit ID 7-3512-00146/00001

New Permit	Effective Date: <u>7/17/2018</u>	Expiration Date: <u>7/16/2023</u>
Modification # 1	Effective Date: <u>2/26/2019</u>	Expiration Date: <u>7/16/2023</u>

Water Quality Certification - Under Section 401 - Clean Water Act

Permit ID 7-3512-00146/00002

New Permit	Effective Date: <u>7/17/2018</u>	Expiration Date: <u>7/16/2023</u>
Modification # 1	Effective Date: <u>2/26/2019</u>	Expiration Date: <u>7/16/2023</u>

Docks, Platforms & Moorings - Under Article 15, Title 5

Permit ID 7-3512-00146/00003

New Permit	Effective Date: <u>7/17/2018</u>	Expiration Date: <u>7/16/2023</u>
Modification # 1	Effective Date: <u>2/26/2019</u>	Expiration Date: <u>7/16/2023</u>



NYSDEC Approval

By acceptance of this permit, the permittee agrees that the permit is contingent upon strict compliance with the ECL, all applicable regulations, and all conditions included as part of this permit.

Permit Administrator: KEVIN M BALDUZZI, Deputy Regional Permit Administrator
Address: NYSDEC Region 7 Headquarters
615 Erie Boulevard W
Syracuse, NY 13204 -2400

Authorized Signature: Kevin M. Balduzzi

Date 2 / 26 / 19

Permit Components

NATURAL RESOURCE PERMIT CONDITIONS

WATER QUALITY CERTIFICATION SPECIFIC CONDITION

GENERAL CONDITIONS, APPLY TO ALL AUTHORIZED PERMITS

NOTIFICATION OF OTHER PERMITTEE OBLIGATIONS

Permit Attachments

Drawings/Blueprints

2/22/2019

NATURAL RESOURCE PERMIT CONDITIONS - Apply to the Following Permits: EXCAVATION & FILL IN NAVIGABLE WATERS; WATER QUALITY CERTIFICATION; DOCKS, PLATFORMS & MOORINGS

1. Conformance With Plans All activities authorized by this permit must be in strict conformance with the approved plans submitted by the applicant or applicant's agent as part of the permit application. Such approved plans were prepared by Edgewater Resources and titled: "General Notes" sheet # G-1.00, "Proposed Site Plan" sheet # G-1.01, and "Fendering System Detail" sheet # M-2.00, all with a DEC date stamp of Jan 22 2019.

2. Use of Grout, Cement, or Adhesives for H-Pile Installation The use of any form of weld, adhesive, grout, cement, or like substances to secure the steel beams to the sheet pile is not permitted without first being approved by the Regional Fisheries Manager.



3. Failure to Meet Permit Conditions Failure of the permittee to meet all the conditions of this permit is a violation of this permit and grounds for an order to immediately cease the permitted activity at the project site.

4. No Interference With Navigation There shall be no unreasonable interference with navigation by the work herein authorized.

5. Prior Approval of Changes If the Permittee desires to make any changes in construction techniques, species to be planted, the site plan, any mitigation plan, scheduling or staging of construction, or any other aspect of this project, the Permittee shall submit a written request to the Regional Permit Administrator to make such proposed changes and shall not make such changes unless authorized in writing by the Department.

6. Erosion, Sedimentation and Turbidity Controls

a) All work shall be conducted in such a manner to prevent as far as reasonably possible to minimize the potential for silt and sediment in the waterbody; the use of properly constructed silt fences, silt curtains, or cofferdams may be needed.

b) Work shall be conducted in such a manner so the waterbody reach downstream of the work site is as clear and clean as upstream of the work site.

c) The discharge of any wet concrete, dry or wet cement or other pollutants into the waterway outside the contained work area is expressly prohibited.

d) If the above conditions are not adhered to, then all work shall cease and measures shall be instituted to contain and clean up the discharge until the non-compliance is remedied.

7. No Equipment in the Water Heavy equipment operation in the water is prohibited. With backhoes and similar heavy equipment, the bucket may enter the water.

8. Work in One Continuous Operation Work within the Oswego River must be done in one continuous operation.

9. No Rock From Stream/Lake No rock for use in construction is to come from the river bed.

10. Maintain Benchmarks for One Year After Permit Expiration Any benchmarks or other objects or structures used to define the location or limits of the activity subject to this permit, shall be left in place for a period of at least one year following the expiration date of this permit.

11. Concrete Leachate During construction, no wet or fresh concrete or leachate shall be allowed to escape into any wetlands or waters of New York State, nor shall washings from ready-mixed concrete trucks, mixers, or other devices be allowed to enter any wetland or waters. Only watertight or waterproof forms shall be used. Wet concrete shall not be poured to displace water within the forms.

12. Prevent Concrete Wash Waters from Entering Waterbody Equipment, tools and trucks used in this project shall be cleaned in such a manner as to prevent wash water from entering any stream or lake.

13. Invasive Species (Non-native Vegetation) 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 the state regulated



freshwater wetland or its 100 foot adjacent area.

14. Post-Construction Photographs Within 30 days of completion of construction of the work authorized by this permit, the permittee shall submit at least 3 color photographs of the project, taken from different angles, to

Regional Permit Administrator
NYSDEC Region 7 Headquarters
615 Erie Boulevard W
Syracuse, NY 13204 -2400

15. Precautions Against Contamination of Waters All necessary precautions shall be taken to preclude contamination of any wetland or waterway by suspended solids, sediments, fuels, solvents, lubricants, epoxy coatings, paints, concrete, leachate or any other environmentally deleterious materials associated with the project.

16. State May Require Site Restoration If upon the expiration or revocation of this permit, the project hereby authorized has not been completed, the applicant shall, without expense to the State, and to such extent and in such time and manner as the Department of Environmental Conservation may lawfully require, remove all or any portion of the uncompleted structure or fill and restore the site to its former condition. No claim shall be made against the State of New York on account of any such removal or alteration.

17. State May Order Removal or Alteration of Work If future operations by the State of New York require an alteration in the position of the structure or work herein authorized, or if, in the opinion of the Department of Environmental Conservation it shall cause unreasonable obstruction to the free navigation of said waters or flood flows or endanger the health, safety or welfare of the people of the State, or cause loss or destruction of the natural resources of the State, the owner may be ordered by the Department to remove or alter the structural work, obstructions, or hazards caused thereby without expense to the State, and if, upon the expiration or revocation of this permit, the structure, fill, excavation, or other modification of the watercourse hereby authorized shall not be completed, the owners, shall, without expense to the State, and to such extent and in such time and manner as the Department of Environmental Conservation may require, remove all or any portion of the uncompleted structure or fill and restore to its former condition the navigable and flood capacity of the watercourse. No claim shall be made against the State of New York on account of any such removal or alteration.

18. State Not Liable for Damage The State of New York shall in no case be liable for any damage or injury to the structure or work herein authorized which may be caused by or result from future operations undertaken by the State for the conservation or improvement of navigation, or for other purposes, and no claim or right to compensation shall accrue from any such damage.

WATER QUALITY CERTIFICATION SPECIFIC CONDITIONS

1. Water Quality Certification The authorized project, as conditioned pursuant to the Certificate, complies with Section 301, 302, 303, 306, and 307 of the Federal Water Pollution Control Act, as amended and as implemented by the limitations, standards, and criteria of state statutory and regulatory requirements set forth in 6 NYCRR Section 608.9(a). The authorized project, as conditioned, will also comply with applicable New York State water quality standards, including but not limited to effluent



limitations, best usages and thermal discharge criteria, as applicable, as set forth in 6 NYCRR Parts 701, 702, 703, and 704.

2. Water Quality Certification The authorized project, as conditioned pursuant to the Certificate, complies with Section 301, 302, 303, 306, and 307 of the Federal Water Pollution Control Act, as amended and as implemented by the limitations, standards, and criteria of state statutory and regulatory requirements set forth in 6 NYCRR Section 608.9(a). The authorized project, as conditioned, will also comply with applicable New York State water quality standards, including but not limited to effluent limitations, best usages and thermal discharge criteria, as applicable, as set forth in 6 NYCRR Parts 701, 702, 703, and 704.

GENERAL CONDITIONS - Apply to ALL Authorized Permits:
--

1. Facility Inspection by The Department The permitted site or facility, including relevant records, is subject to inspection at reasonable hours and intervals by an authorized representative of the Department of Environmental Conservation (the Department) to determine whether the permittee is complying with this permit and the ECL. Such representative may order the work suspended pursuant to ECL 71- 0301 and SAPA 401(3).

The permittee shall provide a person to accompany the Department's representative during an inspection to the permit area when requested by the Department.

A copy of this permit, including all referenced maps, drawings and special conditions, must be available for inspection by the Department at all times at the project site or facility. Failure to produce a copy of the permit upon request by a Department representative is a violation of this permit.

2. Relationship of this Permit to Other Department Orders and Determinations Unless expressly provided for by the Department, issuance of this permit does not modify, supersede or rescind any order or determination previously issued by the Department or any of the terms, conditions or requirements contained in such order or determination.

3. Applications For Permit Renewals, Modifications or Transfers The permittee must submit a separate written application to the Department for permit renewal, modification or transfer of this permit. Such application must include any forms or supplemental information the Department requires. Any renewal, modification or transfer granted by the Department must be in writing. Submission of applications for permit renewal, modification or transfer are to be submitted to:

Regional Permit Administrator
NYSDEC Region 7 Headquarters
615 Erie Boulevard W
Syracuse, NY13204 -2400

4. Submission of Renewal Application The permittee must submit a renewal application at least 30 days before permit expiration for the following permit authorizations: Docks, Platforms & Moorings, Excavation & Fill in Navigable Waters, Water Quality Certification.



5. Permit Modifications, Suspensions and Revocations by the Department The Department reserves the right to exercise all available authority to modify, suspend or revoke this permit. The grounds for modification, suspension or revocation include:

- a. materially false or inaccurate statements in the permit application or supporting papers;
- b. failure by the permittee to comply with any terms or conditions of the permit;
- c. exceeding the scope of the project as described in the permit application;
- d. newly discovered material information or a material change in environmental conditions, relevant technology or applicable law or regulations since the issuance of the existing permit;
- e. noncompliance with previously issued permit conditions, orders of the commissioner, any provisions of the Environmental Conservation Law or regulations of the Department related to the permitted activity.

6. Permit Transfer Permits are transferrable unless specifically prohibited by statute, regulation or another permit condition. Applications for permit transfer should be submitted prior to actual transfer of ownership.

NOTIFICATION OF OTHER PERMITTEE OBLIGATIONS

Item A: Permittee Accepts Legal Responsibility and Agrees to Indemnification

The permittee, excepting state or federal agencies, expressly agrees to indemnify and hold harmless the Department of Environmental Conservation of the State of New York, its representatives, employees, and agents ("DEC") for all claims, suits, actions, and damages, to the extent attributable to the permittee's acts or omissions in connection with the permittee's undertaking of activities in connection with, or operation and maintenance of, the facility or facilities authorized by the permit whether in compliance or not in compliance with the terms and conditions of the permit. This indemnification does not extend to any claims, suits, actions, or damages to the extent attributable to DEC's own negligent or intentional acts or omissions, or to any claims, suits, or actions naming the DEC and arising under Article 78 of the New York Civil Practice Laws and Rules or any citizen suit or civil rights provision under federal or state laws.

Item B: Permittee's Contractors to Comply with Permit

The permittee is responsible for informing its independent contractors, employees, agents and assigns of their responsibility to comply with this permit, including all special conditions while acting as the permittee's agent with respect to the permitted activities, and such persons shall be subject to the same sanctions for violations of the Environmental Conservation Law as those prescribed for the permittee.

Item C: Permittee Responsible for Obtaining Other Required Permits

The permittee is responsible for obtaining any other permits, approvals, lands, easements and rights-of-way that may be required to carry out the activities that are authorized by this permit.



Item D: No Right to Trespass or Interfere with Riparian Rights

This permit does not convey to the permittee any right to trespass upon the lands or interfere with the riparian rights of others in order to perform the permitted work nor does it authorize the impairment of any rights, title, or interest in real or personal property held or vested in a person not a party to the permit.

CITY OF OSWEGO WATERFRONT RIVER WALL FENDERING

1 W CAYUGA ST
CITY OF OSWEGO, OSWEGO COUNTY, NEW YORK 13126

DRAWING SET FOR RIVER WALL FENDERING
FOR BID

NYS DEC
Region 7 Syracuse

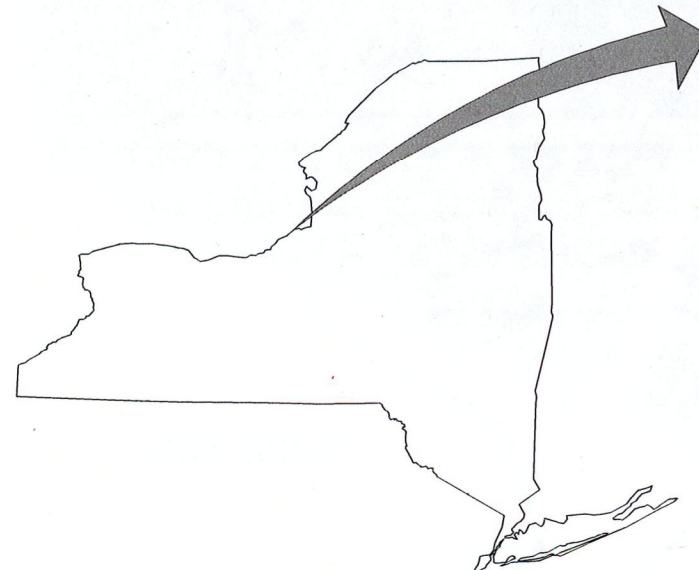
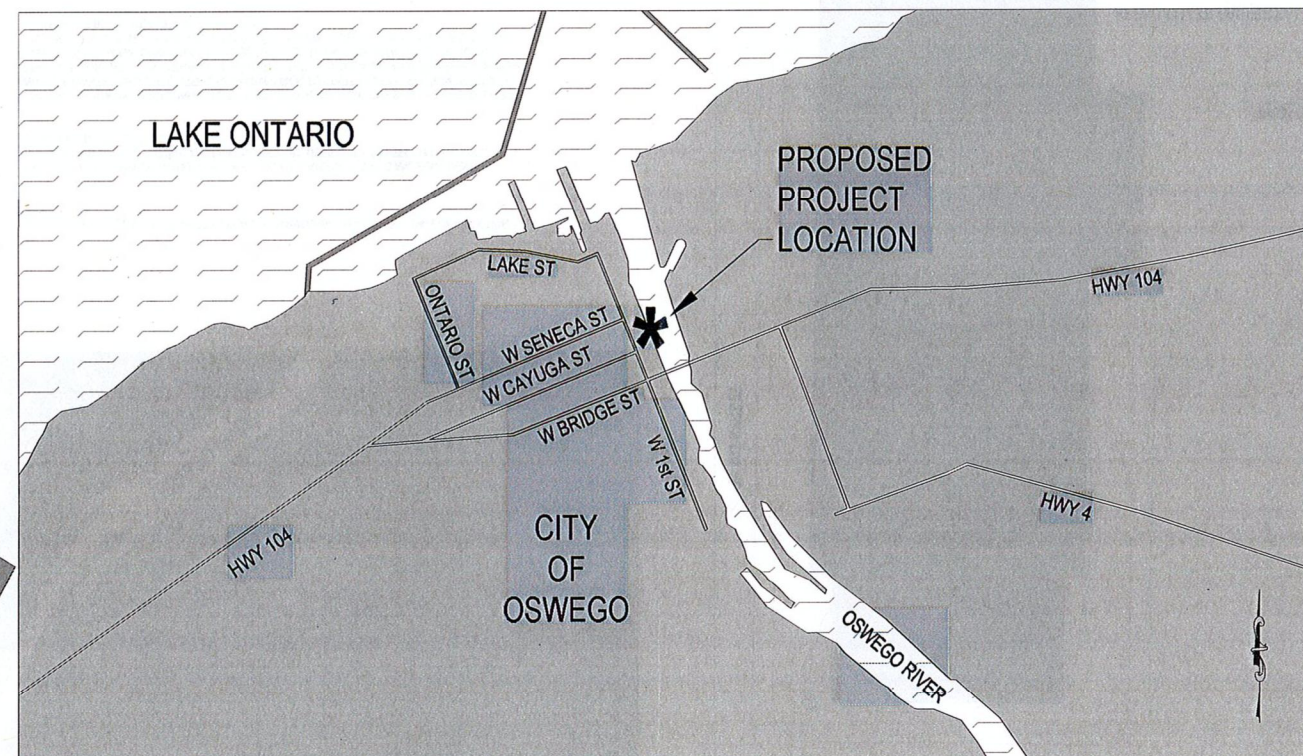
JAN 22 2019

Environmental
Permits



PERMIT INFORMATION			
AGENCY	PERMIT NO	DATE AUTHORIZED	EXPIRATION DATE
NYSDEC	7-3512-00146	7/17/18	7/16/2023
USACE	2018-00457	8/3/18	3/18/2022

Sheet List Table	
Sheet Number	Sheet Title
G-1.00	COVER SHEET
G-1.01	GENERAL NOTES
ME-1.00	PROPOSED SITE PLAN
M-2.00	FENDERING SYSTEM DETAILS



OSWEGO COUNTY, NEW YORK



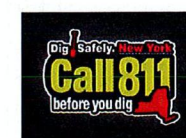
CITY OF OSWEGO
13 WEST ONEIDA STREET
OSWEGO, NY 13126

CONTACT:
JUSTIN RUDGICK, DIRECTOR
(315) 343-3795



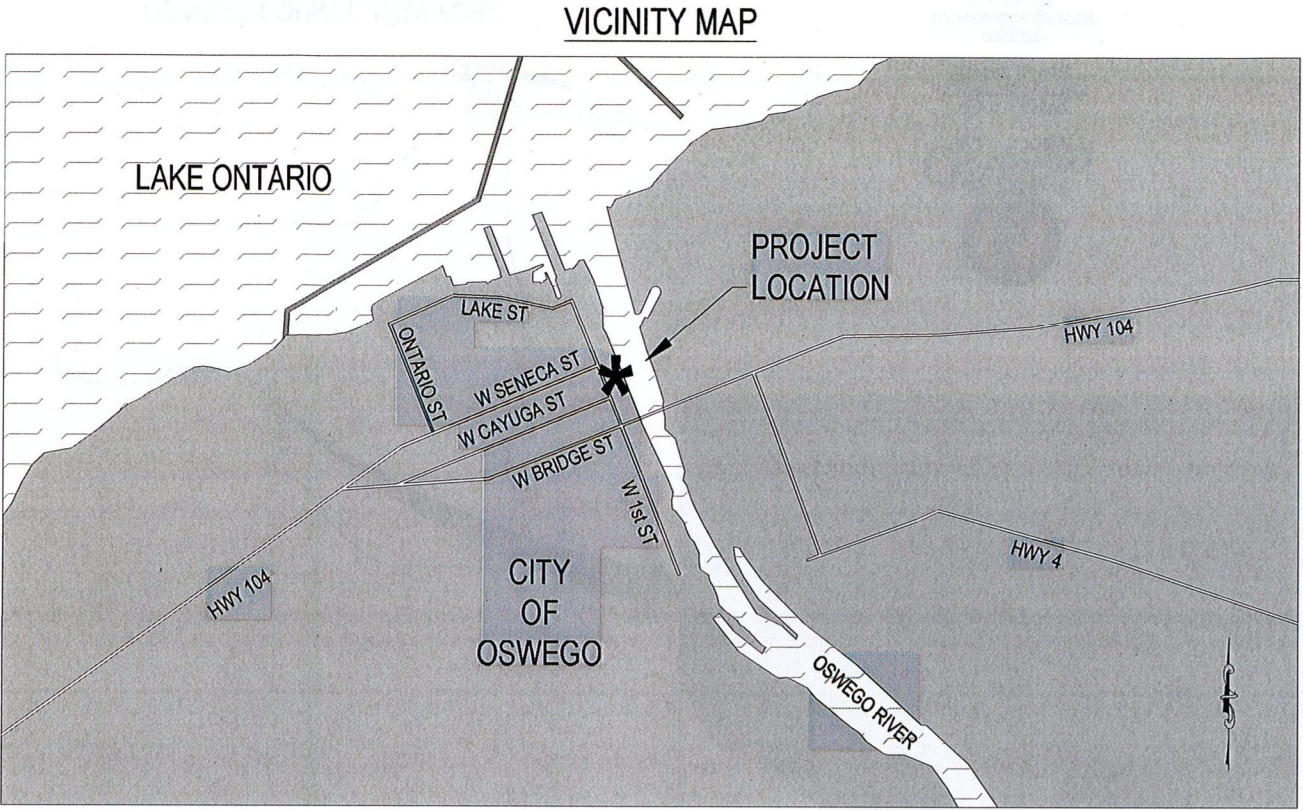
EDGEWATER RESOURCES, LLC
518 BROAD ST.
ST. JOSEPH, MI 49085

CONTACT:
COLIN HASSENGER, PE, PROJECT MANAGER
(269) 625-4869



DIG SAFELY

CALL AT LEAST 3 FULL WORKING DAYS (72 HRS)
BEFORE YOU DIG



GENERAL NOTES:

1. ATTENTION IS DIRECTED TO THE FACT THAT THE WORK ASSOCIATED WITH THIS CONTRACT WILL OCCUR AT AN ACTIVE AND FUNCTIONAL FACILITY. THE CONTRACTOR SHALL COORDINATE WITH THE OWNER, OWNER'S REPRESENTATIVE AND PROJECT MANAGER TO MINIMIZE DISRUPTION TO THE OPERATIONS OF THE FACILITY. THE CONTRACTOR IS SOLELY RESPONSIBLE TO PROVIDE A SAFE WORK SITE AND TO PROTECT THE PUBLIC, VISITORS AND EMPLOYEES OF THE FACILITY, FROM HARM AS A RESULT OF HIS CONSTRUCTION ACTIVITIES.
2. THE HORIZONTAL AND VERTICAL LOCATION OF ALL EXISTING ABOVE GROUND AND BELOW GROUND UTILITIES, STRUCTURES, AND APPURTENANCES SHOWN ON THE PLANS ARE APPROXIMATE AND ARE NOT GUARANTEED. THE CONTRACTOR ALONE SHALL BE RESPONSIBLE FOR DETERMINING THE EXACT HORIZONTAL AND VERTICAL LOCATION OF ALL UTILITIES, STRUCTURES, AND APPURTENANCES IN THE PATH OF THE ADJACENT TO THE PROPOSED WORK.
3. EXISTING CONDITIONS ARE TAKEN FROM FIELD OBSERVATIONS AND PRIOR CONSTRUCTION DOCUMENTS WHEN AVAILABLE AND ARE NOT GUARANTEED. FIELD VERIFY ALL EXISTING CONDITIONS PRIOR TO BID. NO ALLOWANCE WILL BE MADE FOR ADDITIONAL COST DUE TO CONTRACTORS FAILURE TO VERIFY EXISTING CONDITIONS AND DIMENSIONS.
4. WHEN EXISTING CONSTRUCTION TO REMAIN IS DAMAGED DURING THE COURSE OF CONSTRUCTION AS A RESULT OF CONTRACTORS WORK, IT SHALL BE REPAIRED AND/OR REPLACED, TO THE EXTENT POSSIBLE, WITH SIMILAR OR LIKE MATERIALS AND SUBJECT TO OWNERS APPROVAL, AT NO ADDITIONAL COST TO OWNER.
5. ANY AND ALL PROPERTY LINES AND RIGHTS-OF-WAY LINES SHOWN ARE APPROXIMATE AND INTENDED FOR GENERAL INFORMATION. NO WARRANTY IS PROPOSED OR IMPLIED AS TO THE ACCURACY OF SAID LINES.
6. THE OWNERS OF THE VARIOUS UTILITIES WITHIN THE RIGHTS-OF-WAY OR ADJACENT EASEMENTS, IF ANY, WILL FIELD LOCATE AND MARK THE LOCATION OF THEIR FACILITIES. IT IS THE CONTRACTOR'S RESPONSIBILITY TO NOTIFY THE VARIOUS UTILITY OWNERS IN AMPLE TIME FOR THEM TO LOCATE THEIR FACILITIES.
7. SITE DRAINAGE, INCLUDING THE PROJECT SITE AND ADJACENT PRIVATE AND PUBLIC ROADWAYS DRIVES, PARKING AREAS OR PROPERTIES SHALL BE MAINTAINED THROUGHOUT THE CONSTRUCTION PERIOD.
8. THE CONTRACTOR IS RESPONSIBLE FOR SUPPLYING ALL MATERIALS, TOOLS AND EQUIPMENT, INCLUDING ANY SPECIAL CUTTING AND DRILLING DEVICES, NECESSARY TO PERFORM THE WORK CONTAINED IN THIS CONTRACT.
9. CONTRACTOR STAGING AREAS AND CONSTRUCTION ENTRANCE LOCATIONS SHALL BE COORDINATED WITH THE OWNERS DESIGNATED REPRESENTATIVE PRIOR TO START OF CONSTRUCTION. PROVIDE A STABILIZED CONSTRUCTION ENTRANCE, IF REQUIRED, AND RESTORE ALL DISTURBED AREAS. PROPER SIGNAGE, FENCINGS AND BARRICADES SHALL BE PROVIDED TO LIMIT PEDESTRIAN ACCESS TO THE CONSTRUCTION SITE INCLUDING SITE ACCESS AREAS, STAGING AREAS OR ANY OTHER AREAS UNDER DISTURBANCE BOTH LANDSIDE AND WATERWARD.
10. PROTECT ALL EXISTING SITE AMENITIES NOT DESIGNATED FOR REMOVAL.
11. ANY SITE AMENITY, UTILITY, STREET APPURTENANCE, OR OTHER ITEM WHICH BECOMES DAMAGED AS A RESULT OF THE CONTRACTOR'S OPERATIONS SHALL BE REPAIRED OR REPLACED IN-KIND BY THE CONTRACTOR AS DETERMINED BY THE OWNERS DESIGNATED REPRESENTATIVE OR ARCHITECT/ENGINEER AT NO ADDITIONAL COST TO THE OWNER.
12. PRIOR TO THE START OF CONSTRUCTION, NOTIFY DEC SAFELY NEW YORK, INC. THREE (3) FULL WORK DAYS (NOT COUNTING THE DAY OF THE CALL, WEEKENDS, OR HOLIDAYS) AT 1-800-952-7352 TO REQUEST UTILITY STAKE-OUT OF ALL PUBLIC UTILITIES.
13. PROVIDE PROTECTION FOR ALL EXISTING TREES TO REMAIN WITHIN THE PROJECT LIMITS FOR THE DURATION OF THE PROJECT TO MINIMIZE ANY DAMAGE TO THE TREES AS A RESULT OF CONSTRUCTION ACTIVITIES. PLACE PROTECTION BEFORE WORK IS STARTED IN THE FORM OF FLUORESCENT ORANGE SNOW FENCING OR WOOD RAIL AND POSTS PLACED AROUND EACH TREE THAT IS IN CLOSE PROXIMITY TO THE WORK AREA, AS NEEDED.
14. ALL TREES, SHRUBS AND PLANTS DESIGNATED TO REMAIN AND DISTURBED BY CONSTRUCTION OPERATIONS SHALL BE REPLACED IN-KIND, AS DIRECTED BY THE OWNERS DESIGNATED REPRESENTATIVE OR ARCHITECT/ENGINEER, AT NO ADDITIONAL COST TO THE OWNER.

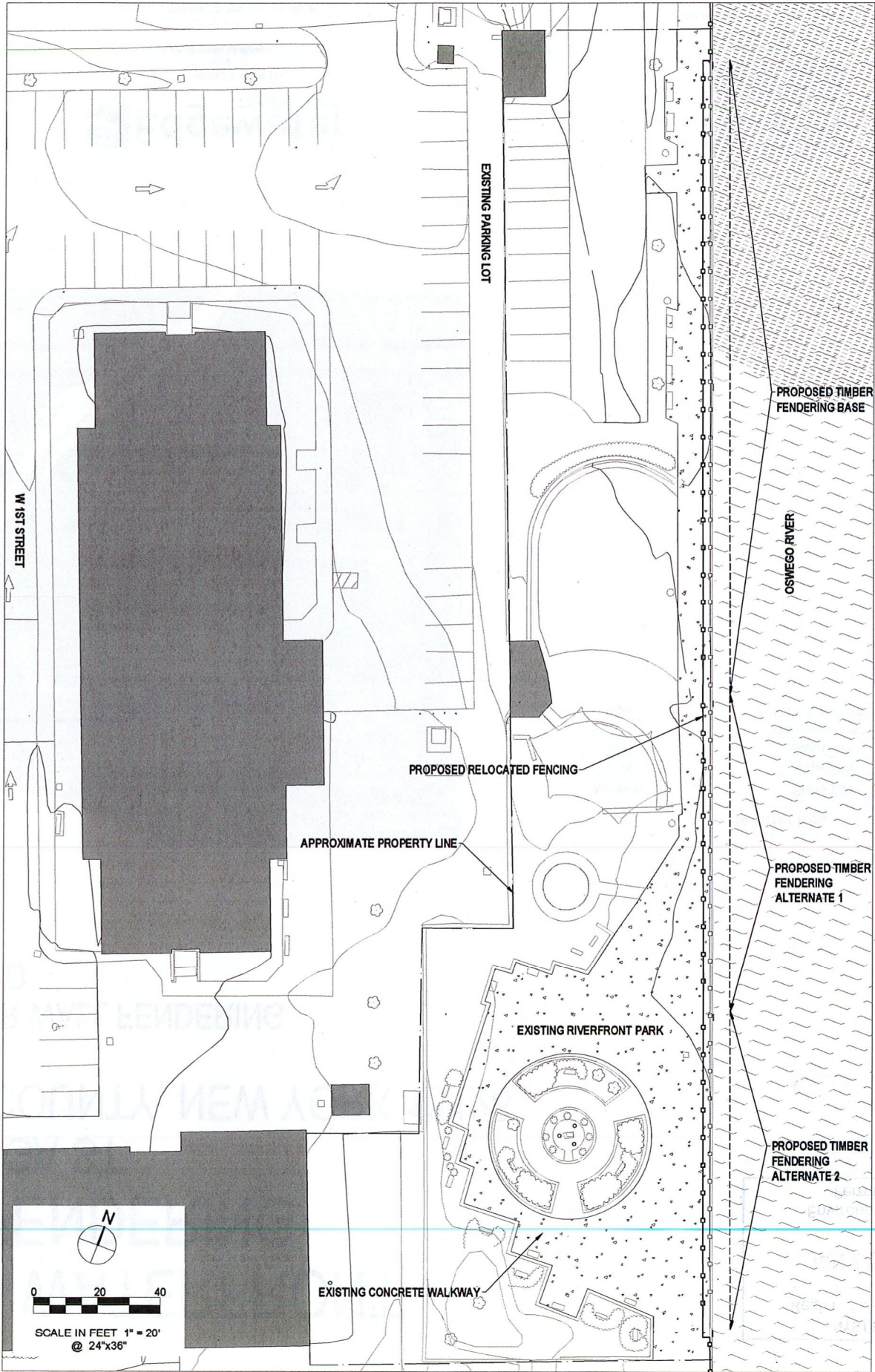
SCANNED

NYS DEC
Region 7 Syracuse

JAN 22 2019

Environmental
Permits

PROJECT LOCATION - RIVERWALL



Edgewater
resources
518 Broad Street, Suite 200
Saint Joseph, MI 49085
P: (269) 932.4502
F: (269) 932.3542
www.edgewaterresources.com



CITY OF OSWEGO
RIVER WALL FENDERING
OSWEGO, NEW YORK

GENERAL NOTES

PROJECT TITLE:

SHEET TITLE:

NO.	DATE	REVISION

ISSUED FOR:

BID

DATE: 12/13/2018
PROJ NO.: 18-03
SCALE: VARIES
DESIGNED BY: CH
DRAWN BY: HA
REVIEWED BY: GW/RS

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SHEET NUMBER:

G-1.01



CITY OF OSWEGO
RIVER WALL FENDERING
OSWEGO, NEW YORK
PROPOSED SITE PLAN

PROJECT TITLE:

SHEET TITLE:

NO.	DATE	REVISION

ISSUED FOR:

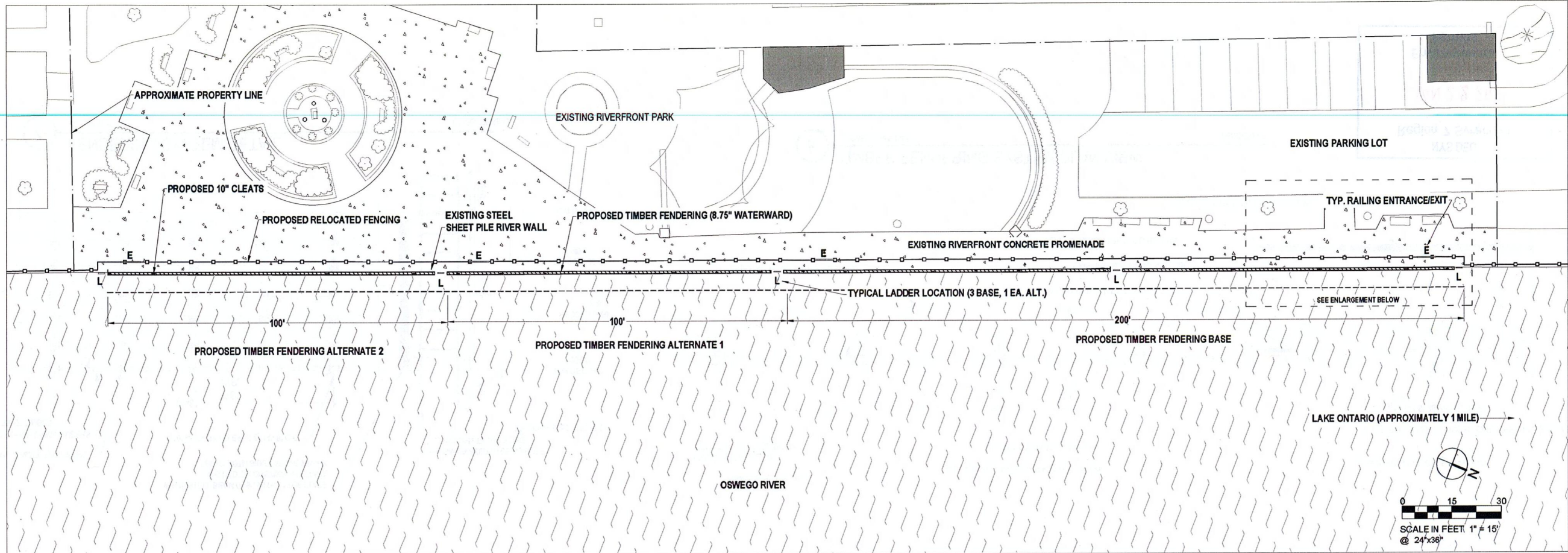
BID

DATE:	12/13/2018
PROJ NO.:	18-03
SCALE:	VARIES
DESIGNED BY:	CH
DRAWN BY:	HA
REVIEWED BY:	GWRS

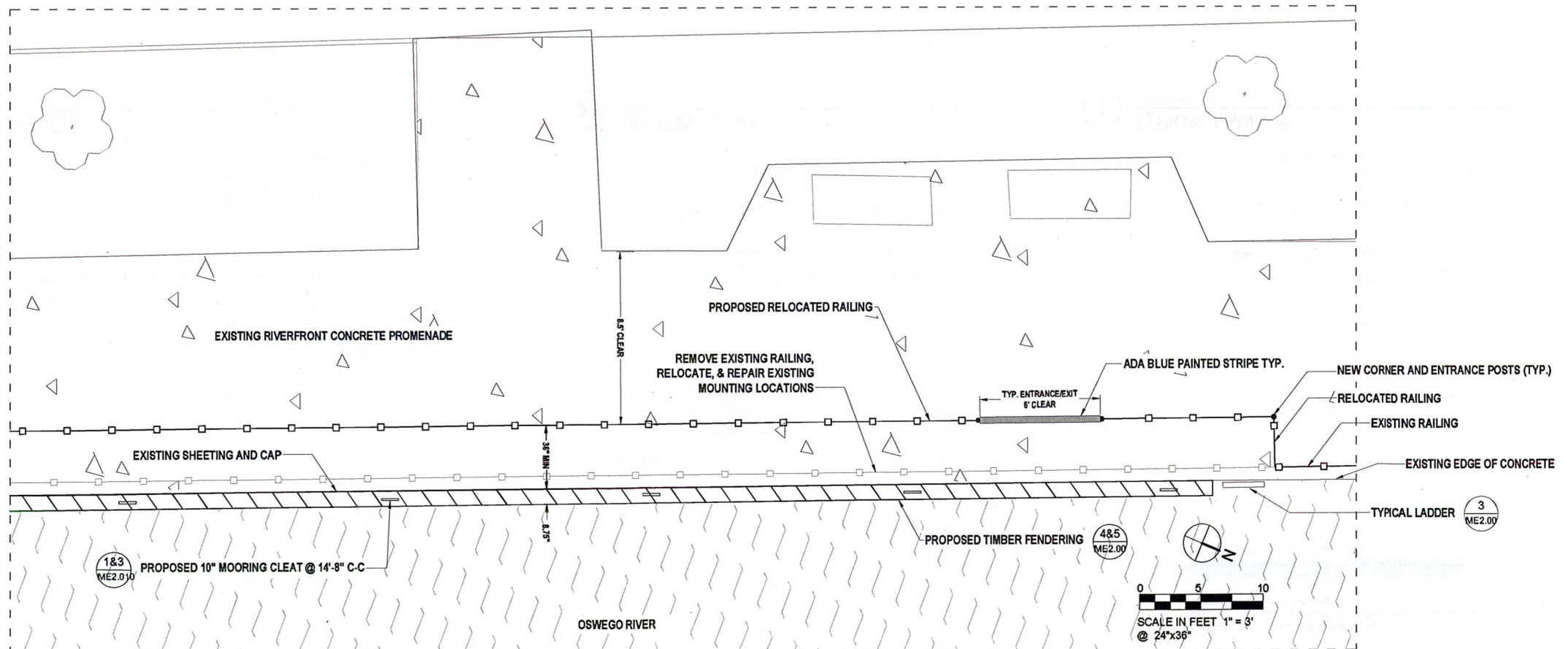
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©2018 EDGEWATER RESOURCES, LLC.

SHEET NUMBER:

ME-1.00



ENLARGEMENT



NOTES:

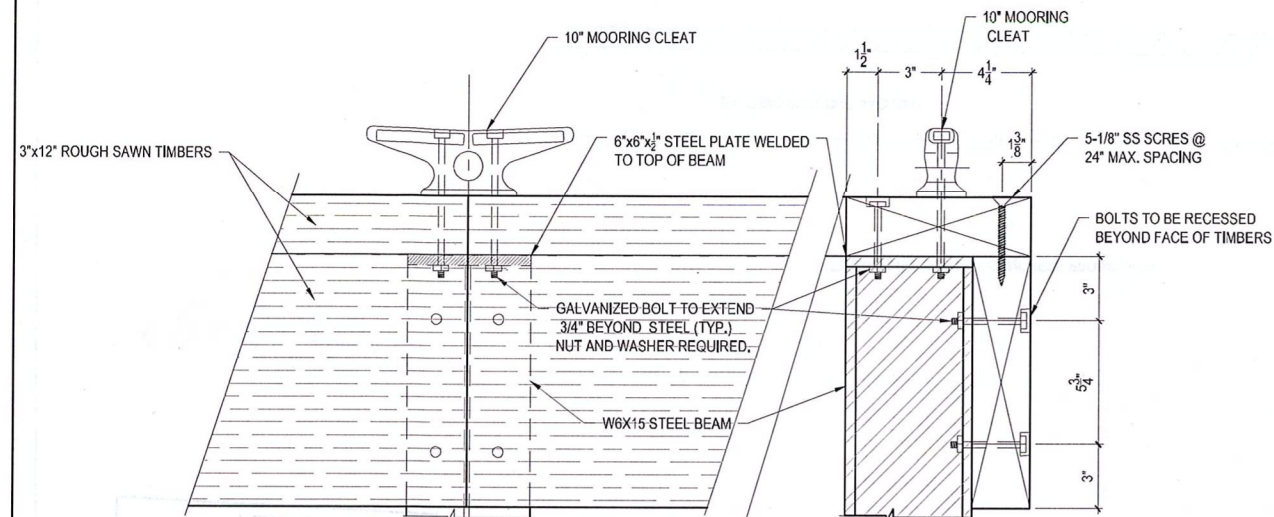
1. CONTRACTOR TO VERIFY FIELD CONDITIONS.
2. CONTRACTOR TO RESTORE ANY DISTURBED OR DAMAGED AREAS TO PRE-CONSTRUCTION CONDITION.
3. CONTRACTOR TO PROVIDE TEMPORARY CONSTRUCTION FENCING AND BARRICADES TO SEPARATE THE PUBLIC FROM THE WORK AREA.
4. CONTRACTOR TO PROTECT EXISTING LIGHT POLES AND OTHER UTILITIES WITHIN CONSTRUCTION LIMITS.

NYS DEC
Region 7 Syracuse

JAN 22 2019

Environmental
Permits

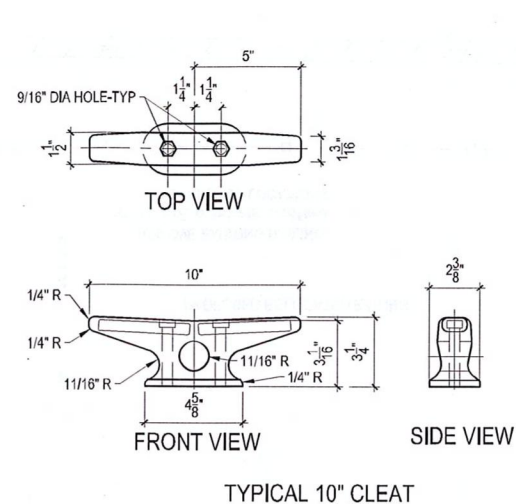




1 MOORING CLEAT ATTACHMENT

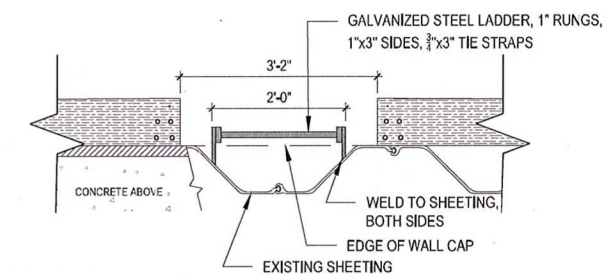
SCALE: 3" = 1'

DT-MOORING CLEAT



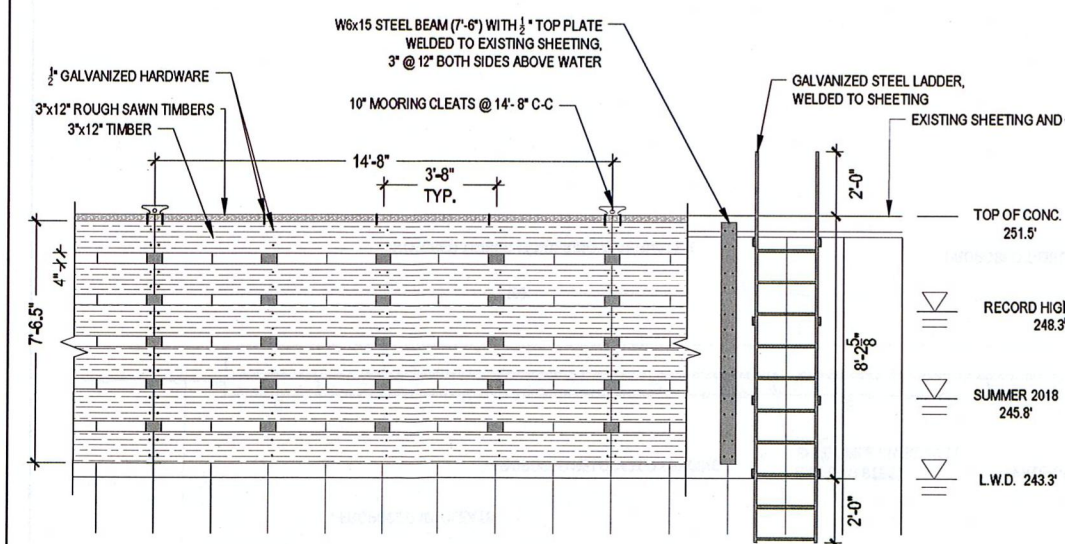
2 MOORING CLEAT

SCALE: 3" = 1'



3 TYPICAL LADDER

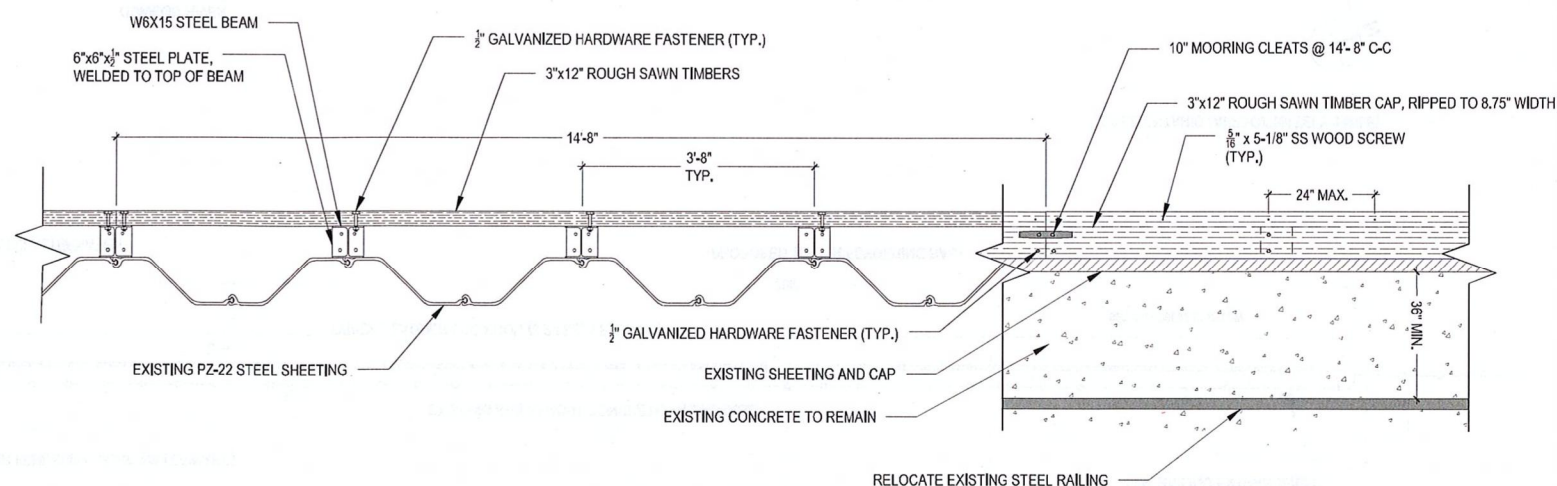
SCALE: 3/4" = 1'-0"



4 FENDERING SYSTEM DETAIL

SCALE: 3/8" = 1'-0"

DT-FENDERING



5 TIMBER FENDERING SYSTEM-PLAN VIEW

SCALE: 3/4" = 1'-0"

FENDERING

- NOTES:
1. CONTRACTOR TO VERIFY FIELD CONDITIONS.
 2. CONTRACTOR TO RESTORE ANY DISTURBED OR DAMAGED AREAS TO PRE-CONSTRUCTION CONDITION.
 3. CONTRACTOR TO PROVIDE TEMPORARY CONSTRUCTION FENCING AND BARRICADES TO SEPARATE THE PUBLIC FROM THE WORK AREA.
 4. CONTRACTOR TO PROTECT EXISTING LIGHT POLES AND OTHER UTILITIES WITHIN CONSTRUCTION LIMITS.

NO.	DATE	REVISION

ISSUED FOR:

BID

DATE:	12/13/2018
PROJ NO.:	18-03
SCALE:	VARIES
DESIGNED BY:	CH
DRAWN BY:	HA
REVIEWED BY:	GWRS

NYS DEC
Region 7 Syracuse

JAN 22 2019

Environmental
Permits

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SHEET NUMBER:

ME-2.00

Russell, Lindsey

From: Plante, David
Sent: Tuesday, January 22, 2019 12:49 PM
To: 'Balduzzi, Kevin M (DEC)'
Cc: 'Toukatly, Tiffany D (DEC)'; 'elizabeth.tracy@dec.ny.gov'
Subject: DEC ID 7-3512-00146 - Oswego River Transient Docks Modification Request
Attachments: 181213 Oswego - River Docks Revised Drawings.pdf; NYSDEC_IssuedPermit 7-3512-00146.pdf

Good afternoon Kevin & Tiffany,

I hope you have been well and that you had a safe and happy holiday season.

I know you are currently reviewing the separate City of Oswego Wright's Landing Marina Fuel Dock application, but I wanted to reach out to you on the old Transient Dock project (7-3512-00146) approved by NYSDEC in June of 2018. After discussing with the City of Oswego and their engineering consultant, and in response to higher than expected construction costs associated with the project as currently permitted, the City would like to modify the approved permit to encompass a revision in the project that would eliminate the 300 LF floating dock, the 80 LF gangway and 18 LF long pile supported platform, and replace it with ~400 LF of timber river wall fendering (please see attached drawing set) directly on the face of the river wall. The mooring cleats on the timber fendering will attach directly into the existing river wall as shown in the drawings, and with the elimination of the other project components, there will now be no footers or other piles in the bed of the Oswego River. The linear footage of the project along the river is still ~400 LF, however the areal footprint of the project has decreased substantially.

I wanted to reach out to see how you and NYSDEC would like us to proceed with respect to requesting a modification to the permits issued for this project to accommodate the requested project change, pursuant to Natural Resource Permit Condition #5 of the NYSDEC permits issued for the project. If a written, formal request for modification is required, we would respectfully request that this submission serve to initiate said request for permit modification.

Please let me know if you'd like to discuss. Thank you in advance for your assistance on this.

Best,

Dave

David J. Plante, AICP CEP

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www.bergmannpc.com

280 East Broad Street, Suite 200
Rochester, New York 14604

Office: 585.498.7877

Cell: 518.588.8270

dplante@bergmannpc.com

Russell, Lindsey

From: Lathrop, June M CIV USARMY CELRB (US) <June.M.Lathrop@usace.army.mil>
Sent: Wednesday, January 23, 2019 11:13 AM
To: Plante, David
Cc: Robinson, Judy A CIV USARMY CELRB (US)
Subject: Your Army Corps of Engineers Permit Modification Request LRB-2018-00457
(Oswego, City of - Riverfront Park) (UNCLASSIFIED)

CLASSIFICATION: UNCLASSIFIED

Dear Mr. Plante,

Your permit modification request has been received and logged into our database under Dept. of the Army file # LRB-2018-00457 (Oswego, City of - Riverfront Park). The Project Manager for your application is Judy Robinson, who is copied on this e-mail and may be reached at 716-879-6330 or by email at judy.a.robinson@usace.army.mil.

Please be aware that applications are processed on a first come, first served basis. The project manager will contact you if more information is needed.

We recommend against commencing the proposed work prior to receiving the appropriate authorization from the Corps of Engineers.

Thank you.

June Lathrop
Administrative Support
US Army Corps of Engineers, Buffalo District Regulatory Auburn Field Office
7413 Count House Road
Auburn, NY 13021
716-879-6327
june.m.lathrop@usace.army.mil

CLASSIFICATION: UNCLASSIFIED

Russell, Lindsey

From: Balduzzi, Kevin M (DEC) <kevin.balduzzi@dec.ny.gov>
Sent: Tuesday, January 22, 2019 1:01 PM
To: Plante, David
Cc: Toukatly, Tiffany D (DEC)
Subject: RE: DEC ID 7-3512-00146 - Oswego River Transient Docks Modification Request

Hi Dave,

This email is sufficient to start the permit modification process. We will get it logged in and let you know if there is any additional info we need. Too bad though, I thought the new docks would have been a nice addition.

Ironically I am looking at the new fuel dock application right now and will try and get a few comments to you shortly.

From: Plante, David <dplante@BERGMANNPC.com>
Sent: Tuesday, January 22, 2019 12:51 PM
To: Balduzzi, Kevin M (DEC) <kevin.balduzzi@dec.ny.gov>
Cc: Toukatly, Tiffany D (DEC) <tiffany.toukatly@dec.ny.gov>; Tracy, Elizabeth A (DEC) <elizabeth.tracy@dec.ny.gov>
Subject: DEC ID 7-3512-00146 - Oswego River Transient Docks Modification Request

ATTENTION: This email came from an external source. Do not open attachments or click on links from unknown senders or unexpected emails.

Good afternoon Kevin & Tiffany,

I hope you have been well and that you had a safe and happy holiday season.

I know you are currently reviewing the separate City of Oswego Wright's Landing Marina Fuel Dock application, but I wanted to reach out to you on the old Transient Dock project (7-3512-00146) approved by NYSDEC in June of 2018. After discussing with the City of Oswego and their engineering consultant, and in response to higher than expected construction costs associated with the project as currently permitted, the City would like to modify the approved permit to encompass a revision in the project that would eliminate the 300 LF floating dock, the 80 LF gangway and 18 LF long pile supported platform, and replace it with ~400 LF of timber river wall fendering (please see attached drawing set) directly on the face of the river wall. The mooring cleats on the timber fendering will attach directly into the existing river wall as shown in the drawings, and with the elimination of the other project components, there will now be no footers or other piles in the bed of the Oswego River. The linear footage of the project along the river is still ~400 LF, however the areal footprint of the project has decreased substantially.

I wanted to reach out to see how you and NYSDEC would like us to proceed with respect to requesting a modification to the permits issued for this project to accommodate the requested project change, pursuant to Natural Resource Permit Condition #5 of the NYSDEC permits issued for the project. If a written, formal request for modification is required, we would respectfully request that this submission serve to initiate said request for permit modification.

Please let me know if you'd like to discuss. Thank you in advance for your assistance on this.

Best,

Dave

David J. Plante, AICP CEP

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<https://protect2.fireeye.com/url?k=4ac87522-16ee4281-4aca8c17-000babda0106-829294479bf9dae4&u=http://www.bergmannpc.com/>

280 East Broad Street, Suite 200
Rochester, New York 14604

Office: 585.498.7877

Cell: 518.588.8270

dplante@bergmannpc.com



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

PLEASE SIGN AND SUBMIT
THE COMPLETION FORM
ATTACHED TO THIS PERMIT

August 3, 2018

Regulatory Branch

SUBJECT: Department of Army Application No. LRB-2018-00457, Letter of Permission and Nationwide Permit No. 25, as Published in the Federal Register, Volume 82, No. 4, on Friday, January 6, 2017, New York State Department of Environmental Conservation No. 7-3512-00146/00002

City of Oswego
20 West Oneida Street
Oswego, New York 13126
Attn: William Barlow, Mayor

Dear Mayor Barlow:

This pertains to your proposal to perform work along the west side of the Oswego River at the Riverfront Park located parallel to West 1st Street, City of Oswego, Oswego County, New York.

Upon recommendation of the Chief of Engineers, pursuant to Section 10 of the Rivers and Harbors Act of 3 March 1899 (33 USC 403), the City of Oswego, designated the permittee, is hereby granted permission to annually install a seasonal floating docking facility parallel to the existing seawall on the western side of the Oswego River using a pre-manufactured removable docking system. The docking system consists of a 300-foot long by eight (8)-foot wide (2,400 square feet) floating dock with an 80-foot long by six (6)-foot wide (480 square feet) gangway anchored to a 125 square foot permanent platform supported by six (6), 12-inch concrete filled steel piers. Installation of the piers will require excavation of approximately 30 cubic yards of the river bottom which will be disposed of at an upland location. All work shall be in accordance with attached permit provisions, conditions and drawings which are incorporated in and made a part hereof.

In addition to this Letter of Permission (LOP) and pursuant to Section 10 of the Rivers and Harbors Act of 3 March 1899 (33 USC 403) and Section 404 of the Clean Water Act (33 USC 1344), I am also affirming the attached Nationwide Permit (NWP) No. 25, authorizing the placement of concrete within the six (6) steel piers after they are driven into the river bottom.

Verification of the applicability of this NWP is valid until March 18, 2022, unless the NWP is modified, suspended, revoked, or the activity complies with any subsequent permit modification. 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 NWP 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.

Regulatory Branch

SUBJECT: Department of Army Application No. LRB-2018-00457, Letter of Permission and Nationwide Permit No. 25, as Published in the Federal Register, Volume 82, No. 4, on Friday, January 6, 2017, New York State Department of Environmental Conservation No. 7-3512-00146/00002

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>. Finally, 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 or reverification.

PLEASE 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 U. S. Army Corps of Engineers having jurisdiction over the permitted activity under the authority of the commanding officer.

This letter is an initial proffered permit for your proposed project. If you object to this decision, you may request an administrative appeal under Corps regulations at 33 CFR Part 331. Enclosed you will find a Notification of Appeal Process (NAP) fact sheet and Request for Appeal (RFA) form. If you request to appeal the above decision, you must submit a completed RFA form to our office within **60 days** of the date on this letter.

In order for an RFA to be accepted, the Corps must determine that it is complete; that it meets the criteria for appeal under 33 CFR Part 331.5, and that it has been received by the District Office within 60 days of the date of the NAP. Should you decide to submit an RFA form, it must be received at the above address by October 2nd, 2018. It is not necessary to submit an RFA if you do not object to the decision in this letter.


The District Commander must be informed of commencement and completion of the authorized work. Please use the forms enclosed. Commencement indicates your acceptance and agreement to comply with the permit terms and conditions.

A copy of this correspondence has been sent to Lindsey Russell (Bergmann Associates).

Questions pertaining to this matter should be directed to Judy Robinson, who may be contacted by calling 716-879-6330, by writing to the following address: U.S. Army Corps of Engineers, 7413 County House Road, Auburn, New York 13021, or by e-mail at: judy.a.robinson@usace.army.mil.

Dated this 3rd day of August 2018.

BY AUTHORITY OF THE SECRETARY OF THE ARMY:


for Diane C. Kozlowski
Chief, Regulatory Branch

Enclosures

Regulatory Branch

SUBJECT: Department of Army Application No. LRB-2018-00457, Letter of Permission and Nationwide Permit No. 25, as Published in the Federal Register, Volume 82, No. 4, on Friday, January 6, 2017, New York State Department of Environmental Conservation No. 7-3512-00146/00002

PERMIT CONDITIONS

GENERAL CONDITIONS:

1. The time limit for completing the work authorized ends on August 3rd, 2023. 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 must 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 may 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 archaeological 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 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.
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.
7. 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.

Regulatory Branch

SUBJECT: Department of Army Application No. LRB-2018-00457, Letter of Permission and Nationwide Permit No. 25, as Published in the Federal Register, Volume 82, No. 4, on Friday, January 6, 2017, New York State Department of Environmental Conservation No. 7-3512-00146/00002

SPECIAL CONDITIONS:

1. Your use of the permitted activity must not interfere with the public's right to free navigation on all navigable waters of the United States.
2. The Permittee shall install floating turbidity barriers with weighted skirts that extend to within one foot of the bottom around all work areas that are in, or adjacent to, surface waters and shall be positioned to enclose the work area. The turbidity barriers shall remain in place and be functionally maintained until the authorized work has been completed and turbidity inside the curtain no longer exceeds ambient levels.
3. This permit does not authorize side-casting or any other temporary or permanent disposal of dredged or fill material in the Oswego River, or any other water of the United States including freshwater wetlands.
4. All dredged material shall be disposed of within the upland area indicated on Sheet 7 of 7. The material must be contained with siltation control measures to prevent erosion and potential sedimentation into any water of the United States, including wetlands.
5. The Permittee must adhere to the following guidelines for construction of all wooden structures:
 - a) use of creosote treated wood is prohibited in New York State,
 - b) all treated wood must be aged in the open air for at least three months prior to in-water use,
 - c) wood must be clean and free of surface deposits,
 - d) timber with surface deposits must be washed for at least five minutes under running water prior to use,
 - e) any wood debris, such as sawdust or wash water, must not enter any waterbody including wetlands and must be washed more than 100 feet from a wetland or waterbody.

For more information, contact the applicable New York State Department of Environmental Conservation Regional Office and U.S. Environmental Protection Agency Regional Office.

FURTHER INFORMATION:

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

SECTION 10 OF THE RIVERS AND HARBORS ACT OF 3 MARCH 1899 (33 U.S.C. 403)

2. Limits of this authorization.

Regulatory Branch

SUBJECT: Department of Army Application No. LRB-2018-00457, Letter of Permission and Nationwide Permit No. 25, as Published in the Federal Register, Volume 82, No. 4, on Friday, January 6, 2017, New York State Department of Environmental Conservation No. 7-3512-00146/00002

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).

Regulatory Branch

SUBJECT: Department of Army Application No. LRB-2018-00457, Letter of Permission and Nationwide Permit No. 25, as Published in the Federal Register, Volume 82, No. 4, on Friday, January 6, 2017, New York State Department of Environmental Conservation No. 7-3512-00146/00002

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 this 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.

**TRANSFeree HEREBY AGREES TO COMPLY WITH
THE TERMS AND CONDITIONS OF THIS PERMIT*.**

Transferee

Date

*** Note: 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 in the space provided. A copy of this signed permit and statement shall be forwarded to the Buffalo District at the following address:**

**U.S. Army Corps of Engineers
Buffalo District
New York Regulatory Branch
1776 Niagara Street
Buffalo, New York 14207**

IMPORTANT

This form must be completed and mailed to the District Commander at: Regulatory Branch, US Army Corps of Engineers, 1776 Niagara Street, Buffalo, New York 14207, immediately upon completion of work authorized by Department of the Army Permit No. 2018-00457

(Letter of Permission)

Date: _____
City of Oswego
Oswego County, New York

Mr. David Leput
Regulatory Branch
U.S. Army Corps of Engineers
1776 Niagara Street
Buffalo, New York 14207

Dear Mr. Leput:

You are hereby notified that the work authorized under Department of the Army Permit No. 2018-00457, issued to the City of Oswego, to annually install a seasonal floating docking facility parallel to the existing seawall on the western side of the Oswego River using a pre-manufactured removable docking system. The docking system consists of a 300-foot long by eight (8)-foot wide (2,400 square feet) floating dock with an 80-foot long by six (6)-foot wide (480 square feet) gangway anchored to a 125 square foot permanent platform supported by six (6), 12-inch concrete filled steel piers, and excavation of approximately 30 cubic yards of the river bottom for pier installation, was (completed/discontinued) on (Month/Day/Year)_____.

If Discontinued:

The work is _____ percent complete. The following activities remain to be done before all work authorized by this permit has been completed:

By: _____
Authorized Signature

Title

Date: _____

Permittee Telephone Number: 315-343-3795

File Closed: 08/03/2018

IMPORTANT

This form must be completed and mailed to the District Commander at: Regulatory Branch, US Army Corps of Engineers, 1776 Niagara Street, Buffalo, New York 14207, prior to commencement of any work authorized by Department of the Army Permit No. 2018-00457

(Letter of Permission)

Date: _____
City of Oswego
Oswego County, New York

Mr. David Leput
Regulatory Branch
U.S. Army Corps of Engineers
1776 Niagara Street
Buffalo, New York 14207

Dear Mr. Leput:

You are hereby notified that the work authorized under Department of the Army Permit No. 2018-00457, issued to the City of Oswego, to annually install a seasonal floating docking facility parallel to the existing seawall on the western side of the Oswego River using a pre-manufactured removable docking system. The docking system consists of a 300-foot long by eight (8)-foot wide (2,400 square feet) floating dock with an 80-foot long by six (6)-foot wide (480 square feet) gangway anchored to a 125 square foot permanent platform supported by six (6), 12-inch concrete filled steel piers, and excavation of approximately 30 cubic yards of the river bottom for pier installation, will be started on or about (Month/Day/Year).

_____.

The first work to be undertaken is as follows: _____

In commencing the work, I accept and agree to comply with the terms and conditions of the permit.

By: _____
Authorized Signature

Title

Date: _____

Permittee Telephone Number: 315-343-3795

File Closed: 08/03/2018

NOTIFICATION OF ADMINISTRATIVE APPEAL OPTIONS AND PROCESS AND REQUEST FOR APPEAL

Applicant: Oswego, City of (Seasonal Docks, Riverfront Park)	File Number: 2018-00457	Date: 08/03/2018
Attached is:		See Section below
X	INITIAL PROFFERED PERMIT (Standard Permit or Letter of Permission)	A
	PROFFERED PERMIT (Standard Permit or Letter of Permission)	B
	PERMIT DENIAL	C
	APPROVED JURISDICTIONAL DETERMINATION	D
	PRELIMINARY JURISDICTIONAL DETERMINATION	E

SECTION I - The following identifies your rights and options regarding an administrative appeal of the above decision. Additional information may be found at http://www.usace.army.mil/CECW/Pages/reg_materials.aspx or Corps regulations at 33 CFR Part 331.

A: INITIAL PROFFERED PERMIT: You may accept or object to the permit.

- **ACCEPT:** If you received a Standard Permit, you may sign the permit document and return it to the district engineer for final authorization. If you received a Letter of Permission (LOP), you may accept the LOP and your work is authorized. Your signature on the Standard Permit or acceptance of the LOP means that you accept the permit in its entirety, and waive all rights to appeal the permit, including its terms and conditions, and approved jurisdictional determinations associated with the permit.
- **OBJECT:** If you object to the permit (Standard or LOP) because of certain terms and conditions therein, you may request that the permit be modified accordingly. You must complete Section II of this form and return the form to the district engineer. Your objections must be received by the district engineer within 60 days of the date of this notice, or you will forfeit your right to appeal the permit in the future. Upon receipt of your letter, the district engineer will evaluate your objections and may: (a) modify the permit to address all of your concerns, (b) modify the permit to address some of your objections, or (c) not modify the permit having determined that the permit should be issued as previously written. After evaluating your objections, the district engineer will send you a proffered permit for your reconsideration, as indicated in Section B below.

B: PROFFERED PERMIT: You may accept or appeal the permit

- **ACCEPT:** If you received a Standard Permit, you may sign the permit document and return it to the district engineer for final authorization. If you received a Letter of Permission (LOP), you may accept the LOP and your work is authorized. Your signature on the Standard Permit or acceptance of the LOP means that you accept the permit in its entirety, and waive all rights to appeal the permit, including its terms and conditions, and approved jurisdictional determinations associated with the permit.
- **APPEAL:** If you choose to decline the proffered permit (Standard or LOP) because of certain terms and conditions therein, you may appeal the declined permit under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

C: PERMIT DENIAL: You may appeal the denial of a permit under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

D: APPROVED JURISDICTIONAL DETERMINATION: You may accept or appeal the approved JD or provide new information.

- **ACCEPT:** You do not need to notify the Corps to accept an approved JD. Failure to notify the Corps within 60 days of the date of this notice, means that you accept the approved JD in its entirety, and waive all rights to appeal the approved JD.
- **APPEAL:** If you disagree with the approved JD, you may appeal the approved JD under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

E: PRELIMINARY JURISDICTIONAL DETERMINATION: You do not need to respond to the Corps regarding the preliminary JD. The Preliminary JD is not appealable. If you wish, you may request an approved JD (which may be appealed), by contacting the Corps district for further instruction. Also you may provide new information for further consideration by the Corps to reevaluate the JD.

SECTION II - REQUEST FOR APPEAL or OBJECTIONS TO AN INITIAL PROFFERED PERMIT

REASONS FOR APPEAL OR OBJECTIONS: (Describe your reasons for appealing the decision or your objections to an initial proffered permit in clear concise statements. You may attach additional information to this form to clarify where your reasons or objections are addressed in the administrative record.)

ADDITIONAL INFORMATION: The appeal is limited to a review of the administrative record, the Corps memorandum for the record of the appeal conference or meeting, and any supplemental information that the review officer has determined is needed to clarify the administrative record. Neither the appellant nor the Corps may add new information or analyses to the record. However, you may provide additional information to clarify the location of information that is already in the administrative record.

POINT OF CONTACT FOR QUESTIONS OR INFORMATION:

If you have questions regarding this decision and/or the appeal process you may contact:

Judy A. Robinson
U.S. Army Corps of Engineers
New York Regulatory Branch
Auburn Field Office
7413 County House Road
Auburn, New York 13021
716-879-6330
Judy.a.robinson@usace.army.mil

If you only have questions regarding the appeal process you may also contact:

Review Officer
Great Lakes and Ohio River Division
CELRD-PDS-O
550 Main Street, Room 10524
Cincinnati, OH 45202-3222
Phone: 513-684-6212 Fax: 513-684-2460

RIGHT OF ENTRY: Your signature below grants the right of entry to Corps of Engineers personnel, and any government consultants, to conduct investigations of the project site during the course of the appeal process. You will be provided a 15 day notice of any site investigation, and will have the opportunity to participate in all site investigations.

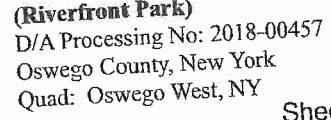

Signature of Appellant or Agent

Date

8/7/18

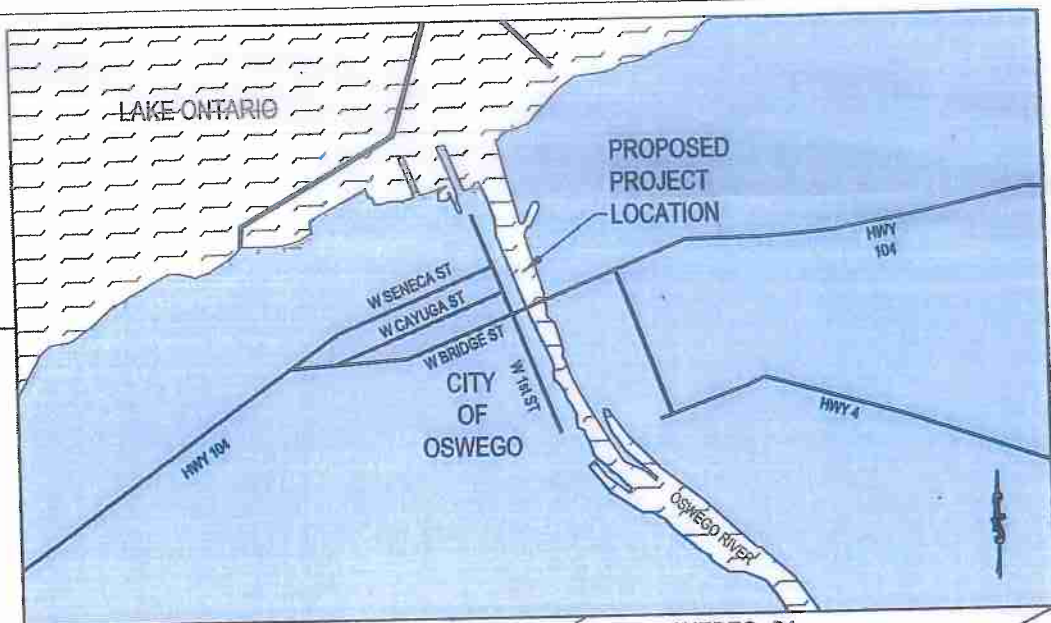
Telephone Number

585-498-7877





SCALE: NOT TO SCALE



ONTARIO, CA

QUEBEC, CA

VERMONT

PROJECT LOCATION

NEW YORK

MASSACHUSETTS

CONNECTICUT

LAKE ERIE

OSWEGO, CITY OF
(Riverfront Park)

D/A Processing No: 2018-00457

Oswego County, New York

Quad: Oswego West, NY

Sheet 2 of 7



LOCATION MAP

Edgewater
resources

518 BROAD STREET, SUITE 200
ST. JOSEPH, MI 49085
P: 269 932 4502
F: 269 932 3542

APPLICANT: CITY OF OSWEGO
WATERWAY: OSWEGO RIVER
CITY: OSWEGO, NY
COUNTY: OSWEGO
DATE: 3/29/2018
DATUM: IGLD85

SHEET: 1 OF 5

W SENECA ST

NOTES:

1. VERTICAL DATUM IS IGLD85.
2. SURVEY PERFORMED BY OTHERS.
3. UPLAND ELEMENTS ARE APPROXIMATE AND SHOWN FOR REFERENCE ONLY.

ADJACENT PROPERTY OWNER:
CITY OF OSWEGO
SENECA ST R.O.W.

PROPERTY OWNER:
CITY OF OSWEGO
1 W CAYUGA ST
OSWEGO, NY 13126
TAX MAP I.D. NUMBER:
128.46-05-05

EXISTING STEEL SHEET PILE SEAWALL

OHW
247.3

OSWEGO RIVER

EXISTING RIVERFRONT PARK

ADJACENT PROPERTY OWNER:
CITY OF OSWEGO
CAYUGA ST R.O.W.

ADJACENT PROPERTY OWNER
(PARCEL TO THE SOUTH):
CITY OF OSWEGO
21 WATER ST
OSWEGO, NY 13126
TAX MAP I.D. NUMBER:
128.55-02-02

SCALE: 1"=60'

EXISTING CONDITIONS

APPLICANT: CITY OF OSWEGO
WATERWAY: OSWEGO RIVER
CITY: OSWEGO, NY
COUNTY: OSWEGO
DATE: 3/29/2018
DATUM: IGLD85

SHEET: 2 OF 5

EXISTING
BUILDING

EXISTING
BUILDING

APPROXIMATE
PROPERTY
BOUNDARY

OSWEGO, CITY OF
(Riverfront Park)

D/A Processing No: 2018-00457
Oswego County, New York
Quad: Oswego West, NY

Sheet 3 of 7



W SENECA ST

NOTES:

1. VERTICAL DATUM IS IGLD85.
2. SURVEY PERFORMED BY OTHERS.
3. UPLAND ELEMENTS ARE APPROXIMATE AND SHOWN FOR REFERENCE ONLY.

APPROXIMATE TURBIDITY CURTAIN LOCATION

OSWEGO RIVER

EXISTING BUILDING

EXISTING STEEL SHEET PILE SEAWALL - TO REMAIN

EXISTING RIVERFRONT PARK - TO REMAIN

PROPOSED FLOATING DOCK (8' x 300')

EXISTING BUILDING

PROPOSED 6' x 80' ADA GANGWAY

PROPOSED PILE SUPPORTED PLATFORM (APPROX. 125 SF)

APPROXIMATE PROPERTY BOUNDARY

W CAYUGA ST

SCALE: 1"=60'

OSWEGO, CITY OF
(Riverfront Park)

D/A Processing No: 2018-00457
Oswego County, New York
Quad: Oswego West, NY

Sheet 4 of 7



PROPOSED SITE PLAN (REVISED 3/29/18)

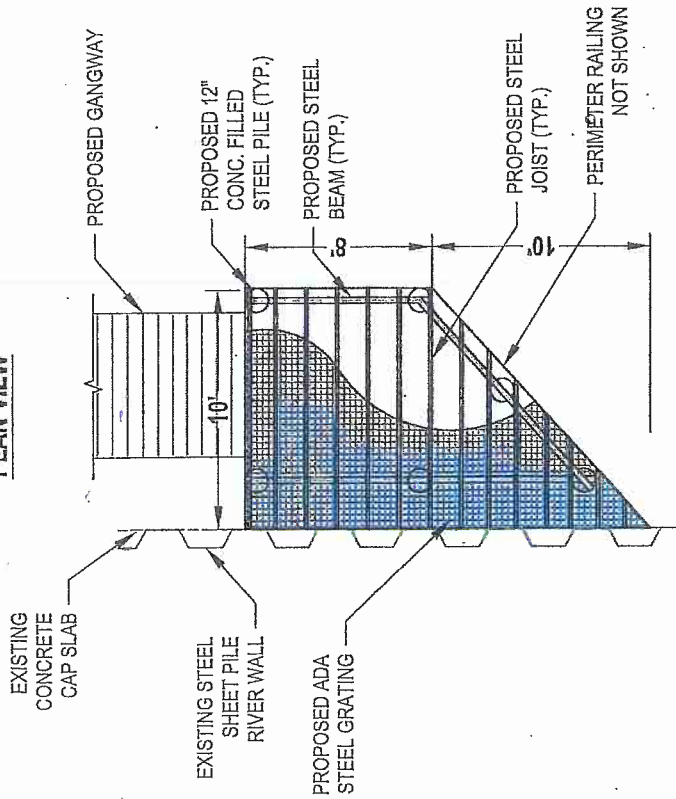
CLIENT: CITY OF OSWEGO
PROJECT: OSWEGO RIVER
LOCATION: OSWEGO, NY
DATE: 3/29/2018
DRAWN BY: IGLD85

SHEET: 3 OF 5

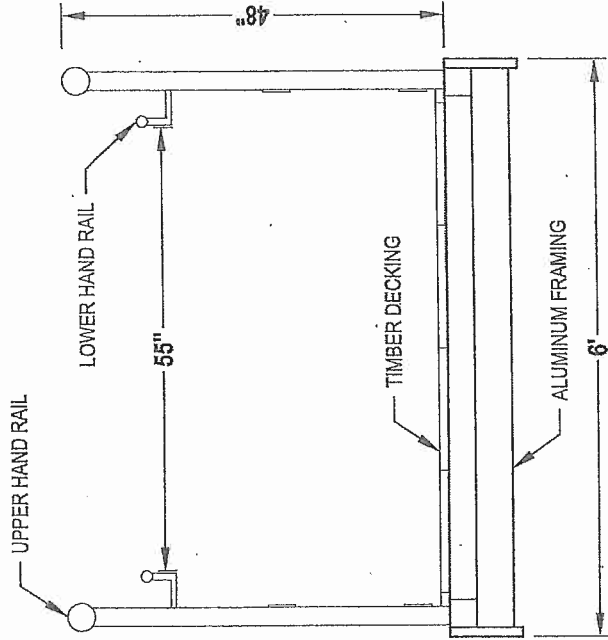
Edgewood
resources

518 BROAD STREET, SUITE 200
ST. JOSEPH, MI 49085
P: 269 932 4502
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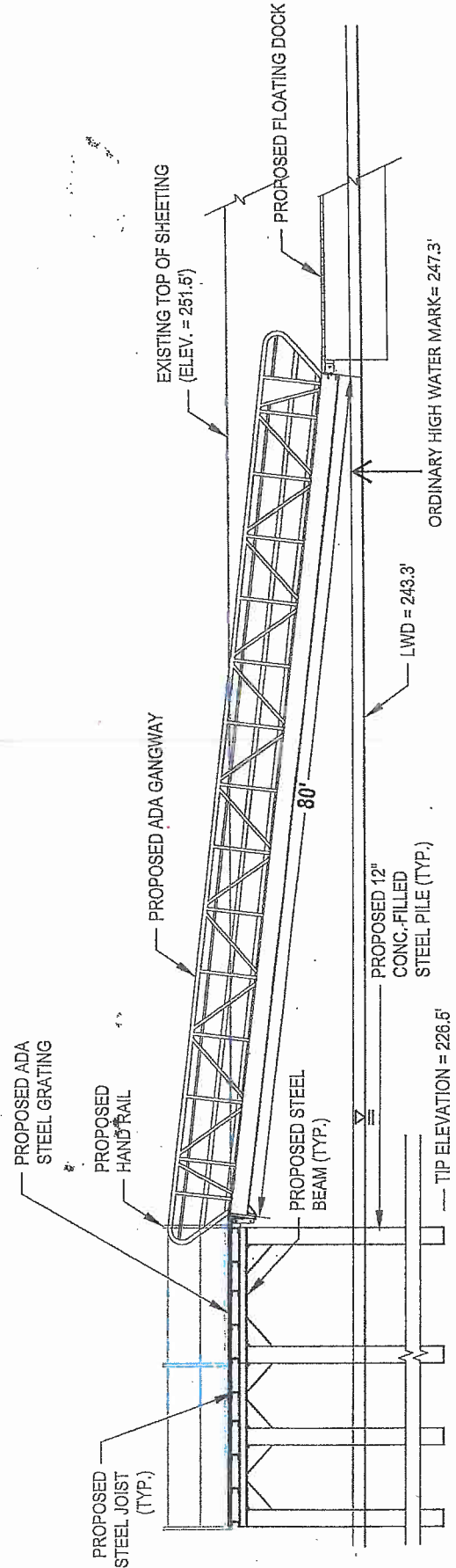
PLAN VIEW



TYPICAL GANGWAY SECTION



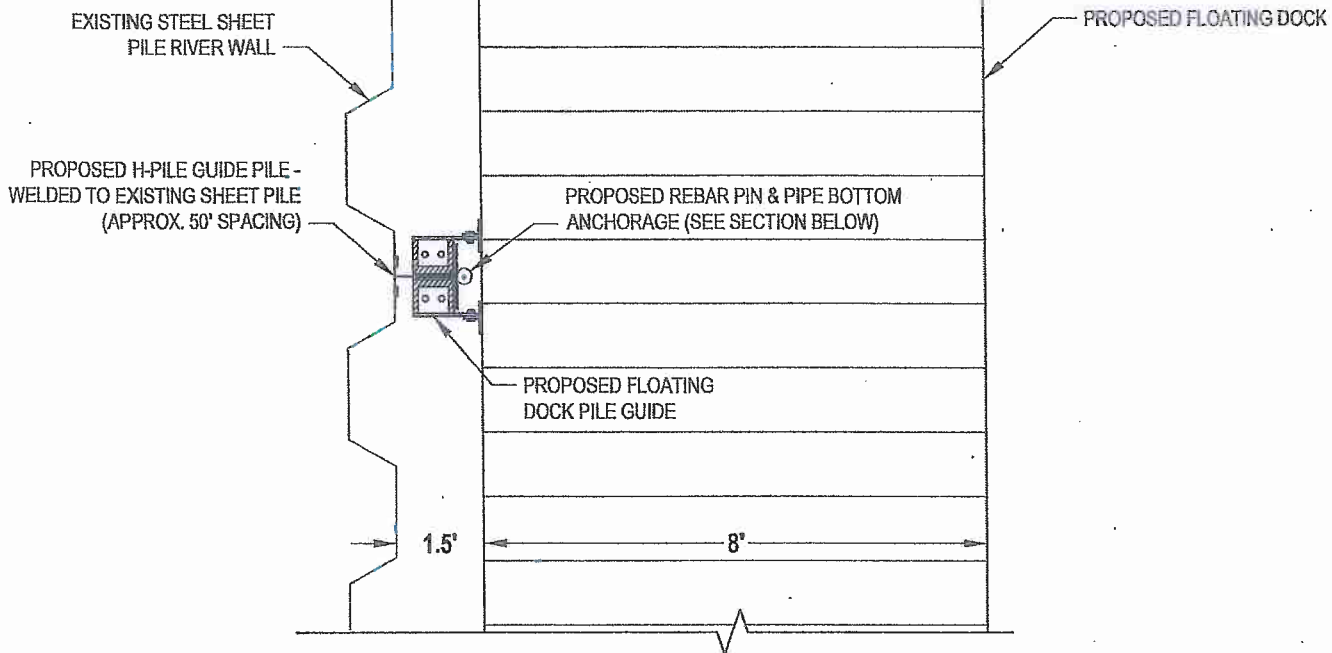
PROFILE VIEW



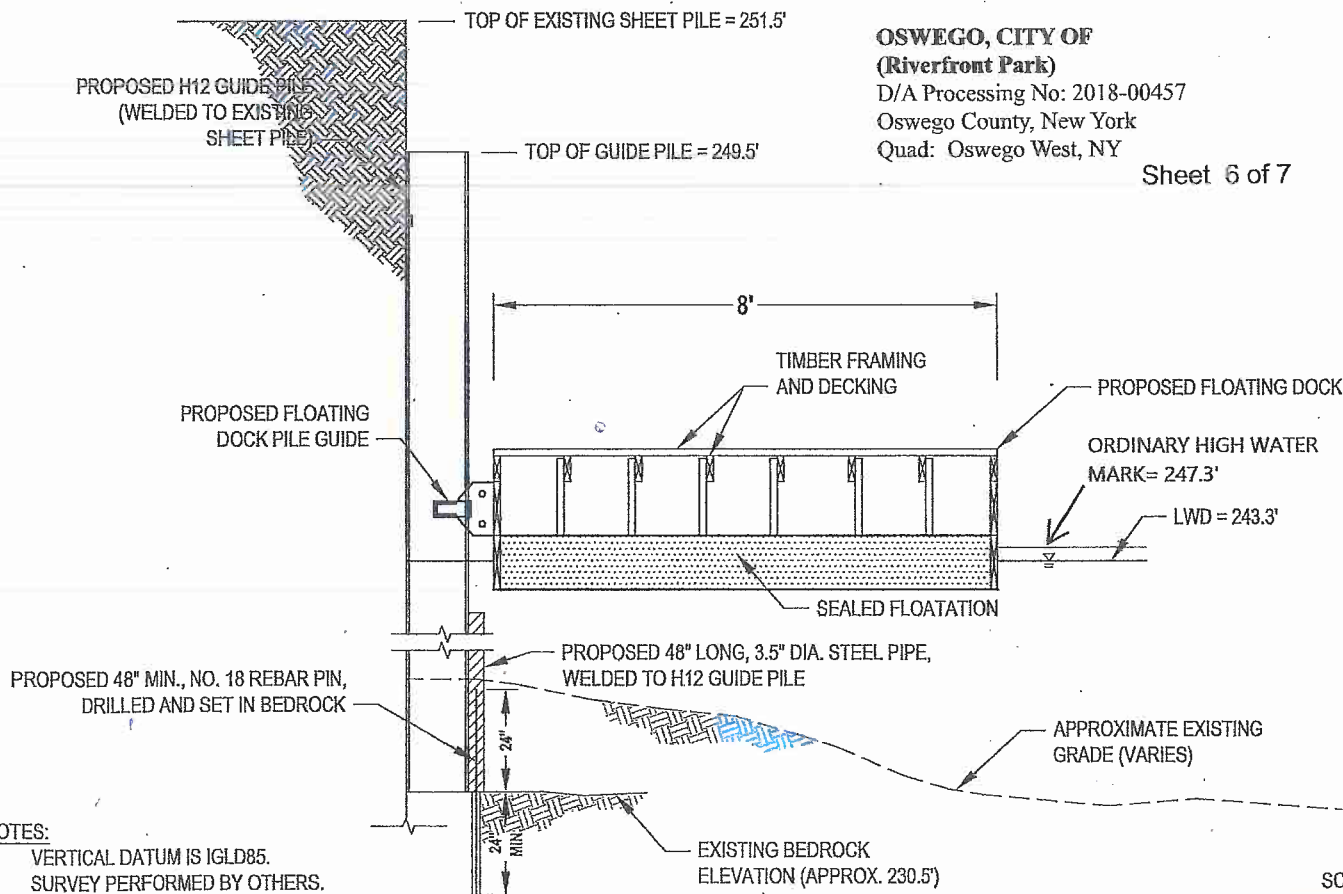
- NOTES:
1. VERTICAL DATUM IS IGLD85.
 2. SURVEY PERFORMED BY OTHERS.
 3. UPLAND ELEMENTS ARE APPROXIMATE AND SHOWN FOR REFERENCE ONLY.

SCALE: NTS

PLAN VIEW



TYPICAL SECTION



OSWEGO, CITY OF
(Riverfront Park)
D/A Processing No: 2018-00457
Oswego County, New York
Quad: Oswego West, NY

Sheet 6 of 7



NOTES:

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SCALE: 1"=3'



518 BROAD STREET, SUITE 200
ST. JOSEPH, MI 49085
P: 269 932 4502
F: 269 932 3542

FLOATING DOCK DETAILS

APPLICANT: CITY OF OSWEGO
WATERWAY: OSWEGO RIVER
CITY: OSWEGO, NY
COUNTY: OSWEGO
DATE: 5/31/2018
DATUM: IGLD85

REVISED
SHEET: 5 OF 5

**City of Oswego
Oswego River
Oswego County, New York
Transient Docks Project**

**Figure 6.
Sediment
Disposal Site**

1 in = 2,000 ft



NYS Orthos Online, Esri, HERE, DeLorme, Intermap, increment P Corp., GEBCO, USGS, FAO, NPS, NRCAN, GeoBase, IGN, Kadaster NL, Ordnance Survey, Esri Japan, METI, Esri China (Hong Kong), swisstopo, MapmyIndia ©, OpenStreetMap contributors, and the GIS User Community



BERGMANN
ARCHITECTS ENGINEERS PLANNERS

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

Division of Environmental Permits, Region 7

615 Erie Boulevard West, Syracuse, NY 13204-2400

P: (315) 426-7438 | F: (315) 426-7425

www.dec.ny.gov

Mayor William Barlow
City of Oswego
20 West Oneida St.
Oswego, NY 13126

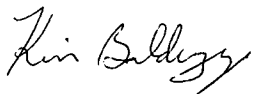
INSTRUCTIONS TO ALL PERMITTEES

Enclosed is your permit under New York State's Environmental Conservation Law. Please take some time to review it and note:

1. The permit is valid for only that activity specifically represented in your permit application and authorized in writing in the permit itself. Any deviation from the activity authorized in the permit or described in your application may require additional approval(s) or corrective action;
2. Review the General and Special Conditions carefully. If you are unsure of your obligations under the permit, please bring your questions to our attention;
3. If, for any reason, you believe you will be unable to comply or remain in compliance with the terms of your permit, please contact us;
4. Please check the expiration date and any requirements for renewal or modification of your permit;
5. Please keep the permit in a safe place for reference and a copy at the work site; and
6. The identification numbers help us communicate with you. Please reference them in any subsequent communications.
7. The Uniform Procedures Regulations provide that an applicant may request an adjudicatory hearing if a permit is denied or contains conditions which are unacceptable to them (6NYCRR Part 621.10(a)). Any such request must be made in writing within 30 calendar days of the date of this letter and must be addressed to the Regional Permit Administrator, Department of Environmental Conservation, 615 Erie Boulevard West, Syracuse, New York, 13204-2400.

If you have any questions, please contact me at 315-426-7493. Thank you.

Sincerely,



Kevin Balduzzi
Environmental Analyst

ecc: US ACOE
T. Toukatly, R7 BOH
S. Prindle, R7 Fisheries
D. Plante, Bergmann Associates



NEW YORK
STATE OF
OPPORTUNITY

Department of
Environmental
Conservation



PERMIT
Under the Environmental Conservation Law (ECL)

Permittee and Facility Information

Permit Issued To:
CITY OF OSWEGO
CITY HALL W ONEIDA ST

OSWEGO, NY 13126

Facility:
TRANSIENT DOCKS ON OSWEGO RIVER
21 WATER ST|ALONG THE W BANK OF THE
OSWEGO RIVER, PARALLEL TO W 1ST ST,
BTW FRONT ST AND RTE 104
OSWEGO, NY 13126

Facility Location: in OSWEGO in OSWEGO COUNTY

Facility Principal Reference Point: NYTM-E: 377.753 NYTM-N: 4812.825
Latitude: 43°27'30.1" Longitude: 76°30'39.9"

Authorized Activity: The City of Oswego will install 300 feet of floating boat docks along the Oswego River adjacent to Riverfront Park. A permanent access platform will be constructed upon six 12 inch concrete filled steel piles driven into the river bed. A gangway will lead from the platform to the floating docks, which will be secured using H beams, spaced 50 feet apart, and welded to the existing sheet pile bulkhead. Erosion and sediment controls will be required to maintain water quality standards during construction.

Permit Authorizations

Excavation & Fill in Navigable Waters - Under Article 15, Title 5

Permit ID 7-3512-00146/00001

New Permit Effective Date: 7/17/2018 Expiration Date: 7/16/2023

Water Quality Certification - Under Section 401 - Clean Water Act

Permit ID 7-3512-00146/00002

New Permit Effective Date: 7/17/2018 Expiration Date: 7/16/2023

Docks, Platforms & Moorings - Under Article 15, Title 5

Permit ID 7-3512-00146/00003

New Permit Effective Date: 7/17/2018 Expiration Date: 7/16/2023



NYSDEC Approval

By acceptance of this permit, the permittee agrees that the permit is contingent upon strict compliance with the ECL, all applicable regulations, and all conditions included as part of this permit.

Permit Administrator: ELIZABETH A TRACY, Deputy Regional Permit Administrator
Address: NYSDEC Region 7 Headquarters
615 Erie Boulevard W
Syracuse, NY 13204 -2400

Authorized Signature: _____

Date 7/17/18

Permit Components

NATURAL RESOURCE PERMIT CONDITIONS

WATER QUALITY CERTIFICATION SPECIFIC CONDITION

GENERAL CONDITIONS, APPLY TO ALL AUTHORIZED PERMITS

NOTIFICATION OF OTHER PERMITTEE OBLIGATIONS

Permit Attachments

Construction Detail Drawings
Miscellaneous Correspondence

4/3/2018
6/6/2018

NATURAL RESOURCE PERMIT CONDITIONS - Apply to the Following Permits: EXCAVATION & FILL IN NAVIGABLE WATERS; WATER QUALITY CERTIFICATION; DOCKS, PLATFORMS & MOORINGS

1. Conformance With Plans All activities authorized by this permit must be in strict conformance with the approved plans submitted by the applicant or applicant's agent as part of the permit application. Such approved plans were prepared by Edgewater Resources and titled: "Proposed Site Plan (Revised 3/29/18)" dated 3/29/18; "Platform & Gangway Details (Revised 3/29/18)" dated 3/29/18; and "Floating Dock Details" dated 5/31/18.

2. Use of Grout, Cement, or Adhesives for H-Pile Installation The use of any form of adhesive, grout, cement, or like substance to secure the H-Pile rebar pins to the river bed is not permitted without



first being approved by the Regional Fisheries Manager.

3. Failure to Meet Permit Conditions Failure of the permittee to meet all the conditions of this permit is a violation of this permit and grounds for an order to immediately cease the permitted activity at the project site.

4. No Interference With Navigation There shall be no unreasonable interference with navigation by the work herein authorized.

5. Prior Approval of Changes If the Permittee desires to make any changes in construction techniques, species to be planted, the site plan, any mitigation plan, scheduling or staging of construction, or any other aspect of this project, the Permittee shall submit a written request to the Regional Permit Administrator to make such proposed changes and shall not make such changes unless authorized in writing by the Department.

6. Erosion, Sedimentation and Turbidity Controls

a) All work shall be conducted in such a manner to prevent as far as reasonably possible to minimize the potential for silt and sediment in the waterbody; the use of properly constructed silt fences, silt curtains, or cofferdams may be needed on a site specific basis as indicated on the project plans.

b) Work shall be conducted in such a manner so the waterbody reach downstream of the work site is as clear and clean as upstream of the work site.

c) The discharge of any wet concrete, dry or wet cement or other pollutants into the waterway outside the contained work area is expressly prohibited.

d) If the above conditions are not adhered to, then all work shall cease and measures shall be instituted to contain and clean up the discharge until the non-compliance is remedied.

e) Gravel or sediments removed from the stream or lake bed must be placed beyond the reach of normal high water, and must be graded and stabilized to prevent reentry into the waterbody. Gravel or sediment materials will not be pushed up on streambanks, lakeshores, slopes, etc., unless otherwise authorized. Construction of berms with the excavated material is not authorized.

7. Work Windows Unless approved in writing by the Regional Natural Resources Supervisor or a designee, in-stream work is prohibited during the following time periods:

a) In perennial warm water fisheries (non-trout waters classified under Article 15 of New York's Environmental Conservation Law as "A, B or C"), work is prohibited beginning March 1 and ending July 15.

8. No Equipment in the Water Heavy equipment operation in the water is prohibited. With backhoes and similar heavy equipment, the bucket may enter the water.

9. Work in One Continuous Operation Work within the Oswego River must be done in one continuous operation.

10. No Rock From Stream/Lake No rock for use in construction is to come from the river bed.

11. Consolidation of Armor Stone Prohibited Armor stone may not be consolidated with concrete,



blacktop, grout, or by any other means.

12. Maintain Benchmarks for One Year After Permit Expiration Any benchmarks or other objects or structures used to define the location or limits of the activity subject to this permit, shall be left in place for a period of at least one year following the expiration date of this permit.

13. Concrete Leachate During construction, no wet or fresh concrete or leachate shall be allowed to escape into any wetlands or waters of New York State, nor shall washings from ready-mixed concrete trucks, mixers, or other devices be allowed to enter any wetland or waters. Only watertight or waterproof forms shall be used. Wet concrete shall not be poured to displace water within the forms.

14. Prevent Concrete Wash Waters from Entering Waterbody Equipment, tools and trucks used in this project shall be cleaned in such a manner as to prevent wash water from entering any stream or lake.

15. Turbid Run-off Excavated soil shall be suitably retained and covered so that there is no turbid runoff discharged either directly or indirectly into the indicated waterway or wetland.

16. Dredge Spoils All sediment and dredge spoils removed from the Oswego River must be disposed of at a regulated landfill, such as Bristol Hill, in accordance with all Solid Waste Regulations.

17. Invasive Species (Non-native Vegetation) 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 the state regulated freshwater wetland or its 100 foot adjacent area.

18. Post-Construction Photographs Within 30 days of completion of construction of the work authorized by this permit, the permittee shall submit at least 3 color photographs of the project, taken from different angles, to

Regional Permit Administrator
NYSDEC Region 7 Headquarters
615 Erie Boulevard W
Syracuse, NY13204 -2400

19. Precautions Against Contamination of Waters All necessary precautions shall be taken to preclude contamination of any wetland or waterway by suspended solids, sediments, fuels, solvents, lubricants, epoxy coatings, paints, concrete, leachate or any other environmentally deleterious materials associated with the project.

20. State May Require Site Restoration If upon the expiration or revocation of this permit, the project hereby authorized has not been completed, the applicant shall, without expense to the State, and to such extent and in such time and manner as the Department of Environmental Conservation may lawfully require, remove all or any portion of the uncompleted structure or fill and restore the site to its former condition. No claim shall be made against the State of New York on account of any such removal or alteration.

21. State May Order Removal or Alteration of Work If future operations by the State of New York require an alteration in the position of the structure or work herein authorized, or if, in the opinion of the Department of Environmental Conservation it shall cause unreasonable obstruction to the free navigation of said waters or flood flows or endanger the health, safety or welfare of the people of the State, or cause



loss or destruction of the natural resources of the State, the owner may be ordered by the Department to remove or alter the structural work, obstructions, or hazards caused thereby without expense to the State, and if, upon the expiration or revocation of this permit, the structure, fill, excavation, or other modification of the watercourse hereby authorized shall not be completed, the owners, shall, without expense to the State, and to such extent and in such time and manner as the Department of Environmental Conservation may require, remove all or any portion of the uncompleted structure or fill and restore to its former condition the navigable and flood capacity of the watercourse. No claim shall be made against the State of New York on account of any such removal or alteration.

22. State Not Liable for Damage The State of New York shall in no case be liable for any damage or injury to the structure or work herein authorized which may be caused by or result from future operations undertaken by the State for the conservation or improvement of navigation, or for other purposes, and no claim or right to compensation shall accrue from any such damage.

WATER QUALITY CERTIFICATION SPECIFIC CONDITIONS

1. Water Quality Certification The authorized project, as conditioned pursuant to the Certificate, complies with Section 301, 302, 303, 306, and 307 of the Federal Water Pollution Control Act, as amended and as implemented by the limitations, standards, and criteria of state statutory and regulatory requirements set forth in 6 NYCRR Section 608.9(a). The authorized project, as conditioned, will also comply with applicable New York State water quality standards, including but not limited to effluent limitations, best usages and thermal discharge criteria, as applicable, as set forth in 6 NYCRR Parts 701, 702, 703, and 704.

GENERAL CONDITIONS - Apply to ALL Authorized Permits:

1. Facility Inspection by The Department The permitted site or facility, including relevant records, is subject to inspection at reasonable hours and intervals by an authorized representative of the Department of Environmental Conservation (the Department) to determine whether the permittee is complying with this permit and the ECL. Such representative may order the work suspended pursuant to ECL 71- 0301 and SAPA 401(3).

The permittee shall provide a person to accompany the Department's representative during an inspection to the permit area when requested by the Department.

A copy of this permit, including all referenced maps, drawings and special conditions, must be available for inspection by the Department at all times at the project site or facility. Failure to produce a copy of the permit upon request by a Department representative is a violation of this permit.

2. Relationship of this Permit to Other Department Orders and Determinations Unless expressly provided for by the Department, issuance of this permit does not modify, supersede or rescind any order or determination previously issued by the Department or any of the terms, conditions or requirements contained in such order or determination.

3. Applications For Permit Renewals, Modifications or Transfers The permittee must submit a



separate written application to the Department for permit renewal, modification or transfer of this permit. Such application must include any forms or supplemental information the Department requires. Any renewal, modification or transfer granted by the Department must be in writing. Submission of applications for permit renewal, modification or transfer are to be submitted to:

Regional Permit Administrator
NYSDEC Region 7 Headquarters
615 Erie Boulevard W
Syracuse, NY 13204 -2400

4. Submission of Renewal Application The permittee must submit a renewal application at least 30 days before permit expiration for the following permit authorizations: Docks, Platforms & Moorings, Excavation & Fill in Navigable Waters, Water Quality Certification.

5. Permit Modifications, Suspensions and Revocations by the Department The Department reserves the right to exercise all available authority to modify, suspend or revoke this permit. The grounds for modification, suspension or revocation include:

- a. materially false or inaccurate statements in the permit application or supporting papers;
- b. failure by the permittee to comply with any terms or conditions of the permit;
- c. exceeding the scope of the project as described in the permit application;
- d. newly discovered material information or a material change in environmental conditions, relevant technology or applicable law or regulations since the issuance of the existing permit;
- e. noncompliance with previously issued permit conditions, orders of the commissioner, any provisions of the Environmental Conservation Law or regulations of the Department related to the permitted activity.

6. Permit Transfer Permits are transferrable unless specifically prohibited by statute, regulation or another permit condition. Applications for permit transfer should be submitted prior to actual transfer of ownership.

NOTIFICATION OF OTHER PERMITTEE OBLIGATIONS

Item A: Permittee Accepts Legal Responsibility and Agrees to Indemnification

The permittee, excepting state or federal agencies, expressly agrees to indemnify and hold harmless the Department of Environmental Conservation of the State of New York, its representatives, employees, and agents ("DEC") for all claims, suits, actions, and damages, to the extent attributable to the permittee's acts or omissions in connection with the permittee's undertaking of activities in connection with, or operation and maintenance of, the facility or facilities authorized by the permit whether in compliance or not in compliance with the terms and conditions of the permit. This indemnification does not extend to any claims, suits, actions, or damages to the extent attributable to DEC's own negligent or intentional acts or omissions, or to any claims, suits, or actions naming the DEC and arising under



Article 78 of the New York Civil Practice Laws and Rules or any citizen suit or civil rights provision under federal or state laws.

Item B: Permittee's Contractors to Comply with Permit

The permittee is responsible for informing its independent contractors, employees, agents and assigns of their responsibility to comply with this permit, including all special conditions while acting as the permittee's agent with respect to the permitted activities, and such persons shall be subject to the same sanctions for violations of the Environmental Conservation Law as those prescribed for the permittee.

Item C: Permittee Responsible for Obtaining Other Required Permits

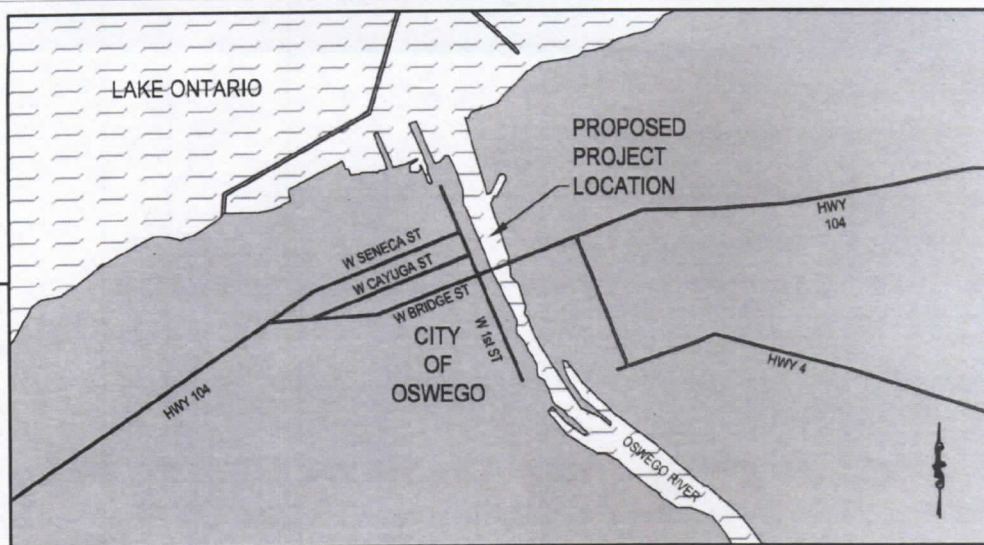
The permittee is responsible for obtaining any other permits, approvals, lands, easements and rights-of-way that may be required to carry out the activities that are authorized by this permit.

Item D: No Right to Trespass or Interfere with Riparian Rights

This permit does not convey to the permittee any right to trespass upon the lands or interfere with the riparian rights of others in order to perform the permitted work nor does it authorize the impairment of any rights, title, or interest in real or personal property held or vested in a person not a party to the permit.



SCALE: NOT TO SCALE



ONTARIO, CA

QUEBEC, CA

VERMONT

LAKE ONTARIO

PROJECT LOCATION

NEW YORK

LAKE ERIE

MASSACHUSETTS

CONNECTICUT

PENNSYLVANIA

LONG ISLAND

ATLANTIC OCEAN



518 BROAD STREET, SUITE 200
ST. JOSEPH, MI 49085
P: 269 932 4502
F: 269 932 3542

NYS DEC - 7 Syracuse
Received

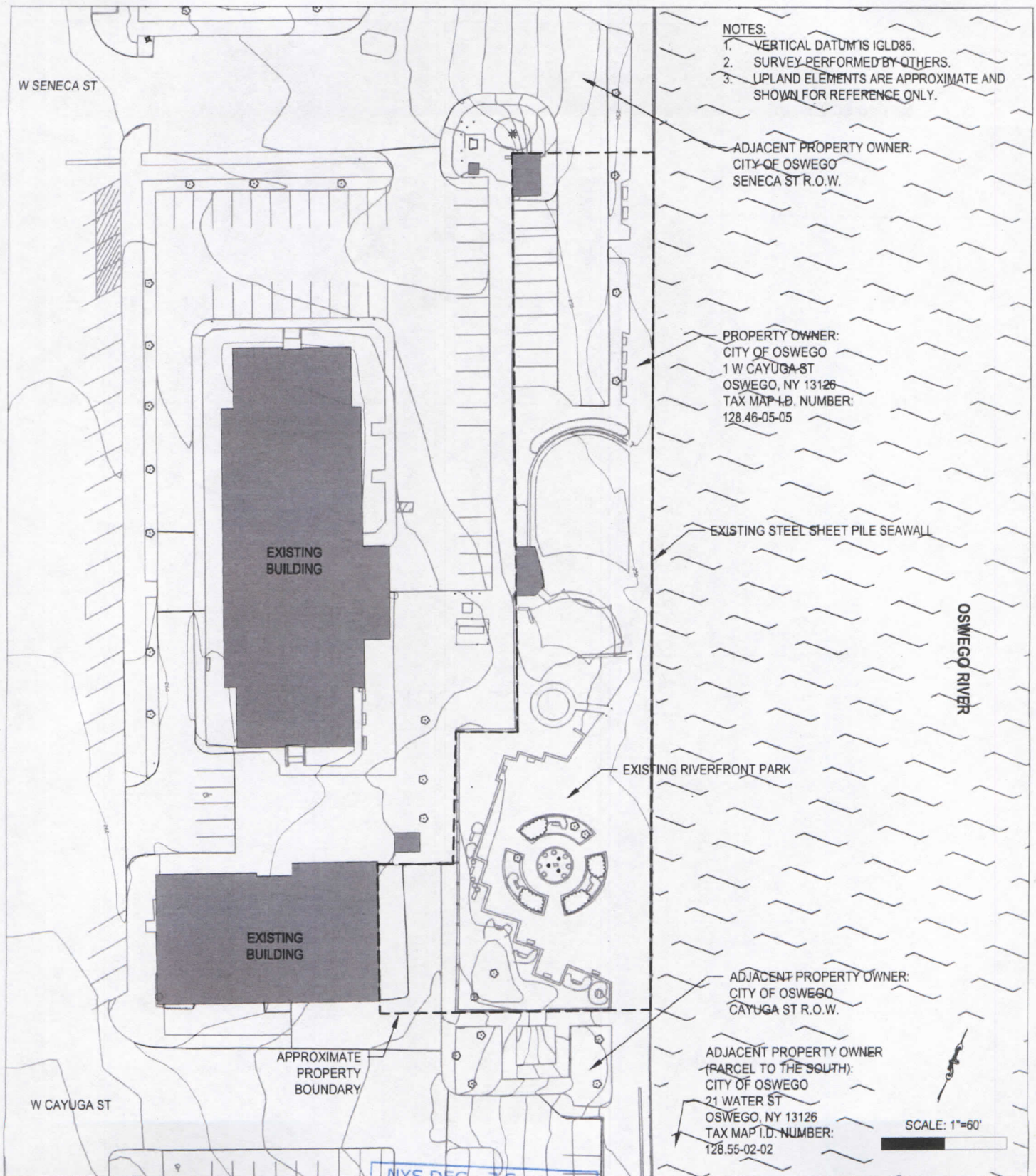
APR 03 2018

Environmental Permits

LOCATION MAP

APPLICANT: CITY OF OSWEGO
WATERWAY: OSWEGO RIVER
CITY: OSWEGO, NY
COUNTY: OSWEGO
DATE: 3/29/2018
DATUM: IGLD85

SHEET: 1 OF 5



Edgewater
resources

518 BROAD STREET, SUITE 200
ST. JOSEPH, MI 49085
P: 269 932 4502
F: 269 932 3542

NYS DEC - Syracuse
Received

APR 03 2018

Environmental Permits

EXISTING CONDITIONS

APPLICANT: CITY OF OSWEGO
WATERWAY: OSWEGO RIVER
CITY: OSWEGO, NY
COUNTY: OSWEGO
DATE: 3/29/2018
DATUM: IGLD85

SHEET: 2 OF 5

NOTES:

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W SENECA ST

OSWEGO RIVER

EXISTING BUILDING

EXISTING BUILDING

APPROXIMATE
PROPERTY
BOUNDARY

W CAYUGA ST

EXISTING STEEL SHEET PILE
SEAWALL - TO REMAIN

300'

EXISTING RIVERFRONT
PARK - TO REMAIN

PROPOSED FLOATING DOCK
(8' x 300')

PROPOSED 6' x 80' ADA GANGWAY

PROPOSED PILE
SUPPORTED PLATFORM
(APPROX. 125 SF)

SCALE: 1"=60'

Edgewater
resources

518 BROAD STREET, SUITE 200
ST. JOSEPH, MI 49085
P: 269 932 4502
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NYS DEC - 7 Syracuse
Received

APR 03 2018

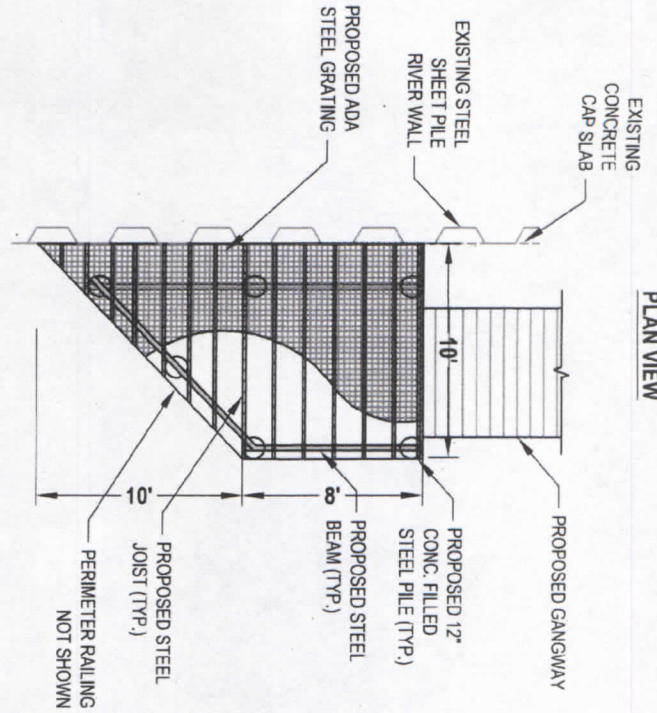
Environmental Permits

PROPOSED SITE PLAN (REVISED 3/29/18)

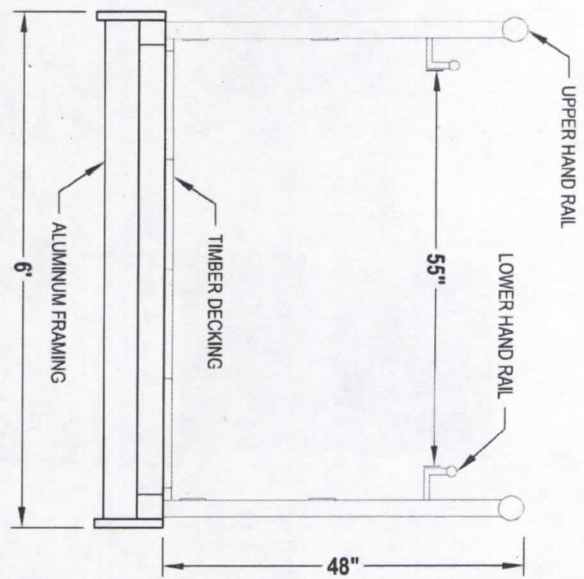
APPLICANT: CITY OF OSWEGO
WATERWAY: OSWEGO RIVER
CITY: OSWEGO, NY
COUNTY: OSWEGO
DATE: 3/29/2018
DATUM: IGLD85

SHEET: 3 OF 5

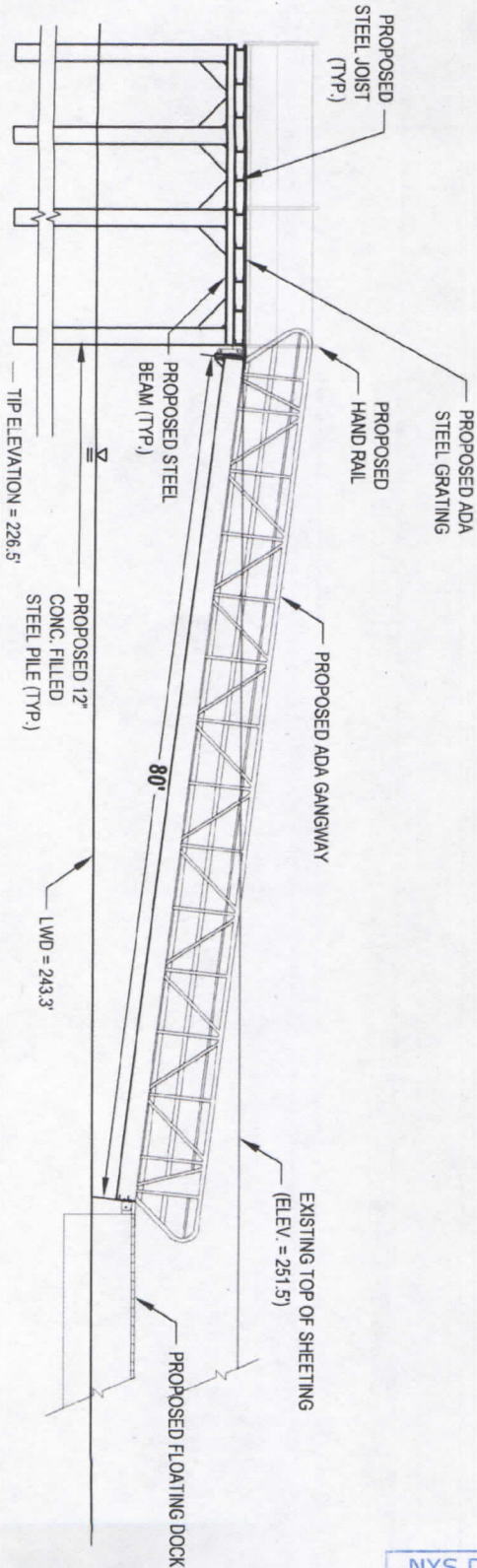
PLAN VIEW



TYPICAL GANGWAY SECTION



PROFILE VIEW



NOTES:

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SCALE: NTS

NYS DEC - 7 Syracuse
Received

APR 03 2018

Environmental Permits

PLATFORM & GANGWAY DETAILS (REVISED 3/29/18)

APPLICANT: CITY OF OSWEGO
WATERWAY: OSWEGO RIVER
CITY: OSWEGO, NY
COUNTY: OSWEGO
DATE: 3/29/2018
DATUM: IGLD85

SHEET: 4 OF 5

Edgewater
resources

518 BROAD STREET, SUITE 200
ST. JOSEPH, MI 49085
P: 269 932 4502
F: 269 932 3542

[illegible]

TYPICAL SECTION

TOP OF EXISTING SHEET PILE = 251.5'

PROPOSED H12 GUIDE PILE
(WELDED TO EXISTING SHEET PILE)

TOP OF GUIDE PILE = 249.5'

8'

TIMBER FRAMING AND DECKING

PROPOSED FLOATING DOCK

PROPOSED FLOATING DOCK PILE GUIDE

LWD = 243.3'

SEALED FLOATATION

PROPOSED 48" LONG, 3.5" DIA. STEEL PIPE, WELDED TO H12 GUIDE PILE

PROPOSED 48" MIN., NO. 18 REBAR PIN, DRILLED AND SET IN BEDROCK

24"

24" MIN.

APPROXIMATE EXISTING GRADE (VARIES)

EXISTING BEDROCK ELEVATION (APPROX. 230.5')

NOTES:

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SCALE: 1"=3'



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P: 269 932 4502
F: 269 932 3542

APPLICANT: CITY OF OSWEGO
WATERWAY: OSWEGO RIVER
CITY: OSWEGO, NY
COUNTY: OSWEGO
DATE: 5/31/2018
DATUM: IGLD85

REVISED
SHEET: 5 OF 5

From: Plante, David <dplante@BERGMANNPC.com>
Sent: Wednesday, June 06, 2018 8:52 AM
To: Balduzzi, Kevin M (DEC); Russell, Lindsey
Cc: Toukatly, Tiffany D (DEC)
Subject: RE: Transient Docks on Oswego River permit application - OSWEGO COUNTY - CANAL CORRIDOR BOA

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Good morning Kevin,

I posed these questions to the engineer and here is the feedback you requested:

1. *Will any grout/adhesive/cement be used to hold the pins into the drilled bedrock? If so please provide details on product, how it will be used, what environmental controls will be in place to keep it contained during its application. No, they will be driven into pre-drilled holes of equal or smaller diameter. If DEC would still like to condition approval on contractor's placing turbidity curtains during pin installation, the City can do that, even though no grout/cement/adhesive is being used.*
2. *Will there be any underwater welding for the steel pipe and rebar pin which are attached to the bottom of the h beams? Or will the rebar pins be welded on the guide pile prior to placement in water? The guide pile for the rebar pins will be welded onto the beams prior to installation outside of water and prior to placement in the water.*

Hope this helps. Let us know if you need anything else.

Dave

David J. Plante, AICP CEP
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Rochester, New York 14604

Office: 585.498.7877
Cell: 518.588.8270
dplante@bergmannpc.com

From: Balduzzi, Kevin M (DEC) <kevin.balduzzi@dec.ny.gov>
Sent: Tuesday, June 05, 2018 11:55 AM
To: Plante, David <dplante@BERGMANNPC.com>; Russell, Lindsey <lrussell@BERGMANNPC.com>
Cc: Toukatly, Tiffany D (DEC) <tiffany.toukatly@dec.ny.gov>
Subject: RE: Transient Docks on Oswego River permit application - OSWEGO COUNTY - CANAL CORRIDOR BOA

Dave,

Will any grout/adhesive/cement be used to hold the pins into the drilled bedrock? If so please provide details on product, how it will be used, what environmental controls will be in place to keep it contained during its application.

Will there be any underwater welding for the steel pipe and rebar pin which are attached to the bottom of the h beams.

Thanks.

From: Plante, David [<mailto:dplante@BERGMANNPC.com>]

Sent: Tuesday, June 05, 2018 10:53 AM

To: Balduzzi, Kevin M (DEC) <kevin.balduzzi@dec.ny.gov>; Russell, Lindsey <lrussell@BERGMANNPC.com>

Cc: Toukatly, Tiffany D (DEC) <tiffany.toukatly@dec.ny.gov>

Subject: RE: Transient Docks on Oswego River permit application - OSWEGO COUNTY - CANAL CORRIDOR BOA

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Kevin,

As requested, attached please find the updated plans from the engineer with the details/specifications you requested addressed/illustrated. The H-pile guides will be welded to the existing sheet pile above the ordinary high water mark. If there is anything else you need please let us know.

Thanks,

Dave

David J. Plante, AICP CEP

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dplante@bergmannpc.com

From: Plante, David

Sent: Thursday, May 31, 2018 12:47 PM

To: 'Balduzzi, Kevin M (DEC)' <kevin.balduzzi@dec.ny.gov>; Russell, Lindsey <lrussell@BERGMANNPC.com>

Cc: Toukatly, Tiffany D (DEC) <tiffany.toukatly@dec.ny.gov>

Subject: RE: Transient Docks on Oswego River permit application - OSWEGO COUNTY - CANAL CORRIDOR BOA

Excellent, thank you Kevin on the date restriction item.

Will do my best to retrieve additional H-pile details for you from the engineer. I requested the information from them this morning and will hopefully have it back for you shortly.

No worries on the comments, I appreciate the informal back and forth via email versus going the route of what can often come across as a stern deficiency summary in formal letters. Thank you for being flexible.

Will get back to you as soon as I can on this.

Dave

David J. Plante, AICP CEP

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From: Balduzzi, Kevin M (DEC) <kevin.balduzzi@dec.ny.gov>

Sent: Thursday, May 31, 2018 10:44 AM

To: Plante, David <dplante@BERGMANNPC.com>; Russell, Lindsey <lrussell@BERGMANNPC.com>

Cc: Toukatly, Tiffany D (DEC) <tiffany.toukatly@dec.ny.gov>

Subject: RE: Transient Docks on Oswego River permit application - OSWEGO COUNTY - CANAL CORRIDOR BOA

Dave,

Thanks for the info. I reached out to our fisheries staff about the work window variance. It doesn't look like it will be an issue but they would like to know more about how the h-beams will be pinned to the river bed.

Thanks, and sorry for all of the emails requesting info. Generally I like to send one notice with all of my questions, but this one had a few different moving parts.

From: Plante, David [<mailto:dplante@BERGMANNPC.com>]

Sent: Tuesday, May 29, 2018 10:32 AM

To: Balduzzi, Kevin M (DEC) <kevin.balduzzi@dec.ny.gov>; Russell, Lindsey <lrussell@BERGMANNPC.com>

Cc: Toukatly, Tiffany D (DEC) <tiffany.toukatly@dec.ny.gov>

Subject: RE: Transient Docks on Oswego River permit application - OSWEGO COUNTY - CANAL CORRIDOR BOA

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Good morning Kevin,

Hope you had a good holiday weekend. Apologies for the later response, I have been trying to wrangle the various requested components from some of the other project team members.

As requested, I am attaching a copy of the Oswego City Council resolution issuing the neg dec pursuant to SEQRA. The city issued the neg dec after classifying the action as unlisted and conducting an uncoordinated seqra review. The revised Part III of the EAF is attached reflecting such. You should be all set with SEQRA documentation now.

I also discussed the H-beam item with the engineer. They indicated that the H piles will be welded to the sheet pile at the top and pinned to the bed layer on the bottom similar to the existing sheeting.

Please let us know if you need any additional information for the issuance of the permit.

Thanks again and hope all is well,

Dave

David J. Plante, AICP CEP

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dplante@bergmannpc.com

From: Balduzzi, Kevin M (DEC) <kevin.balduzzi@dec.ny.gov>

Sent: Thursday, May 24, 2018 11:02 AM

To: Plante, David <dplante@BERGMANNPC.com>; Russell, Lindsey <lrussell@BERGMANNPC.com>

Cc: Toukatly, Tiffany D (DEC) <tiffany.toukatly@dec.ny.gov>

Subject: RE: Transient Docks on Oswego River permit application - OSWEGO COUNTY - CANAL CORRIDOR BOA

Dave,

I am working through the State Coastal Assessment and hope to have that completed soon.

Have you found out any additional info on the SEQR for this project? There was a question from the 5/7/18 email regarding how the City classified this and if they coordinated.

One other question I had was regarding how the H beams will be attached to the bulkhead. Can you provide some additional detail on that.

Thanks.

From: Plante, David [<mailto:dplante@BERGMANNPC.com>]

Sent: Tuesday, May 15, 2018 4:05 PM

To: Balduzzi, Kevin M (DEC) <kevin.balduzzi@dec.ny.gov>; Russell, Lindsey <lrussell@BERGMANNPC.com>

Cc: Toukatly, Tiffany D (DEC) <tiffany.toukatly@dec.ny.gov>

Subject: RE: Transient Docks on Oswego River permit application - OSWEGO COUNTY - CANAL CORRIDOR BOA

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Thank you Kevin. In speaking with the City, they would rather dispose of somewhere like Bristol Hills in accordance with Part 360 regs then go through testing and analyzing the sediment for spreading on-site. Let's go that route and if there is a condition to this effect on the permit, the City will expect that.

Thanks Kevin, appreciate your help,

Dave

David J. Plante, AICP CEP

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From: Balduzzi, Kevin M (DEC) <kevin.balduzzi@dec.ny.gov>

Sent: Tuesday, May 15, 2018 3:49 PM

To: Plante, David <dplante@BERGMANNPC.com>; Russell, Lindsey <lrussell@BERGMANNPC.com>

Cc: Toukatly, Tiffany D (DEC) <tiffany.toukatly@dec.ny.gov>

Subject: RE: Transient Docks on Oswego River permit application - OSWEGO COUNTY - CANAL CORRIDOR BOA

Dave,

I speak with Fisheries about starting July 1st.

I spoke with our Solid Waste Divisions about the dredge spoils. The easiest solution would be for you to dispose of it at Bristol Hills. If you want to dispose of it upland you would potentially need to take a sample of the sediment per 6 NYCRR 360.12(e)(4)(ii), and analyze per the parameters listed in 360.12(e)(4)(i) which says:

Untreated, unamended NDM and treated or amended NDM must be analyzed for the following parameters, unless otherwise approved by the department,, using department-approved analytical methods: volatile organic compounds; semivolatile organic compounds; pesticides; polychlorinated biphenyls; metals; sulfides; salt content; grain-size distribution; chlorinated dioxins/furans; carbazole; mirex; hexavalent chromium and cyanides. In addition, the department may require the submission of Synthetic Precipitation Leaching Procedure (EPA SW-846 Method 1312) or Toxicity Characteristic Leaching Procedure (EPA SW-846 Method 1311) results, as incorporated by reference in section 360.3 of this Part, and other data needed to justify the proposed end use (e.g., nutrient content, geotechnical testing, etc.).

Let me know how you want to handle the spoils and I will speak with Fisheries.

Thanks.

From: Plante, David [<mailto:dplante@BERGMANNPC.com>]

Sent: Monday, May 14, 2018 8:10 AM

To: Balduzzi, Kevin M (DEC) <kevin.balduzzi@dec.ny.gov>; Russell, Lindsey <lrussell@BERGMANNPC.com>

Cc: Toukatly, Tiffany D (DEC) <tiffany.toukatly@dec.ny.gov>

Subject: RE: Transient Docks on Oswego River permit application - OSWEGO COUNTY - CANAL CORRIDOR BOA

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Good morning Kevin,

I forwarded your questions to the engineering consultant and have included their responses below. Please let us know if you need further information or clarification. Thanks again for your assistance on this project.

Dave

David J. Plante, AICP CEP

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From: Balduzzi, Kevin M (DEC) <kevin.balduzzi@dec.ny.gov>

Sent: Wednesday, May 09, 2018 9:54 AM

To: Plante, David <dplante@BERGMANNPC.com>; Russell, Lindsey <lrussell@BERGMANNPC.com>

Cc: Toukatly, Tiffany D (DEC) <tiffany.toukatly@dec.ny.gov>

Subject: RE: Transient Docks on Oswego River permit application - OSWEGO COUNTY - CANAL CORRIDOR BOA

Thank you Dave,

I think we need an expanded detail on the installation of the pile supported pier. I know it is a pretty small project but there are two red flags that are popping up for me.

Specifically how are the piles going to be installed? Are they going to be driven or are you going to be excavating the river bed? ***The piles will be of a micropile design consisting of an outer steel casing/pile that will be drilled/advanced into the sandstone substrate. Following their installation, any water within the casing will be pumped out to make it as dry as possible. Reinforcing steel and concrete will then be placed into the casing, stopping short of the top to prevent from displacing any residual water. If any residual water needs to be removed from the top, this can be collected on land through a pump to prevent it from entering the river.***

There is a history of contaminants in the Oswego River so we need specific details on any dredging for the piles. Additionally our solid waste regs. have been updated, including the section on dredge spoils, and I need to make sure there are no issues with the disposal. ***Any incidental dredging would be a very minor quantity (the anticipated sediment in all 6 pilings would be less than 5 CF total). The sediment will be assumed to be contaminated and will be disposed of as such in accordance with the updated Part 360 regs. If DEC would like to include more specific disposal restrictions as a condition of the issued permit, the City would not object.***

Pouring concrete in an aquatic habitat needs to be carefully controlled to insure that nothing leaches into the river. When the piles are put in place I am assuming they will be filled with water from the river. The permit will have a condition which prohibits you from displacing water with concrete. Are you able to pump out the water before you pour concrete? Please include any additional concrete BMP's you will be using. ***During concrete placement, an apron (turbidity curtain/apron) will be placed around the top of each piling to prevent concrete from being spilled into the***

river. Following completion of the concrete placement, steel pile caps will be welded on to the piling for support of the pier framework. Any cloudy water within the curtain will be pumped out and disposed of in accordance with applicable state and federal regs.

Please be advised there will also be a condition which prohibits work between March 1st and July 15th. ***Roger that. Please keep in mind this is a priority project of the Governor under the DRI and any wiggle room or waiver to bump the date back to July 1 would be appreciated.***

Thank you.

From: Plante, David [<mailto:dplante@BERGMANNPC.com>]
Sent: Tuesday, May 08, 2018 4:41 PM
To: Balduzzi, Kevin M (DEC) <kevin.balduzzi@dec.ny.gov>; Russell, Lindsey <lrussell@BERGMANNPC.com>
Cc: Toukatly, Tiffany D (DEC) <tiffany.toukatly@dec.ny.gov>
Subject: RE: Transient Docks on Oswego River permit application - OSWEGO COUNTY - CANAL CORRIDOR BOA

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Good afternoon Kevin,

Thanks for the review. I discussed with the City and their engineering consultant. Please see responses below in blue. Let us know if you need anything else.

Thanks!

Dave

David J. Plante, AICP CEP
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From: Balduzzi, Kevin M (DEC) <kevin.balduzzi@dec.ny.gov>
Sent: Monday, May 07, 2018 1:10 PM
To: Russell, Lindsey <lrussell@BERGMANNPC.com>; Plante, David <dplante@BERGMANNPC.com>
Cc: Toukatly, Tiffany D (DEC) <tiffany.toukatly@dec.ny.gov>
Subject: RE: Transient Docks on Oswego River permit application - OSWEGO COUNTY - CANAL CORRIDOR BOA

Good afternoon Lindsey and David,

I took a look through the City of Oswego Transient Dock application and have just a few questions.

- Where will the spoils which will be dredged for the support posts be disposed of?
- Will the concrete for the steel piles be poured before they are set in the river, or after?
- The SEQR documents state the City has determined this is a Type 1 project, and has issued a neg dec. Can you forward me a copy of the Lead Agency Coordination letter. I am unable to find it in our files.

Thank you both.

From: Russell, Lindsey [<mailto:lrussell@BERGMANNPC.com>]
Sent: Thursday, April 05, 2018 9:44 AM
To: Balduzzi, Kevin M (DEC) <kevin.balduzzi@dec.ny.gov>
Cc: Plante, David <dplante@BERGMANNPC.com>; Gilmour, Melissa M (DEC) <melissa.gilmour@dec.ny.gov>
Subject: RE: Transient Docks on Oswego River permit application - OSWEGO COUNTY - CANAL CORRIDOR BOA

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Good morning,

As mentioned in the PCN for the Transient Docks on the Oswego River, we're forwarding the Threatened and Endangered Species report that we received back from the New York State Natural Heritage program. I've attached the report to this email. If you have any questions, please feel free to contact me.

Thank you for your assistance with this permit!

Lindsey Russell

Environmental Scientist – NE Buildings

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LRussell@bergmannpc.com

From: Plante, David
Sent: Wednesday, April 4, 2018 3:18 PM
To: Russell, Lindsey <lrussell@BERGMANNPC.com>
Subject: FW: File Transfer: RE: Transient Docks on Oswego River permit application - OSWEGO COUNTY - CANAL CORRIDOR BOA

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DEPARTMENT OF STATE

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ALBANY, NY 12231-0001
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ANDREW M. CUOMO
GOVERNOR

ROSSANA ROSADO
SECRETARY OF STATE

June 25, 2018

Judy Robinson
U.S. Army Corps of Engineers
7413 County House Road
Auburn, NY 13021

Re: F- 2018-0320
U.S. Army Corps of Engineers/Buffalo District Permit
New York State DEC Region 7 Permit
Application – City of Oswego (Transient Docks)
City of Oswego, Oswego County
Letter of Permission

Dear Ms. Robinson:

The Department of State received and reviewed your letter dated June 25, 2018, regarding the eligibility of the above-referenced proposal for authorization by a Corps of Engineers Letter of Permission.

Based upon the submitted information, the Department of State has no objection to the authorization of this proposal by Letter of Permission. Further review of this proposal by the Department of State is not required.

Sincerely,



David J. Newman
Coastal Resources Specialist
Office of Planning, Development and
Community Infrastructure

ecc: DEC/Region 7 – Kevin Balduzzi (7-3512-00146/00001)
Bergmann - Lindsey Russell



**Department
of State**



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U.S. Army Corps of Engineers Buffalo District & New York
State Department of Environmental Conservation
Pre-Construction Notification (PCN)/ Joint Application for Permits



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Issued: March 28, 2018



**PRE-CONSTRUCTION NOTIFICATION
JOINT APPLICATION FOR PERMITS
U.S. ARMY CORPS OF ENGINEERS – BUFFALO DISTRICT
TRANSIENT DOCKS ON OSWEGO RIVER
COUNTY OF OSWEGO – CANAL CORRIDOR BOA PROJECT
CITY OF OSWEGO, OSWEGO COUNTY, NEW YORK**

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**PRE-CONSTRUCTION NOTIFICATION
JOINT APPLICATION FOR PERMITS
U.S. ARMY CORPS OF ENGINEERS – BUFFALO DISTRICT
TRANSIENT DOCKS ON OSWEGO RIVER
COUNTY OF OSWEGO – CANAL CORRIDOR BOA PROJECT
CITY OF OSWEGO, OSWEGO COUNTY, NEW YORK**

FIGURES

Figure 1	Site Location Map
Figure 2	Aerial Imagery Map
Figure 3	National Wetlands Inventory Map
Figure 4	NYSDEC Freshwater Wetlands Map
Figure 5	FEMA Floodplain Map
Figure 6	FEMA FIRM Map

APPENDICES

Appendix A:	Joint Application for Permits
Appendix B:	Project Drawings
Appendix C:	Section 7 Endangered Species Act Consultation
Appendix D:	Representative Photographs
Appendix E:	National Register of Historic Places
Appendix F:	Nationwide Permit General and Regional Conditions
Appendix G:	NYSDOC Coastal Consistency Form & LWRP Policy Consistency Narrative
Appendix H:	NYSOGS Land Underwater License Form



1.0 INTRODUCTION

This document and its attachments serves as a Pre-Construction Notification (PCN) seeking authorization under the U.S. Army Corps of Engineers 2017 Nationwide Permit (NWP) 11 for Temporary Recreational Structures or Regional General Permit 87-000-1, as required pursuant to the Federal Clean Water Act, 33 U.S.C. §§ 1251 et. seq. and regulations and policies including 33 C.F.R. Part 330 (NWPs) and under Section 10 of the Rivers and Harbors Appropriation Act of 1899. This PCN contains the information outlined in NWP General Condition #32, Regional Conditions established by the U.S. Army Corps of Engineers (Corps) Buffalo District and Section 401 Water Quality Certification provisions for the applicable NWP. This submission is also being provided to (NYSDEC) Region 7 to request an Article 15 Protection of Waters Permit for Work Within a Navigable Waterway.

The proposed project will allow the City of Oswego to perform the installation of transient docks on the Oswego River in the City of Oswego, Oswego County, New York. The proposed project involves the installation of a removable docking system for short term and overnight boat mooring with the goal of increasing traffic from boats on the Oswego River/ Canal system to the downtown Oswego area.

The project site was field reviewed by Bergmann Associates representatives on January 11, 2018. The purpose of the field review was to identify any recognized environmental conditions, including petroleum products or hazardous substances. The project site was also investigated for historical and controlled RECs, potential wetlands and other waters of the U.S. (regulated by the Corps and/or the NYSDEC), the presence or absence of suitable threatened and endangered species habitats, proposed construction methods, and to provide a basis for assessing the applicable installation work necessary.

This report is also intended to be a reference document that describes proposed procedures to be used by the City of Oswego in an effort to minimize and/or avoid potential environmental impacts associated with this transient dock installation project to the maximum extent practicable. Included herein is a description of the proposed project activities, site description, information on permits and approvals, information on erosion and sediment controls, and a discussion of maintenance and monitoring of the project site.



2.0 SITE DESCRIPTION

The following sub-sections discuss the project site and provide information on soils, wetlands and other waters of the U.S., and mapped floodplains. The general location of the subject property is shown on Figure 1. The location of the proposed transient docks lies along the west bank of the Oswego River, parallel to West 1st Street and Route 104 in Oswego, New York (43.458611, -76.511133). The Oswego River flows to the project area from the north and continues into the City of Oswego. The subject property is currently owned by the City of Oswego, consists of approximately 0.33 acres, is zoned as B2- Central Business, and is utilized as a paved parking lot to support the adjoining Canal Commons shopping district (refer to Figure 2, Aerial Imagery Map). In the immediate location of the proposed docks, a steel sheet pile wall exists on the property. Directly on the eastern side of the wall is the Oswego River. Directly west of the wall is a boardwalk, and to the west of the boardwalk is a parking lot. Representative photographs have been included in Appendix G.

2.1 Soil Descriptions

According to the U.S. Department of Agriculture (USDA) Soil Conservation Services (SCS), soils at the subject property are identified as "Urban Land". No Public water supply wells were identified in the EDR Database within a 1-mile radius of the subject property. Groundwater flow direction generally is from the west to northeast across the subject property.

2.2 Wetlands and Other Waters of the U.S.

The United States Fish & Wildlife Service National Wetlands Inventory (NWI) Map and the NYSDEC's Environmental Resource Mapper for Oswego County, New York were reviewed. Based on the NWI map, none of the subject property lies in a state wetland or wetland check zone (refer to Figure 3). According to the NYSDEC website, *"New York's freshwater wetlands maps only show the approximate location of the actual wetland boundary. They are not precise, regardless of how closely you zoom in on the map. The "check zone" is an area around the mapped wetland in which the actual wetland may occur."* Waters of the U.S. are located on or around the subject property (refer to Figure 4). The Oswego River is listed as a navigable waterway by the Corps and Class C/ Standard C water by NYDEC.

2.3 Description of Waters of the U.S.

A site investigation of wetlands and other waters of the U.S. was conducted on January 11, 2018 in accordance with the Corps 1987 Wetland Delineation Manual and the Northcentral and Northeast Regional Supplement. The all lands within the project area were assessed. No wetlands were identified. Stream 1 was identified and corresponds to the Oswego River.

2.4 Mapped Floodplains

The United States Federal Emergency Management Agency (FEMA) Floodplain maps for Oswego County, New York were reviewed (refer to Figure 4, FEMA FIRM). The FEMA Flood Insurance Rate (FIRM) map indicates the subject property is currently situated in an "Area of Minimal Flood Hazard".



3.0 PROJECT DESCRIPTION

The project involves the installation of a removable docking system. The following sections describe the purpose of and need for the project, a description of the proposed work, and a discussion of alternatives.

3.1 Purpose and Need

The purpose of the proposed activity is to construct transient docks along the western bank of the Oswego River for short term and overnight boat mooring. This would require the installation of a removable docking system with the ultimate goal of increasing traffic from boats on the Oswego River/ Canal system to the downtown Oswego area. Out of the considerable amount of recreational boaters that pass through the area (often on a regular basis), the City of Oswego found that very few stop to visit the City and area shops. The City of Oswego has determined it necessary to develop a portion of the area's waterfront in order to increase tourism and, as a result, increase the revenue of local businesses, tax revenue, and employment opportunities for area residents.

3.2 Description of Proposed Work

In order to install the proposed 80 sf. (8'x10') platform, four (4) 5 sf. borings of sediment will be excavated from the riverbed of the Oswego River. This will allow for four (4) 4 sf. concrete filled steel piles to be installed. A steel beam will be attached to the top portion of the concrete filled steel piles. Steel joists will be used to secure the steel beam to ADA steel grating, which will include a perimeter railing.

The installation a temporary 2,400 sf. (300'x8') floating dock involves securing H-pile guide piles (approximately 50 ft. spacing) onto the existing steel sheet pile river wall. To stabilize and secure the floating dock, floating dock pile guides will be secured to the H-pile guides. The floating dock will be pre-manufactured using timber with a sealed floatation underside.

The proposed temporary gangway requires a pre-manufactured 480 sf. (80'x6') aluminum structure (with timber decking) and be secured between the proposed platform and floating dock.

Construction of the proposed project is anticipated to begin Spring 2018 along the western bank of the Oswego River near 21 Water St. in Oswego, NY. The total duration of the project is estimated to be three (3) months.

3.3 Alternatives Analysis & Selection of Preferred Alternative

We are identifying herewith three (3) options to address the proposed improvements to the western bank of the Oswego River near 21 Water St. in Oswego, NY. The preferred alternative is discussed, along with an assessment of how the preferred alternative avoids/minimizes impacts to waters of the U.S. to the maximum extent practicable:

The first option is a no action alternative. Leaving the unused steel sheet pile seawall on the bank of the Oswego River in its current state poses a loss of potential income for the City of Oswego and its residents. Without the proposed improvements, the City of Oswego could potentially forfeit substantial revenue brought in by visitors that regularly pass through the area without utilizing any of the amenities available to them in the commercial district (located steps from the proposed transient docks). The City of Oswego has



a large amount of traffic from boaters, but without appropriate docking accommodations, many pass by. Not only do the transient docks bring in the potential revenue for the City and its businesses, it has the potential to reduce unemployment in the immediate area. Therefore, the no action alternative is not practicable.

The second option would be to build a permanent docking facility. While this option would meet the same goal, it requires a different form of construction, which would facilitate a change in type and increase in the quantity of impacts than the transient docks, particularly to the surrounding natural environment. Adding permanent, long-term docks would facilitate a greater amount of lasting permanent impacts to the Oswego River. Additionally, a permanent docking facility would require greater capital for maintenance costs after installation. It also presents the challenge of tackling high flows and ice jams due to its constant presence in the Oswego River in upstate New York throughout the year. For these reasons, this is not a practicable alternative.

The third option involves the proposed method of installation discussed in Section 3.2. The structure will be stabilized with proposed H12 guide piles anchored to the existing steel sheet pile wall. The dock pile guide will be used to secure the proposed floating dock. The floating dock will be pre-manufactured with timber for the frame and decking, and is to include a sealed floatation underside. This option allows the applicant to improve the current appearance of the steel pile seawall, accommodate visitors to the area, and to avoid a significant permanent impact to the Oswego River. Further permanent impacts to the Oswego River will be minimized through use of transient docks. For these reasons, this option is the preferred alternative.



4.0 PERMITS AND APPROVALS

The following sections provide information on permits and approvals that are applicable to this project.

4.1 United States Army Corps of Engineers – Buffalo District

The proposed temporary impacts to the western bank of the Oswego River are understood to be covered under either the 2017 Nationwide Permit 11 for Temporary Recreational Structures and/or Regional Permit 87-000-1 provided that all general and regional conditions are met. This application is being submitted to the Buffalo District of the U.S. Army Corps of Engineers as a Pre-Construction Notification (PCN) as well as a Section 10 authorization for work in a navigable Waterway as per the notification requirements of the 2017 Nationwide Permit Program. A Joint Application for Permits Form is located in Appendix A of this document.

4.2 Cultural Resources

The National Register of Historic Places was reviewed for properties within Oswego County, New York. A Section 106 consultation was initiated by NYSCC through the New York State Office of Parks, Recreation and Historic Preservation (OPRHP) online Cultural Resource Information System (CRIS) project review process on March 8, 2018 (18PR01489). The OPRHP issued a response on March 15, 2018, and determined that no historic properties will be affected by this undertaking. A copy of the OPRHP correspondence is located in Appendix E of this document.

4.3 Threatened and Endangered Species Review

An Official Species List for the project areas was obtained on March 9, 2018 from the Cultural Resource Information System (Consultation Code: 05E1NY00-2018-SLI-1396). According to the Official Species List, the threatened northern long-eared bat (*Myotis septentrionalis*) may occur within the project area. Please refer to Appendix C for a complete Section 7 Endangered Species Act Consultation package. No trees or caves will be impacted by the project, therefore the project is not anticipated to result in significant adverse impacts to this species.

The project site was reviewed using the NYSDEC Environmental Resource Mapper (ERM) to determine if any known occurrences of protected species occur within the project area. Lake Sturgeon and a Waterfowl Winter Concentration area can be found within the project area. Correspondence from the New York Natural Heritage program was received. A copy of their report has been included in Appendix C.

4.4 New York State Department of Environmental Conservation

The proposed project is being conducted under the 2017 NWP 11 and the NYSDEC has certified that activities being conducted under NWP 11 in compliance with NWP Regional Conditions and Section 401 Conditions as being authorized. The proposed project meets all of the conditions and limitations to be covered under the “blanket” Water Quality Certification from the NYSDEC.

The Oswego River is a navigable NYSDEC Class C / Standard C stream. Therefore, an Article 15, Protection of Waters Permit for the temporary impacts to the Oswego River is required.



The project areas are not located within a mapped NYSDEC Freshwater Wetlands or its 100-foot adjacent area. Therefore, neither an Article 24 Freshwater Wetlands Permit nor coverage under NYSDEC General Permit 0-13-001 are required.

A State Pollutant Discharge Elimination System (SPDES) General Permit for Stormwater Discharges from Construction Activities (GP-0-15-002) is not required as the proposed disturbance is less than one (1) acre.

4.5 NYDOS Coastal Consistency Determination

As the project involves work within the New York Coastal Zone Management area and because the Oswego River is in New York State Significant Coastal and Fish Wildlife Habitat, an individual Coastal Consistency determination is required. This application package is being submitted concurrently to NYSDOS (refer to Appendix H). The project as proposed is consistent with Oswego LWRP policies 2, 2b, 6, 9, 9A, 9B, 18, 19, 21, 21A, 21C, and 22A.

- **POLICY 2:** FACILITATE THE SITING OF WATER-DEPENDANT USES AND FACILITIES ON OR ADJACENT TO COASTAL WATERS.
- **POLICY 2B:** FACILITATE APPROPRIATE ACTIVE AND PASSIVE RECREATIONAL USES AND CULTURAL USES IN OSWEGO WATERFRONT AREA WHICH REQUIRE OR CAN BENEFIT SUBSTANTIALLY FROM A WATERFRONT LOCATION AND WHICH, WHENEVER POSSIBLE, WILL INCREASE NUMBER OF JOBS AND USE OF OSWEGO'S WATERFRONT.
- **POLICY 6:** EXPEDITE PERMIT PROCEDURES IN ORDER TO FACILITATE THE SITING OF DEVELOPMENT ACTIVITIES AT SUITABLE LOCATIONS.
- **POLICY 9:** EXPAND RECREATIONAL USE OF FISH AND WILDLIFE RESOURCES IN COASTAL AREAS BY DECREASING ACCESS TO EXISTING RESOURCES, SUPPLEMENTING EXISTING STOCKS AND DEVELOPING NEW RESOURCES. SUCH EFFORTS SHALL BE MADE, IN A MANNER WHICH ENSURES THE PROTECTION OF RENEWABLE FISH AND WILDLIFE RESOURCES AND CONSIDERS OTHER ACTIVITIES DEPENDENT ON THEM.
- **POLICY 9A:** EXPAND THE RECREATIONAL USE OF THE OSWEGO FISH AND WILDLIFE RESOURCES, INCLUDING THE FISHERY IDENTIFIED ON FIGURE 2, SECTION II, BY ASSISTING, WHERE FEASIBLE, IN IMPLEMENTING NEW WATERFRONT FACILITIES OR IMPROVEMENT OF EXISTING FACILITIES FOR FISHING AND BOATING ACTIVITIES.
- **POLICY 9B:** ENCOURAGE THE EXPANSION OF RECREATIONAL FACILITIES TO SUPPORT THE GROWTH OF THE TOURIST INDUSTRY.
- **POLICY 18:** TO SAFEGUARD THE VITAL ECONOMIC, SOCIAL AND ENVIRONMENTAL INTERESTS OF THE STATE AND OF ITS CITIZENS, PROPOSED MAJOR ACTIONS IN THE COASTAL AREA MUST GIVE FULL CONSIDERATION TO THOSE INTERESTS, AND TO THE SAFEGUARDS WHICH THE STATE HAS ESTABLISHED TO PROTECT VALUABLE COASTAL RESOURCE AREAS.
- **POLICY 19:** PROTECT, MAINTAIN AND INCREASE THE LEVELS AND TYPES OF ACCESS TO PUBLIC WATER-RELATED RECREATION RESOURCES AND FACILITIES SO THAT THESE RESOURCES AND FACILITIES MAY BE FULLY UTILIZED BY ALL THE PUBLIC IN ACCORDANCE WITH REASONABLY ANTICIPATED PUBLIC RECREATION NEEDS AND THE PROTECTION OF HISTORIC AND NATURAL RESOURCES, IN PROVIDING SUCH ACCESS,



PRIORITY SHALL BE GIVEN TO PUBLIC BEACHES, BOATING FACILITIES, FISHING AREAS AND WATERFRONT PARKS.

- **POLICY 21:** WATER-DEPENDENT AND WATER-ENHANCED RECREATION SHALL BE ENCOURAGED AND FACILITATED AND SHALL BE GIVEN PRIORITY OVER NONWATER-RELATED USES ALONG THE COAST, PROVIDED IT IS CONSISTENT WITH THE PRESERVATION AND ENHANCEMENT OF OTHER COASTAL RESOURCES AND TAKES INTO ACCOUNT DEMAND FOR SUCH FACILITIES, IN FACILITATING SUCH ACTIVITIES, PRIORITY SHALL BE GIVEN TO AREAS WHERE ACCESS TO THE RECREATION OPPORTUNITIES OF THE COAST CAN BE PROVIDED BY NEW OR EXISTING PUBLIC TRANSPORTATION SERVICES AND TO THOSE AREAS WHERE THE USE OF THE SHORE IS SEVERELY RESTRICTED BY EXISTING DEVELOPMENT.
- **POLICY 21A:** PROVIDE OPPORTUNITIES FOR WATER-RELATED RECREATION SUCH AS BOATING AND FISHING AS WELL AS RECREATIONAL ACTIVITIES WHICH ARE ENHANCED BY A COASTAL LOCATION SUCH AS PEDESTRIAN AND JOGGING PATHS, PICNIC AREAS, AND SCENIC VIEWS.
- **POLICY 21C:** CONTINUE TO MAINTAIN ADEQUATE TRANSPORTATION FACILITIES SERVING WATER-RELATED RECREATIONAL NEEDS.
- **POLICY 22A:** ENCOURAGE THE EXPANSION OF WATER-RELATED RECREATIONAL FACILITIES TO SUPPORT THE GROWTH OF THE TOURIST INDUSTRY.

4.6 NYS OGS Lands Underwater Authorization

The Oswego River is classified as state owned lands underwater under the jurisdiction of NYSOGS. This package is being submitted concurrently to NYSOGS for a petition for license, easement, or permit (refer to Appendix I).

4.7 U.S. Coast Guard

This package is concurrently being submitted to the U.S. Coast Guard for determination of Aids to Navigation for the proposed docks.

4.8 City of Oswego, Oswego County

No local permits from the City of Oswego or from Oswego County are anticipated to be required.



5.0 GENERAL CONSTRUCTION SEQUENCE

The following is a general maintenance activity sequence for the proposed maintenance project.

- 1) Buried utilities, private water wells, and locally unique objects will be identified and flagged prior to the commencement of work.
- 2) Temporary erosion and sediment controls will be installed prior to any excavation work to ensure, to the maximum extent practicable, that no accelerated erosion of soils or sediment occurs.
- 3) Equipment, soil stockpiles and other materials will remain upslope of erosion and sediment controls during the work. Any debris or excess materials from construction will be immediately and completely removed from the work area.
- 4) In order to minimize impact to the stream and downstream areas, work will not be planned during heavy rainfall conditions that may cause flooding of the work area.
- 5) H-pile anchors will be installed as specified on the Project Drawings.
- 6) Re-facing and crack/joint repairs will be conducted, if necessary.
- 7) The transient docks will be installed within the Oswego River.
- 8) All disturbed areas from construction equipment will be reseeded with an appropriate native seed mix.
- 9) All temporary erosion and sediment control measures will be removed after their tributary areas are permanently stabilized.



6.0 EROSION AND SEDIMENT CONTROL MEASURES

Temporary and permanent erosion and sediment controls will be used during the maintenance activity to avoid and/or minimize effects of construction. The exact location of erosion and sediment controls will be determined in the field by the field supervisor.

6.1 Temporary Measures (General)

The following temporary erosion and sediment control measures are proposed:

- Silt fence will be placed downslope of work areas to in an effort to minimize sedimentation from entering wetlands or other waters of the U.S.
- Refueling of equipment and vehicles will be performed at the construction staging area, if necessary, over 100-feet away from waters of the U.S. Refueling activities, if required, will take place within an area surrounded by silt fence installed to specifications required by the State of New York. Any spilled fuel or oil will be immediately remedied by the site contractor in accordance with State and Federal requirements.

6.2 Permanent Measures (General)

The following permanent erosion and sediment control measures are proposed:

- All disturbed areas (from construction equipment) will be reseeded with native seed.



7.0 MAINTENANCE AND MONITORING

Contractor personnel will be present during maintenance activities to inspect erosion and sediment controls daily and after storm events. Care will be taken to avoid discharge of any waste materials into waters of the U.S. Disturbed areas that are exposed to precipitation will be inspected for erosion after storm events. Damaged structures will be repaired or replaced as needed. Erosion and sediment controls will be maintained on site until the excavated area has re-vegetated and stabilized. City of Oswego personnel will be responsible for the maintenance of the area once final stabilization has taken place.



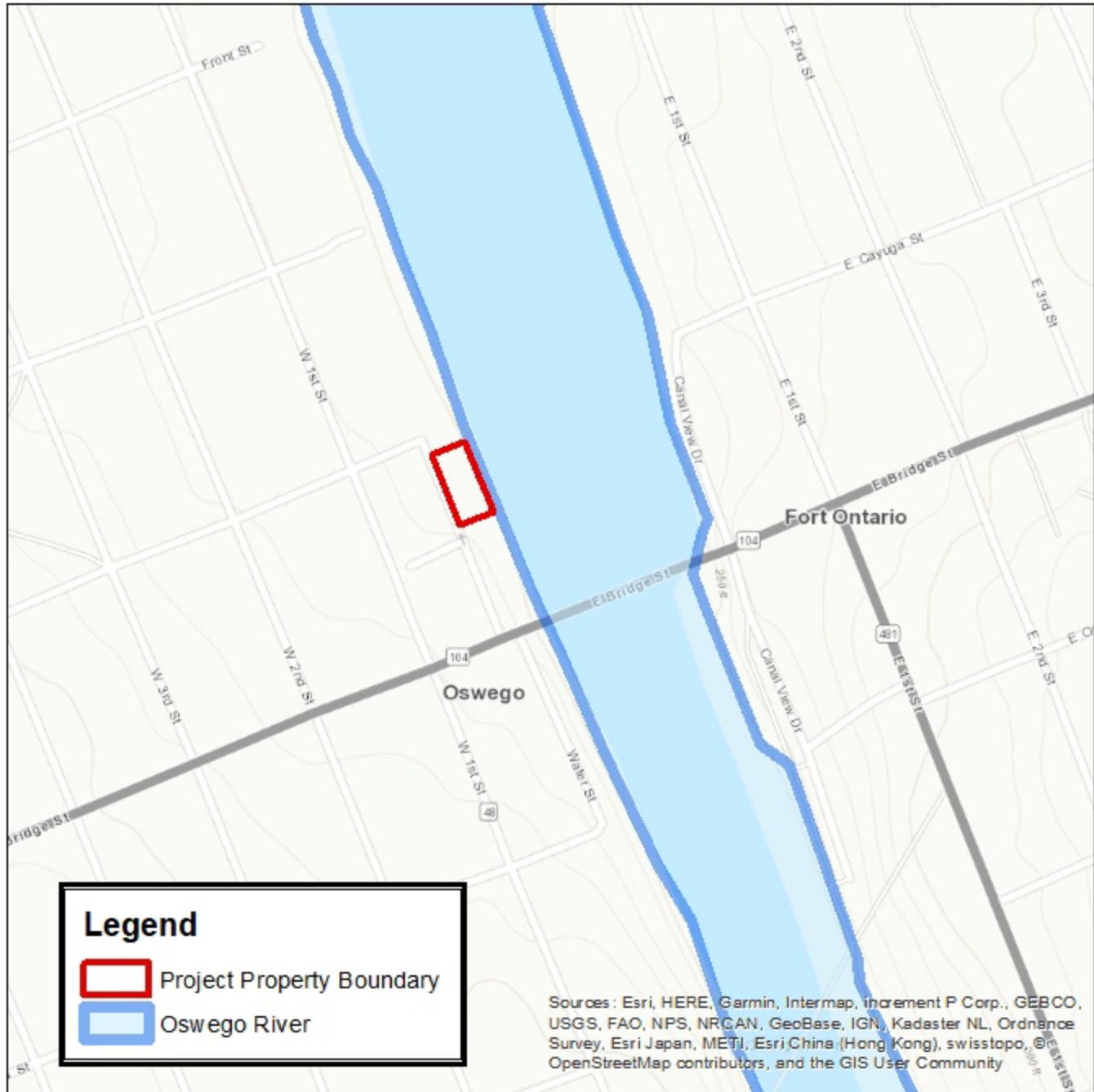
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Figures

City of Oswego Oswego River Oswego County, New York Transient Docks Project

**Figure 1.
Site Location Map**

1 in = 500 ft



NYS Orthos Online, Esri, HERE, DeLorme, Intermap, increment P Corp., GEBCO, USGS, FAO, NPS, NRCAN, GeoBase, IGN, Kadaster NL, Ordnance Survey, Esri Japan, METI, Esri China (Hong Kong), swisstopo, MapmyIndia ©, OpenStreetMap contributors, and the GIS User Community



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City of Oswego Oswego River Oswego County, New York Transient Docks Project

**Figure 2.
Aerial Imagery**

1 in = 500 ft



NYS Orthos Online, Esri, HERE, DeLorme, Intermap, increment P Corp., GEBCO, USGS, FAO, NPS, NRCAN, GeoBase, IGN, Kadaster NL, Ordnance Survey, Esri Japan, METI, Esri China (Hong Kong), swisstopo, MapmyIndia ©, OpenStreetMap contributors, and the GIS User Community



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Figure 3.
National Wetlands
Inventory Map

1 in = 250 ft



NYS Orthos Online, Esri, HERE, DeLorme, Intermap, increment P Corp., GEBCO, USGS, FAO, NPS, NRCAN, GeoBase, IGN, Kadaster NL, Ordnance Survey, Esri Japan, METI, Esri China (Hong Kong), swisstopo, MapmyIndia ©, OpenStreetMap contributors, and the GIS User Community

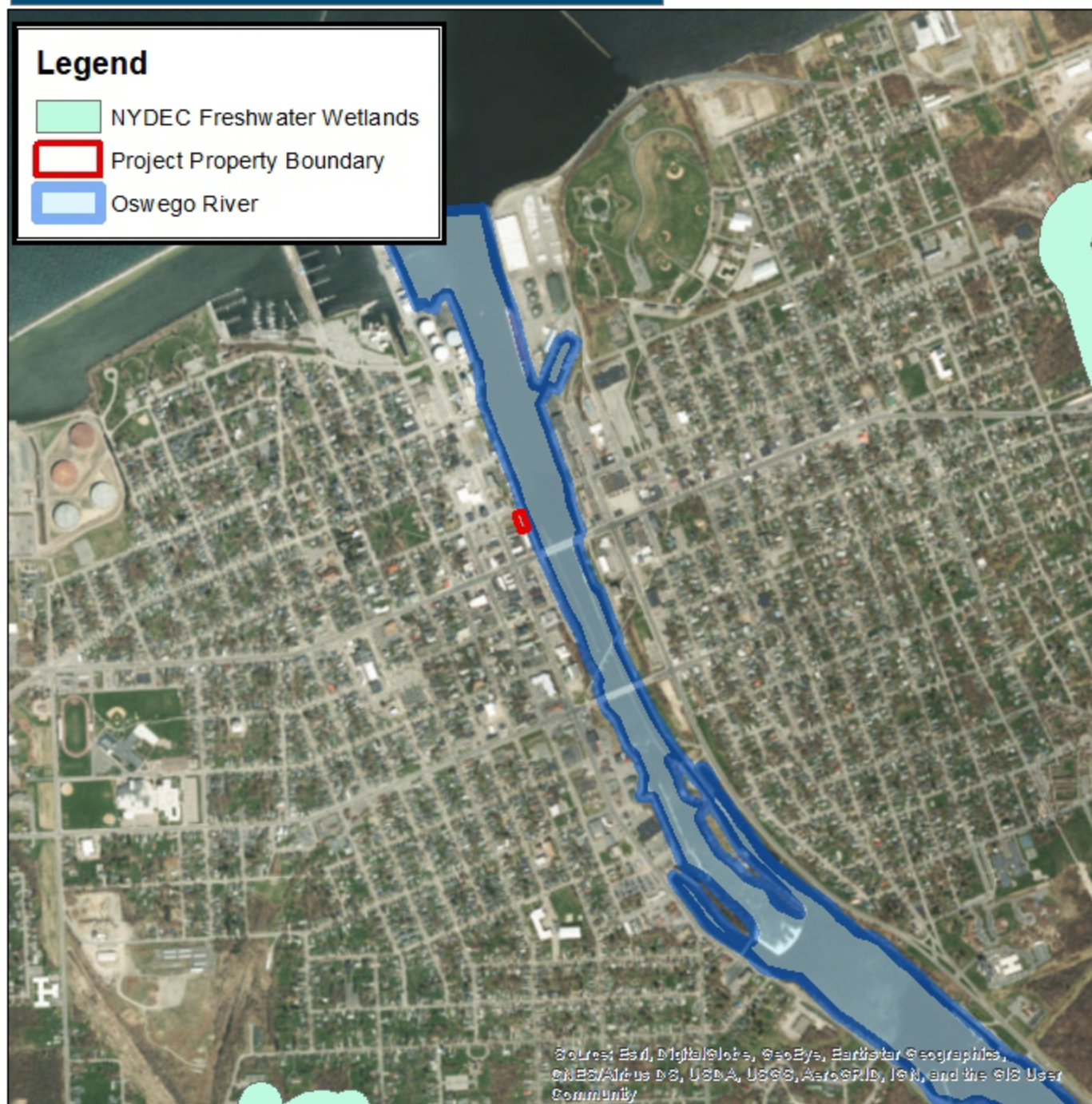


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City of Oswego Oswego River Oswego County, New York Transient Docks Project

Figure 4.
NY DEC Freshwater
Wetlands Map

1 inch = 2,000 feet



NYS Orthos Online, Esri, HERE, DeLorme, Intermap, increment P Corp., GEBCO, USGS, FAO, NPS, NRCAN, GeoBase, IGN, Kadaster NL, Ordnance Survey, Esri Japan, METI, Esri China (Hong Kong), swisstopo, MapmyIndia ©, OpenStreetMap contributors, and the GIS User Community



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City of Oswego Oswego River Oswego County, New York Transient Docks Project

**Figure 5.
FEMA
Floodplain Map**

1 in = 500 ft



NYS Orthos Online, Esri, HERE, DeLorme, Intermap, increment P Corp., GEBCO, USGS, FAO, NPS, NRCAN, GeoBase, IGN, Kadaster NL, Ordnance Survey, Esri Japan, METI, Esri China (Hong Kong), swisstopo, MapmyIndia ©, OpenStreetMap contributors, and the GIS User Community



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NOTES TO USERS

This map is for use in administering the National Flood Insurance Program. It does not necessarily identify all areas subject to flooding, particularly from local drainage sources of small size. The **community map repository** should be consulted for possible updated or additional flood hazard information.

To obtain more detailed information in areas where **Base Flood Elevations** (BFEs) and/or **floodways** have been determined, users are encouraged to consult the Flood Profiles and Floodway Data and/or Summary of Stillwater Elevations tables contained within the Flood Insurance Study (FIS) report that accompanies this FIRM. Users should be aware that BFEs shown on the FIRM represent rounded whole-foot elevations. These BFEs are intended for flood insurance rating purposes only and should not be used as the sole source of flood elevation information. Accordingly, flood elevation data presented in the FIS report should be utilized in conjunction with the FIRM for purposes of construction and/or floodplain management.

Coastal Base Flood Elevations (BFEs) shown on this map apply only landward of 0.0' North American Vertical Datum of 1988 (NAVD 88). Users of this FIRM should be aware that coastal flood elevations are also provided in the Summary of Stillwater Elevations in the Flood Insurance Study report for this jurisdiction. Elevations shown in the Summary of Stillwater Elevations should be used for construction and/or floodplain management purposes when they are higher than the elevations shown on this FIRM.

Boundaries of the **floodways** were computed at cross sections and interpolated between cross sections. The floodways were based on hydraulic considerations with regard to requirements of the National Flood Insurance Program. Floodway widths and other pertinent floodway data are provided in the Flood Insurance Study report for this jurisdiction.

Certain areas not in Special Flood Hazard Areas may be protected by **flood control structures**. Refer to Section 2.4 "Flood Protection Measures" of the Flood Insurance Study report for information on flood control structures for this jurisdiction.

The **projection** used in the preparation of this map was New York State Plane FIPSZONE 3102. The **horizontal datum** was NAD 83, GRS80 spheroid. Differences in datum, spheroid, projection or State Plane zones used in the production of FIRMs for adjacent jurisdictions may result in slight positional differences in map features across jurisdiction boundaries. These differences do not affect the accuracy of this FIRM.

Flood elevations on this map are referenced to the North American Vertical Datum of 1988. These flood elevations must be compared to structure and ground elevations referenced to the same **vertical datum**. For information regarding conversion between the National Geodetic Vertical Datum of 1929 and the North American Vertical Datum of 1988, visit the National Geodetic Survey website at <http://www.ngs.noaa.gov> or contact the National Geodetic Survey at the following address:

NGS Information Services
NOAA/NNGS12
National Geodetic Survey
SSMC-3, #9202
1315 East-West Highway
Silver Spring, Maryland 20910-3282
(301) 713-3242

To obtain current elevation, description, and/or location information for **bench marks** shown on this map, please contact the Information Services Branch of the National Geodetic Survey at (301) 713-3242, or visit its website at <http://www.ngs.noaa.gov>.

Base map information shown on this FIRM was provided in digital format by the New York State Office of Cyber Security and Critical Infrastructure Coordination. This information was derived from digital orthophotography produced at a 1-foot and 2-foot pixel resolution from photography dated 2007.

Based on updated topographic information, this map reflects more detailed and up-to-date **stream channel configurations and floodplain delineations** than those shown on the previous FIRM for this jurisdiction. As a result, the Flood Profiles and Floodway Data tables in the Flood Insurance Study Report (which contains authoritative hydraulic data) may reflect stream channel distances that differ from what is shown on this map. Also, the road to floodplain relationships for unrevised streams may differ from what is shown on previous maps.

Corporate limits shown on this map are based on the best data available at the time of publication. Because changes due to annexations or de-annexations may have occurred after this map was published, map users should contact appropriate community officials to verify current corporate limit locations.

Please refer to the separately printed **Map Index** for an overview map of the county showing the layout of map panels; community map repository addresses; and a Listing of Communities table containing National Flood Insurance Program dates for each community as well as a listing of the panels on which each community is located.

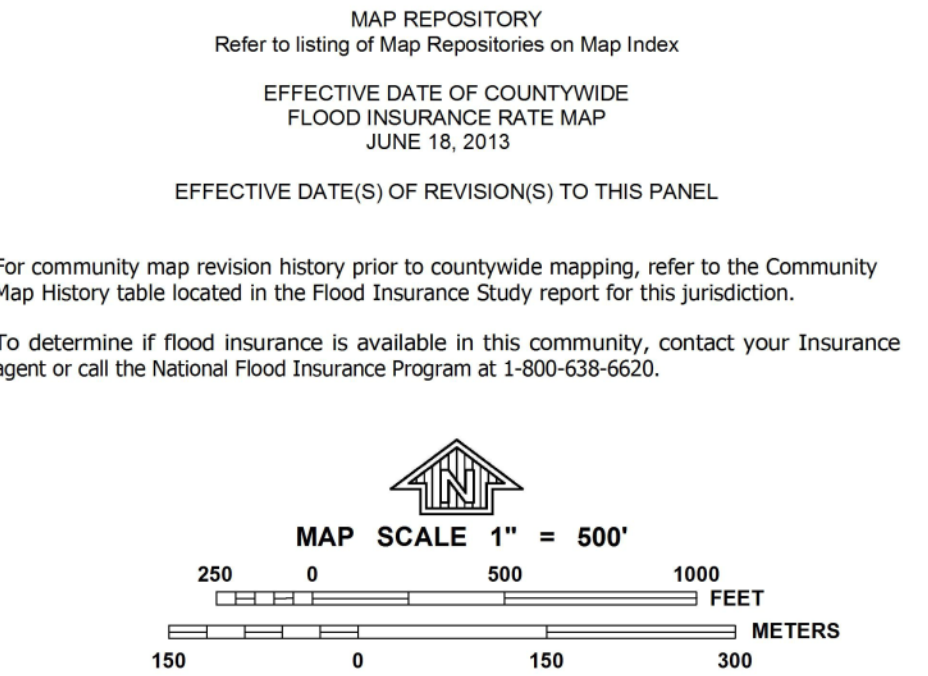
For information on available products associated with this FIRM visit the **Map Service Center (MSC)** website at <http://msc.fema.gov>. Available products may include previously issued Letters of Map Change, a Flood Insurance Study report, and/or digital versions of this map. Many of these products can be ordered or obtained directly from the MSC website.

If you have **questions about this map**, how to order products or the National Flood Insurance Program in general, please call the FEMA Map Information eXchange (FMIX) at 1-877-FEMA-MAP (1-877-336-2627) or visit the FEMA website at <http://www.fema.gov>.



LEGEND

- SPECIAL FLOOD HAZARD AREAS SUBJECT TO INUNDATION BY THE 1% ANNUAL CHANCE FLOOD**
- The 1% annual flood (100-year flood), also known as the base flood, is the flood that has a 1% chance of being equalled or exceeded in any given year. The Special Flood Hazard Area is the area subject to flooding by the 1% annual chance flood. Areas of Special Flood Hazard include Zones A, AE, AH, AO, AR, A99, V, and VE. The Base Flood Elevation is the water-surface elevation of the 1% annual chance flood.
- ZONE A** No Base Flood Elevations determined.
- ZONE AE** Base Flood Elevations determined.
- ZONE AH** Flood depths of 1 to 3 feet (usually areas of ponding); Base Flood Elevations determined.
- ZONE AO** Flood depths of 1 to 3 feet (usually sheet flow on sloping terrain); average depths determined. For areas of alluvial fan flooding, velocities also determined.
- ZONE AR** Special Flood Hazard Area formerly protected from the 1% annual chance flood by a flood control system that was subsequently decertified. Zone AR indicates that the former flood control system is being restored to provide protection from the 1% annual chance or greater flood.
- ZONE A99** Area to be protected from 1% annual chance flood by a Federal flood protection system under construction; no Base Flood Elevations determined.
- ZONE V** Coastal flood zone with velocity hazard (wave action); no Base Flood Elevations determined.
- ZONE VE** Coastal flood zone with velocity hazard (wave action); Base Flood Elevations determined.
- FLOODWAY AREAS IN ZONE AE**
- The floodway is the channel of a stream plus any adjacent floodplain areas that must be kept free of encroachment so that the 1% annual chance flood can be carried without substantial increases in flood heights.
- OTHER FLOOD AREAS**
- ZONE X** Areas of 0.2% annual chance flood; areas of 1% annual chance flood with average depths of less than 1 foot or with drainage areas less than 1 square mile, and areas protected by levees from 1% annual chance flood.
- OTHER AREAS**
- ZONE X** Areas determined to be outside the 0.2% annual chance floodplain.
- ZONE D** Areas in which flood hazards are undetermined, but possible.
- COASTAL BARRIER RESOURCES SYSTEM (CBRS) AREAS**
- OTHERWISE PROTECTED AREAS (OPAs)**
- CBRS areas and OPAs are normally located within or adjacent to Special Flood Hazard Areas.
- 1% annual chance floodplain boundary
- 0.2% annual chance floodplain boundary
- Floodway boundary
- Zone D boundary
- CBRS and OPA boundary
- Boundary dividing Special Flood Hazard Area Zones and boundary dividing Special Flood Hazard Areas of different Base Flood Elevations, flood depths or flood velocities.
- Limit of Moderate Wave Action
- Base Flood Elevation line and value; elevation in feet*
- Base Flood Elevation value where uniform within zone; elevation in feet*
- * Referenced to the North American Vertical Datum of 1988
- Cross section line
- Transect line
- Culvert, Flume, Penstock or Aqueduct
- Road or Railroad Bridge
- Footbridge
- Geographic coordinates referenced to the North American Datum of 1983 (NAD 83), Western Hemisphere
- 1000-meter Universal Transverse Mercator grid values, zone 18N
- 5000-foot grid values: New York State Plane coordinate system, Central zone (FIPSZONE 3102), Transverse Mercator projection
- Bench mark (see explanation in Notes to Users section of this FIRM panel)
- 1:5
- River Mile



NATIONAL FLOOD INSURANCE PROGRAM

PANEL 0259G

FIRM

FLOOD INSURANCE RATE MAP

OSWEGO COUNTY, NEW YORK (ALL JURISDICTIONS)

PANEL 259 OF 726
(SEE MAP INDEX FOR FIRM PANEL LAYOUT)

CONTAINS:

COMMUNITY OSWEGO, CITY OF	NUMBER 360656	PANEL 0259	SUFFIX G
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Notice to User: The **Map Number** shown below should be used when placing map orders, the **Community Number** shown above should be used on insurance applications for the subject community.

MAP NUMBER
36075C0259G

EFFECTIVE DATE
JUNE 18, 2013

Federal Emergency Management Agency



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Appendix A

Joint Application For Permits



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 here to confirm you sent this form to NYSDEC.

Check all permits that apply:

☐ Stream Disturbance

☐ Dams and Impoundment Structures

☐ Tidal Wetlands

☐ Water Withdrawal

☐ Excavation and Fill in Navigable Waters

☐ 401 Water Quality Certification

☐ Wild, Scenic and Recreational Rivers

☐ Long Island Well

☒ Docks, Moorings or Platforms

☐ Freshwater Wetlands

☐ Coastal Erosion Management

☐ Incidental Take of Endangered / Threatened Species

>US Army Corps of Engineers

☒ Check here to confirm you sent this form to USACE.

Check all permits that apply:

☒ Section 404 Clean Water Act

☒ Section 10 Rivers and Harbors Act

Is the project Federally funded? ☐ Yes ☐ No

If yes, name of Federal Agency:

General Permit Type(s), if known: Nationwide Permit 11

87-000-1

Preconstruction Notification:

☒ Yes ☐ No

>NYS Office of General Services

☒ Check here to confirm you sent this form to NYSOGS.

Check all permits that apply:

☒ State Owned Lands Under Water

☐ Utility Easement (pipelines, conduits, cables, etc.)

☒ Docks, Moorings or Platforms

>NYS Department of State

☒ Check here to confirm you sent this form to NYSDOS.

Check if this applies:

☒ Coastal Consistency Concurrence

2. Name of Applicant

City of Oswego

Taxpayer ID (if applicant is NOT an individual)

Mailing Address

20 West Oneida Street

Post Office / City

Oswego

State

NY

Zip

13126

Telephone (315)343-3795

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

David Plante of Bergmann Associates

Mailing Address

280 E. Broad Street, Suite 200

Post Office / City

Rochester

State

NY

Zip

14604

Telephone (585)498-7877

Email

DPlante@bergmannpc.com

5. Project / Facility Name

Transient Docks on Oswego River

Property Tax Map Section / Block / Lot Number:

128.55-02-02

Project Street Address, if applicable

21 Water Street

Post Office / City

Oswego

State

NY

Zip

13126

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

The proposed dock will be located along the western bank of the Oswego River, parallel to West 1st Street, and between Front Street and Route 104.

☐ Town ☐ Village ☒ City

County

Oswego

Oswego

Stream/Waterbody Name

Oswego River

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

Latitude: 43 ° 27 ' 31.00 " Longitude: -76 ° 30 ' 40.08 "

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:

The purpose of the proposed project is to construct transient docks along the western bank of the Oswego River for short term and overnight boat mooring. This would require the installation of a removable docking system with the ultimate goal of increasing traffic from boats on the Oswego River/ Canal system to the downtown Oswego area.

b. Description of current site conditions:

There is an existing seawall along the western bank of the Oswego River. West of the seawall is a boardwalk followed by a public parking lot.

c. Proposed site changes:

The permanent proposed changes include installing four (4) 4x1 ft. concrete steel piles to support the placement of a permanent square platform. These items are removed each winter. The proposed temporary changes include a 2,400 sf (8x300 ft.) removable dock and 480 sf (6x80 ft.) gangway.

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.):

The proposed structure will be constructed using steel, aluminum, concrete, and timber.

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

There will be 4 approximately 5 sf holes for the excavation of sediment and installation of permanent piles., totaling 20 sf (to secure the concrete piles) sediment removed.

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:

The temporary fills within the jurisdictional water will be placed using means and methods determined by the selected contractor.

h. Describe the planned sequence of activities:

Utilities in the direct area will be identified and flagged. Temporary erosion and sediment controls will be put in place. Navigation aids such as buoys and lights will be installed, if necessary. A turbidity curtain will be installed in the immediate project area. Upon project completion, all equipment and construction materials will be removed. Non-paved areas disturbed by construction equipment (i.e., tracks), will be raked and seeded.

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

Erosion and sediment controls as depicted in the accompanying Project Drawings will be used. Vehicles and machinery will be refueled at least 100 ft away from any waters of the U.S. There are no other pollution concerns associated with the proposed activities. Environmental impacts have been minimized and avoided to the maximum extent, therefore no mitigation is required.

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

Around the project area, a turbidity curtain will be installed within the river to prevent sediment from the project from being dispersed into the river.

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

Refer to alternatives analysis provided in attached PCN.

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

The project area is primarily within the City of Oswego. However, the riverbed is New York State lands underwater.

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

N/A

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

☒ Yes If Yes, list below. ☐ No

Army Corps of Engineers- Nationwide Permit 11 Section 10 Navigable Waterway Permit for Temporary Recreational Structures, Department of Environmental Conservation- Article 15 Protection of Waters Permit, New York State Office of General Services- Grant of Easement in Lands Underwater, and SEQRA determination by way of the City of Oswego

7. Signatures.

Applicant and Owner (If different) must sign the application.

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



3/26/18

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

Printed Name

Title

William J Barlow Jr

MAYOR

Signature of Owner (if different than Applicant)

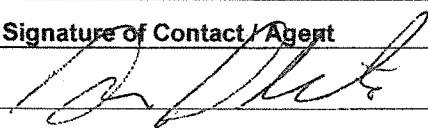
Date

Printed Name

Title

Signature of Contact / Agent

Date



3/16/18

Printed Name

Title

David Plante

Environmental Practice Leader

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



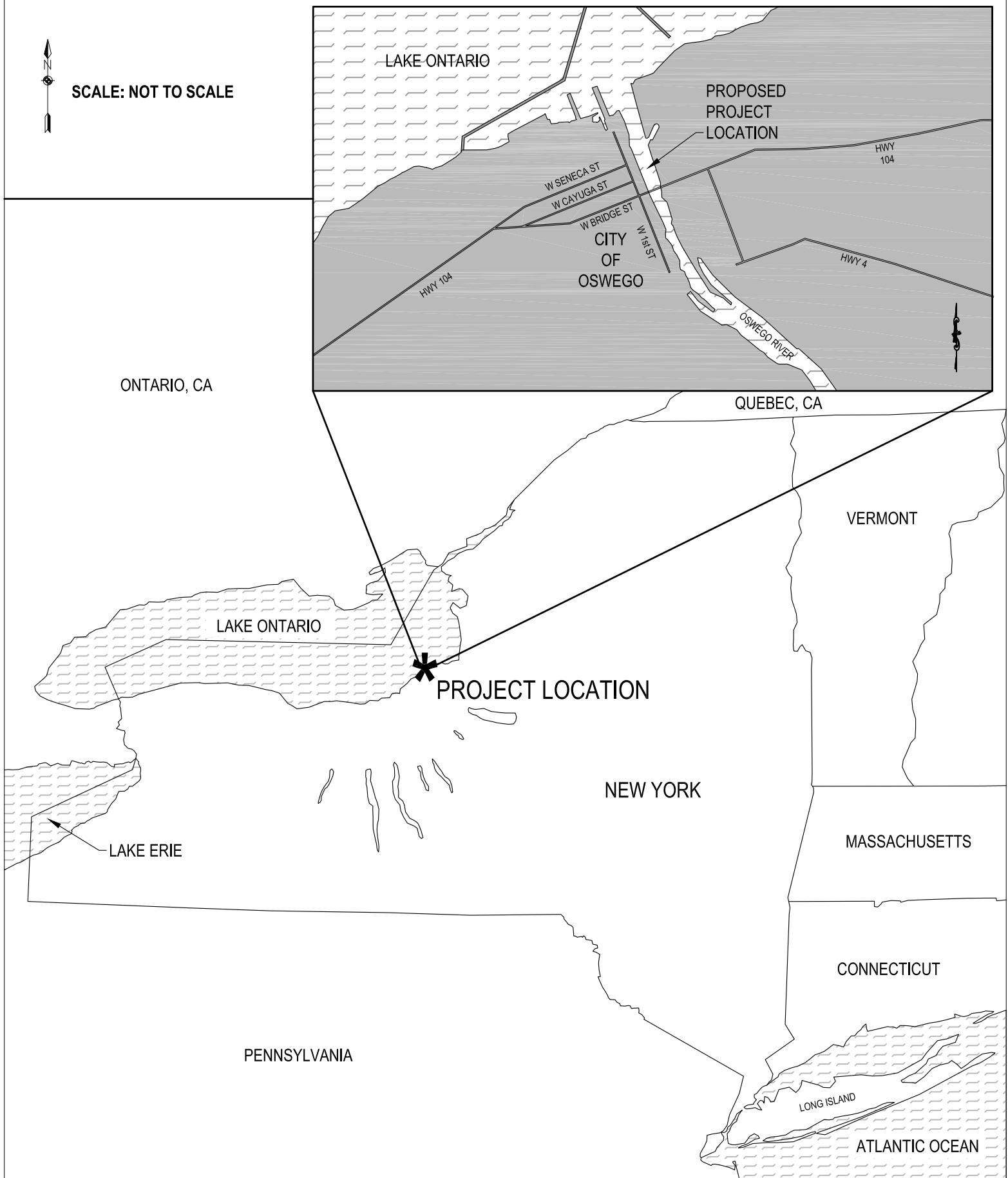
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ARCHITECTS ENGINEERS PLANNERS

Appendix B

Project Drawings



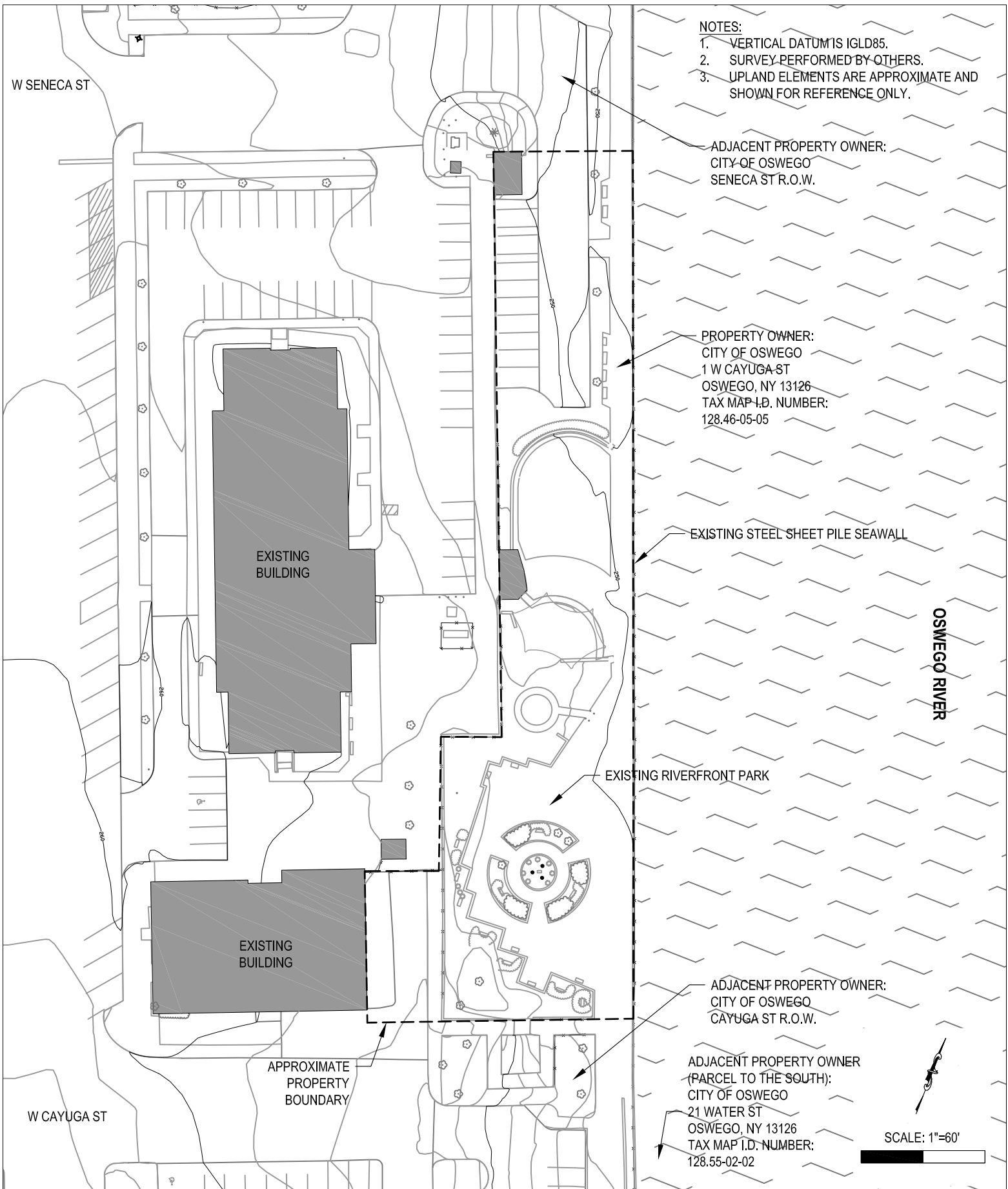
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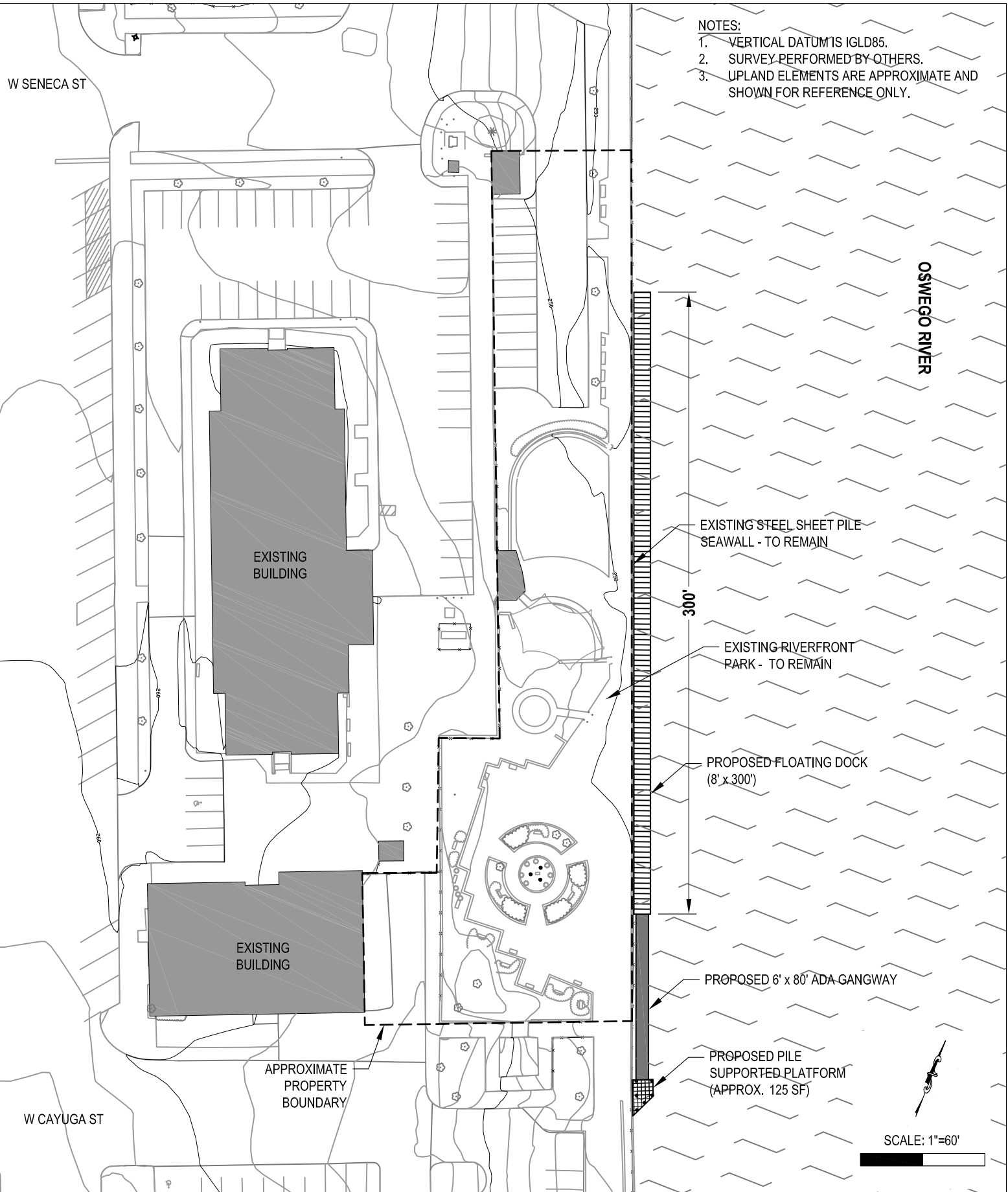


518 BROAD STREET, SUITE 200
ST. JOSEPH, MI 49085
P: 269 932 4502
F: 269 932 3542

LOCATION MAP

APPLICANT: CITY OF OSWEGO
WATERWAY: OSWEGO RIVER
CITY: OSWEGO, NY
COUNTY: OSWEGO
DATE: 3/29/2018
DATUM: IGLD85

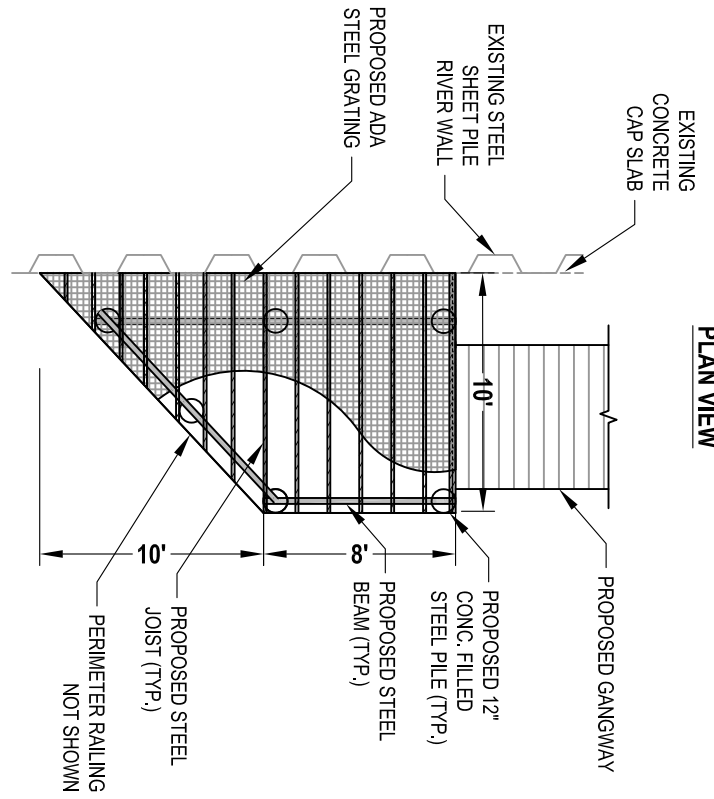




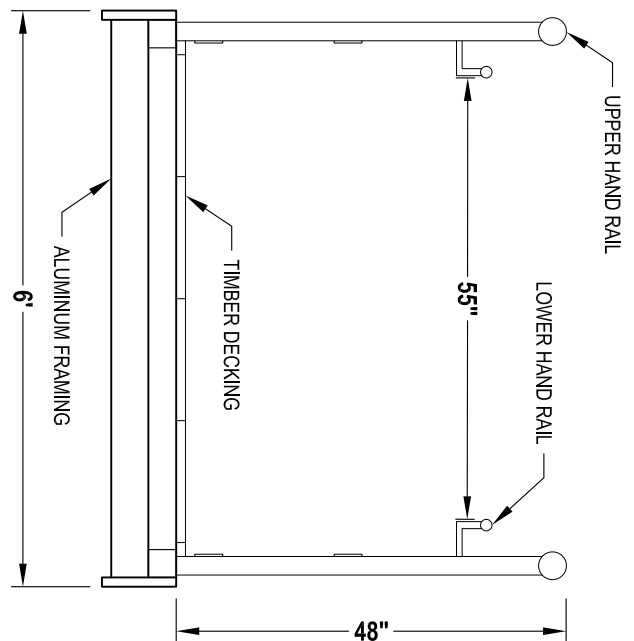
NOTES:

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2. SURVEY PERFORMED BY OTHERS.
3. UPLAND ELEMENTS ARE APPROXIMATE AND SHOWN FOR REFERENCE ONLY.

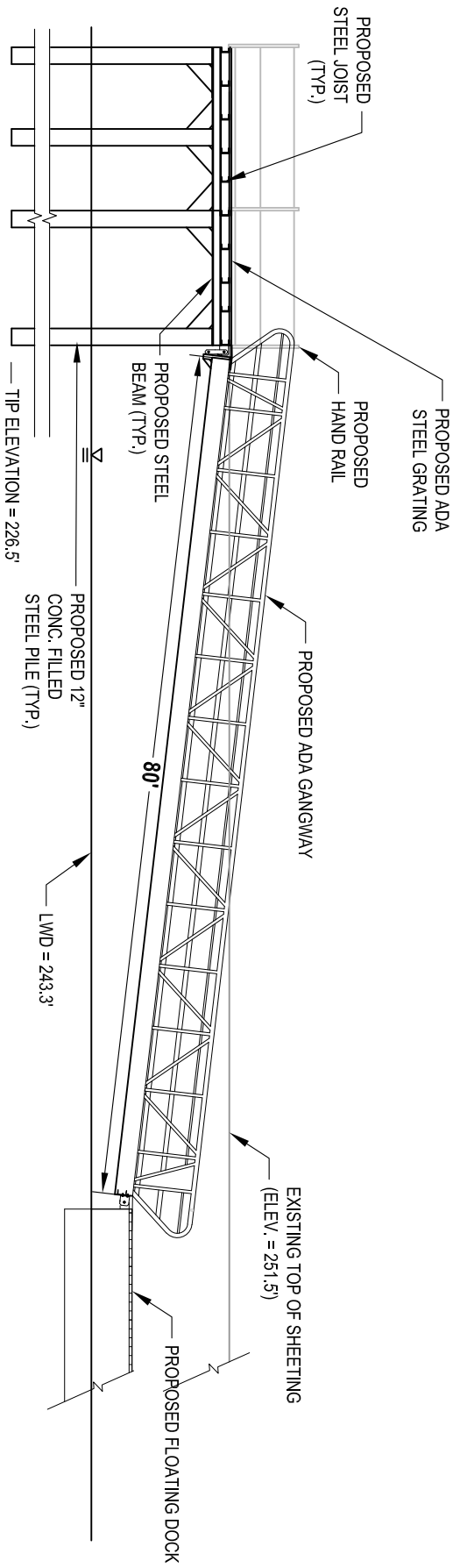
PLAN VIEW



TYPICAL GANGWAY SECTION



PROFILE VIEW

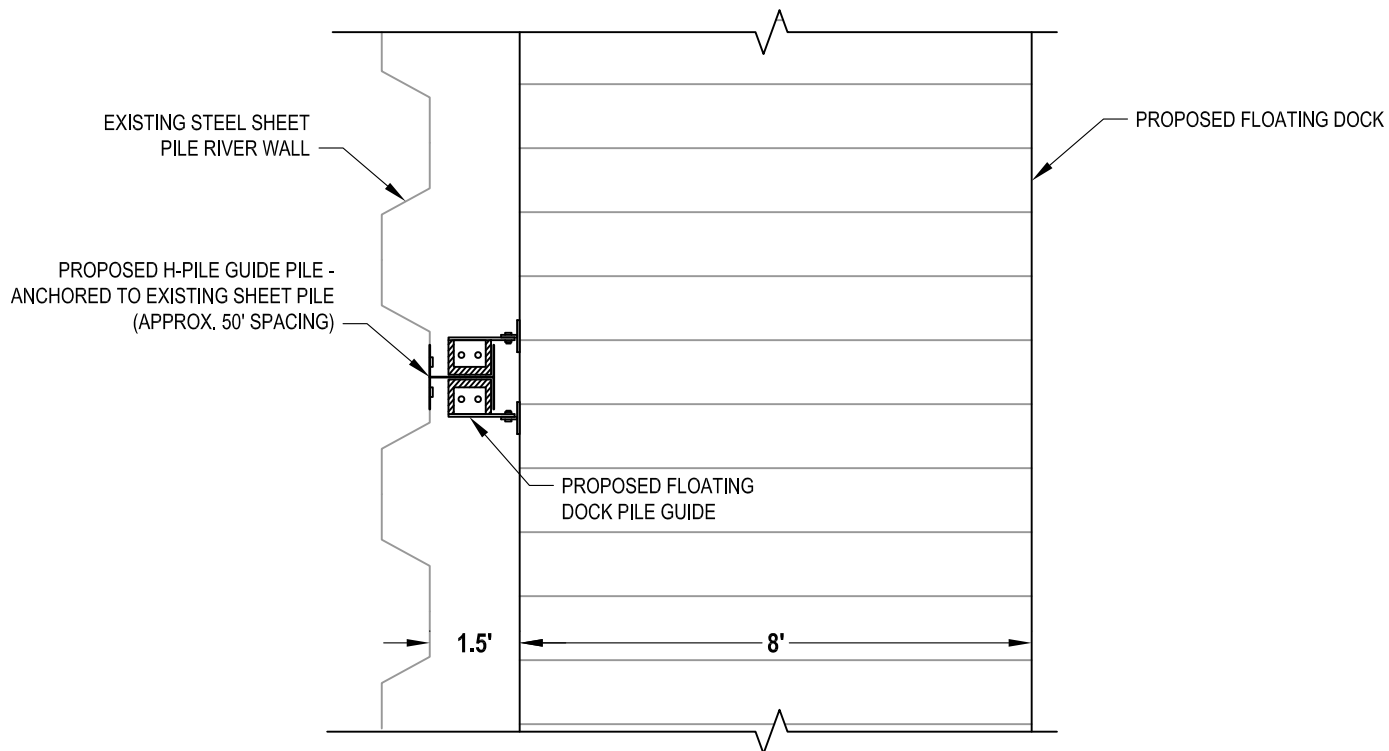


NOTES:

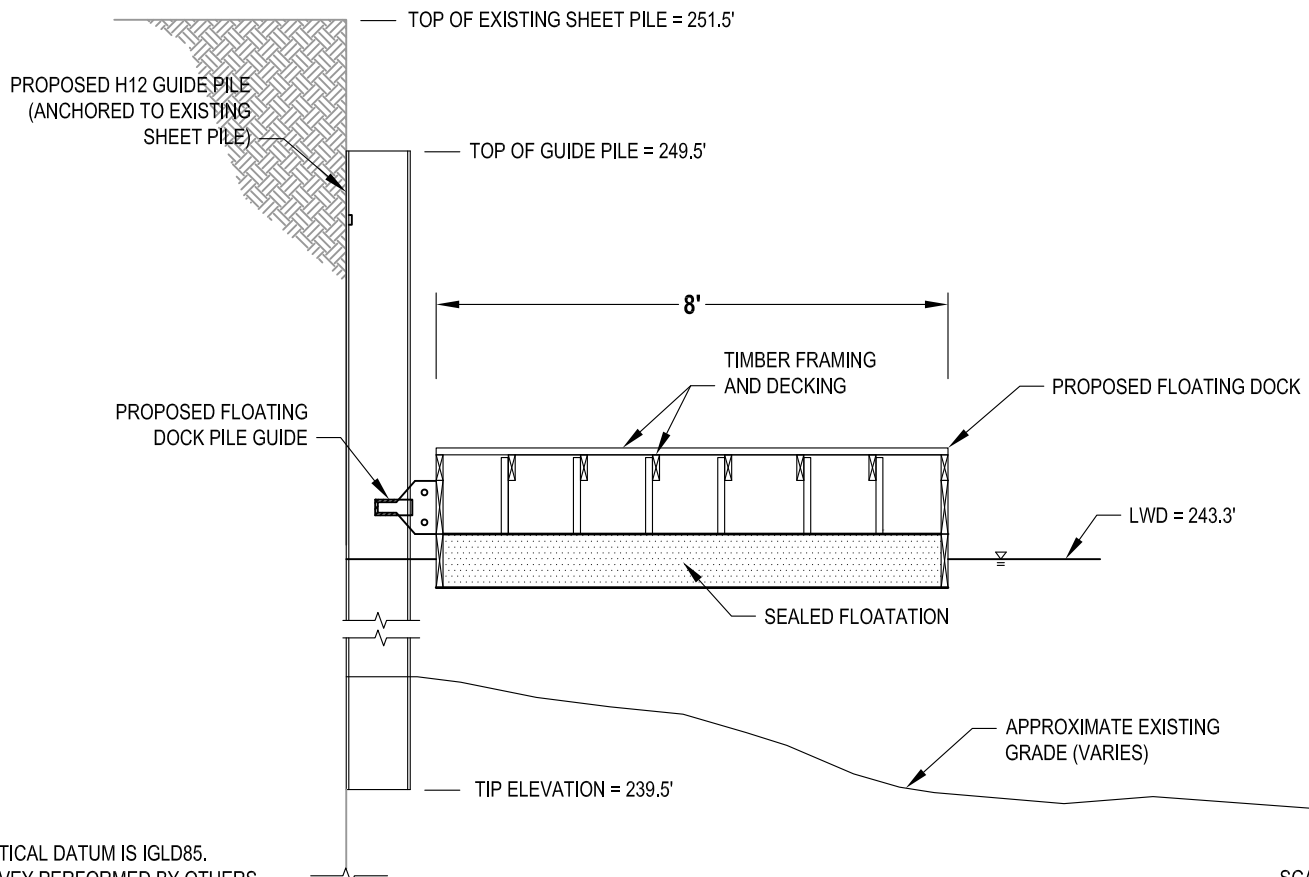
1. VERTICAL DATUM IS IGLD85.
2. SURVEY PERFORMED BY OTHERS.
3. UPLAND ELEMENTS ARE APPROXIMATE AND SHOWN FOR REFERENCE ONLY.

SCALE: NTS

PLAN VIEW



TYPICAL SECTION



NOTES:

1. VERTICAL DATUM IS IGLD85.
2. SURVEY PERFORMED BY OTHERS.
3. UPLAND ELEMENTS ARE APPROXIMATE AND SHOWN FOR REFERENCE ONLY.

SCALE: 1"=3'



518 BROAD STREET, SUITE 200
ST. JOSEPH, MI 49085
P: 269 932 4502
F: 269 932 3542

FLOATING DOCK DETAILS

APPLICANT: CITY OF OSWEGO
WATERWAY: OSWEGO RIVER
CITY: OSWEGO, NY
COUNTY: OSWEGO
DATE: 3/29/2018
DATUM: IGLD85

SHEET: 5 OF 5



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ARCHITECTS ENGINEERS PLANNERS

Appendix C

Section 7 Endangered Species Act Consultation

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

Division of Fish and Wildlife, New York Natural Heritage Program
625 Broadway, Fifth Floor, Albany, NY 12233-4757
P: (518) 402-8935 | F: (518) 402-8925
www.dec.ny.gov

March 30, 2018

Lindsey Russell
Bergmann Associates
280 E. Broad Street, Suite 200
Rochester, NY 14604

Re: Transient Docks on Oswego River
County: Oswego Town/City: Oswego

Dear Lindsey Russell:

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

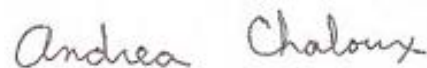
☐ Enclosed is a report of rare or state-listed animals and plants, and significant natural communities that our database indicates occur at the project site, or in its vicinity. Also, note that the Oswego River Significant Coastal Fish & Wildlife Habitat is at the project site (https://www.dos.ny.gov/opd/programs/consistency/Habitats/GreatLakes/Oswego_River.pdf).

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

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

The presence of the plants and animals identified in the enclosed report may result in this project requiring additional review or permit conditions. For further guidance, and for information regarding other permits that may be required under state law for regulated areas or activities (e.g., regulated wetlands), please contact the NYS DEC Region 7 Office, Division of Environmental Permits, as listed at www.dec.ny.gov/about/39381.html.

Sincerely,



Andrea Chaloux
Environmental Review Specialist
New York Natural Heritage Program

**The following state-listed animal has been documented at the project site.**

The following list includes animals that are listed by NYS as Endangered, Threatened, or Special Concern; and/or that are federally listed or are candidates for federal listing.

For information about any permit considerations for the project, contact the Permits staff at the NYSDEC Region 7 Office. For information about potential impacts of the project on this species, and how to avoid, minimize, or mitigate any impacts, contact the Wildlife Manager.

A listing of Regional Offices is at <http://www.dec.ny.gov/about/558.html>.

The following species has been documented at the project site.

COMMON NAME	SCIENTIFIC NAME	NY STATE LISTING	FEDERAL LISTING
Fish			
Lake Sturgeon	<i>Acipenser fulvescens</i>	Threatened	923

This report only includes records from the NY Natural Heritage database.

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

Information about many of the listed animals in New York, including habitat, biology, identification, conservation, and management, are available online in Natural Heritage's Conservation Guides at www.guides.nynhp.org, and from NYSDEC at www.dec.ny.gov/animals/7494.html.



**The following rare plants, rare animals, and significant natural communities
have been documented at the project site.**

We recommend that potential onsite and offsite impacts of the proposed project on these species or communities be addressed as part of any environmental assessment or review conducted as part of the planning, permitting and approval process, such as reviews conducted under SEQR. Field surveys of the project site may be necessary to determine the status of a species at the site, particularly for sites that are currently undeveloped and may still contain suitable habitat. Final requirements of the project to avoid, minimize, or mitigate potential impacts are determined by the lead permitting agency or the government body approving the project.

The following animal assemblage, while not listed by New York State as Endangered or Threatened, is of conservation concern to the state, and is considered rare by the New York Natural Heritage Program.

<i>COMMON NAME</i>	<i>SCIENTIFIC NAME</i>	<i>NY STATE LISTING</i>	<i>HERITAGE CONSERVATION STATUS</i>
Animal Assemblages			

**Waterfowl Winter
Concentration Area**

Oswego River and Harbor, **at the project site**, 1992-01-08: The first 0.5 mi below the dam is shallow, with a rock and rubble bottom and small wooded islands. The next 1 mi to the mouth is wider, deeper and extensively bulkheaded. Breakwalls have been constructed at the mouth of the river, creating a major sheltered harbor. The harbor is heavily developed for industrial, commercial and recreational uses. Several oil-fired power plants in the vicinity discharge heated water just outside the western harbor breakwall.

2608

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

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

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

Information about many of the natural community types in New York, including identification, dominant and characteristic vegetation, distribution, conservation, and management, is available online in Natural Heritage's Conservation Guides at www.guides.nynhp.org. For descriptions of all community types, go to www.dec.ny.gov/animals/97703.html for Ecological Communities of New York State.



United States Department of the Interior



FISH AND WILDLIFE SERVICE
New York Ecological Services Field Office
3817 Luker Road

Cortland, NY 13045-9385

Phone: (607) 753-9334 Fax: (607) 753-9699

<http://www.fws.gov/northeast/nyfo/es/section7.htm>

In Reply Refer To:

March 09, 2018

Consultation Code: 05E1NY00-2018-SLI-1396

Event Code: 05E1NY00-2018-E-04200

Project Name: Transient Docks on Oswego River, Oswego County, New York

Subject: List of threatened and endangered species that may occur in your proposed project location, and/or may be affected by your proposed project

To Whom It May Concern:

The enclosed species list identifies threatened, endangered, proposed and candidate species, as well as proposed and final designated critical habitat, that may occur within the boundary of your proposed project and/or may be affected by your proposed project. The species list fulfills the requirements of the U.S. Fish and Wildlife Service (Service) under section 7(c) of the Endangered Species Act (ESA) of 1973, as amended (16 U.S.C. 1531 *et seq.*). This list can also be used to determine whether listed species may be present for projects without federal agency involvement. New information based on updated surveys, changes in the abundance and distribution of species, changed habitat conditions, or other factors could change this list.

Please feel free to contact us if you need more current information or assistance regarding the potential impacts to federally proposed, listed, and candidate species and federally designated and proposed critical habitat. Please note that under 50 CFR 402.12(e) of the regulations implementing section 7 of the ESA, the accuracy of this species list should be verified after 90 days. This verification can be completed formally or informally as desired. The Service recommends that verification be completed by visiting the ECOS-IPaC site at regular intervals during project planning and implementation for updates to species lists and information. An updated list may be requested through the ECOS-IPaC system by completing the same process used to receive the enclosed list. If listed, proposed, or candidate species were identified as potentially occurring in the project area, coordination with our office is encouraged. Information on the steps involved with assessing potential impacts from projects can be found at: <http://www.fws.gov/northeast/nyfo/es/section7.htm>

Please be aware that bald and golden eagles are protected under the Bald and Golden Eagle Protection Act (16 U.S.C. 668 *et seq.*), and projects affecting these species may require development of an eagle conservation plan (<http://www.fws.gov/windenergy/>

[eagle_guidance.html](#)). Additionally, wind energy projects should follow the Services wind energy guidelines (<http://www.fws.gov/windenergy/>) for minimizing impacts to migratory birds and bats.

Guidance for minimizing impacts to migratory birds for projects including communications towers (e.g., cellular, digital television, radio, and emergency broadcast) can be found at: <http://www.fws.gov/migratorybirds/CurrentBirdIssues/Hazards/towers/towers.htm>; <http://www.towerkill.com>; and <http://www.fws.gov/migratorybirds/CurrentBirdIssues/Hazards/towers/comtow.html>.

We appreciate your concern for threatened and endangered species. The Service encourages Federal agencies to include conservation of threatened and endangered species into their project planning to further the purposes of the ESA. Please include the Consultation Tracking Number in the header of this letter with any request for consultation or correspondence about your project that you submit to our office.

Attachment(s):

- Official Species List

Official Species List

This list is provided pursuant to Section 7 of the Endangered Species Act, and fulfills the requirement for Federal agencies to "request of the Secretary of the Interior information whether any species which is listed or proposed to be listed may be present in the area of a proposed action".

This species list is provided by:

New York Ecological Services Field Office

3817 Luker Road

Cortland, NY 13045-9385

(607) 753-9334

Project Summary

Consultation Code: 05E1NY00-2018-SLI-1396

Event Code: 05E1NY00-2018-E-04200

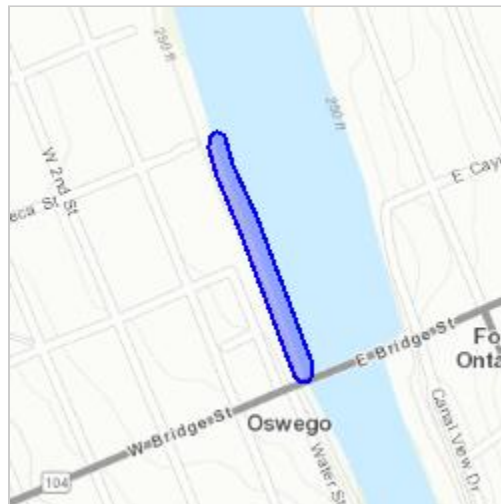
Project Name: Transient Docks on Oswego River, Oswego County, New York

Project Type: SHORELINE USAGE FACILITIES / DEVELOPMENT

Project Description: The location of the proposed project is along an existing seawall on the western edge of the Oswego River, parallel to West 1st Street between Front Street and Route 104. The prefabricated dock will be 300 feet long (8 feet wide), with an accompanying 80 x 6 foot gangway and 10 x 8 foot platform. The proposed structure will be for public use. The anticipated period of construction is expected to be 3 months.

Project Location:

Approximate location of the project can be viewed in Google Maps: <https://www.google.com/maps/place/43.458139902990794N76.51092347257274W>



Counties: Oswego, NY

Endangered Species Act Species

There is a total of 1 threatened, endangered, or candidate species on this species list. Species on this list should be considered in an effects analysis for your project and could include species that exist in another geographic area. For example, certain fish may appear on the species list because a project could affect downstream species. See the "Critical habitats" section below for those critical habitats that lie wholly or partially within your project area under this office's jurisdiction. Please contact the designated FWS office if you have questions.

Mammals

NAME	STATUS
Northern Long-eared Bat <i>Myotis septentrionalis</i> No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/9045	Threatened

Critical habitats

THERE ARE NO CRITICAL HABITATS WITHIN YOUR PROJECT AREA UNDER THIS OFFICE'S JURISDICTION.

U.S. Army Corps of Engineers (Corps)
Northern Long-eared bats (NLEB), per General Condition No. 18 of the Nationwide Permits (NWPs). Note that this ONLY pertains to the listed bats.

1) Does Indiana bat and/or NLEB come up in IPaC species list?

Yes. Continue to step 2.

No. Do not in the vicinity

2) Does the project affect a bridge¹? Yes. Continue to step 2a.

2a) Has a bridge assessment² been completed?

No. Conduct bridge assessment for bats.

Yes, AND signs of bats observed. Stop and coordinate with the Corps you are in the vicinity.

Yes, however NO signs of bats. Continue to step 3.

3) Project within 0.5 miles of a hibernaculum?

Yes. Stop and coordinate with the Corps - you are in the vicinity.

No. Continue to step 4.

4) Suitable* Indiana bat or NLEB summer habitat present within the entire project area?

Yes. Continue to step 5.

No. Do not in the vicinity.

5) Project within 1.5 mile distance around any summer records (documented roosts and/or netting captures) for northern long-eared bat and 2.5 miles for Indiana bat (i.e., either species identified by NYSDEC mapper or NYNHP)?

Yes. Continue to step 5a.

No. Continue to step 6.

¹Bridge (for purposes of determining “in the vicinity”): Any road crossing structure, including culverts, with at least 4 feet of clearance (vertical rise) over a land or water surface.

²Appendix D Bridge/Structure Assessment Guidelines and Form located at <https://www.fws.gov/midwest/endangered/section7/fhwa/index.html>

5a) Is the project within 0.25 miles of documented roosts or captures?

Not sure. Coordinate with the Corps and/or the U.S. Fish and Wildlife Service for assistance in determining distance.

Yes. Stop and coordinate with the Corps - you are in the vicinity.

No. Continue to step 7.

6) Prior negative Indiana bat and NLEB summer P/A surveys (within last 5 years) at the project site?

Yes. Done - not in vicinity.

No. Continue to step 7.

7) Does the project entail removing trees exceeding 3 inches dbh anywhere in the project area?

Yes. Stop and coordinate with the Corps - you are in the vicinity.

No. Done - not in vicinity.

***Suitable habitat:**

Indiana bat: Summering bats typically day roost under exfoliating bark of trees in riparian, bottomland, and upland forests. Roost trees are most often snags, however, live shag-bark trees such as hickory, ash, oak, elm, pine, hemlock, and many others, are also used. It appears that roost trees are chosen based on structure, rather than species. For the purposes of this document, suitable habitat for the Indiana bat are trees greater than or equal to 5 inches in diameter.

Northern long-eared bat: In general, they use a variety of structures for roosting habitat, such as live and dead trees with cracked and exfoliating bark, broken limbs, cavities, and also man-made structures. However, they more often roost in crevices or cavities of trees than under exfoliating bark. Maternity colonies (adult females) use cracks, cavities, and beneath the bark of dead and living trees. Males are solitary and do not roost with maternity colonies. The bat forages under the forest canopy, at small ponds or streams, along paths and roads, or at the forest edge. For the purposes of this document, suitable habitat for the northern long-eared bat are trees greater than or equal to 3 inches in diameter.

Examples of unsuitable habitat:

- Individual trees that are greater than 1000 feet from forested/wooded areas;
- Urban street trees (trees found in highly-developed urban areas);
- A pure stand of 5-inch dbh (Indiana bat) or 3-inch (NLEB) trees (or less) that are not mixed with larger trees;
- Apple orchards;
- Buckthorn patches; and
- Christmas tree stands that are actively managed.

For more detail see:

<https://www.fws.gov/midwest/endangered/mammals/inba/inbasummersurveyguidance.html>

Species Summary Table

Project Name: New York State Canal Corporation – Oswego River BOA

Date: March 22, 2018

Species Name/ Critical Habitat	Potential Habitat Present?	Species Present?	Critical Habitat Present?	ESA/Eagle Act Determination	Notes/Documentation Summary (include full rationale in your report)
Northern Long-Eared Bat	No	Yes	No	Not likely to adversely affect	No trees in the project area.
Bald Eagle	No	Yes	No	Not likely to adversely affect	No trees in the project area.



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Appendix D

Representative Photographs



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Subject property (facing north)



Within subject property (facing north)



Within subject property (facing south)



Facing south along Water Street



Sidewalk on east side of subject property and Oswego River.



Facing east towards subject property



Water St. (west of subject property)



Northwest corner of subject property. Parking lot entrance with sewer manhole



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ARCHITECTS ENGINEERS PLANNERS

Appendix E

National Register of Historic Places Correspondence



Parks, Recreation, and Historic Preservation

ANDREW M. CUOMO
Governor

ROSE HARVEY
Commissioner

March 15, 2018

Mrs. Lindsey Russell
Environmental Scientist
Bergmann Associates
280 E. Broad Street
Suite 200
Rochester, NY 14468

Re: USACE
Transient Docks on Oswego River
City of Oswego, Oswego County, NY
18PR01489

Dear Mrs. Russell:

Thank you for requesting the comments of the State Historic Preservation Office (SHPO). We have reviewed the project in accordance with Section 106 of the National Historic Preservation Act of 1966. These comments are those of the SHPO and relate only to Historic/Cultural resources. They do not include potential environmental impacts to New York State Parkland that may be involved in or near your project. Such impacts must be considered as part of the environmental review of the project pursuant to the National Environmental Policy Act and/or the State Environmental Quality Review Act (New York Environmental Conservation Law Article 8).

Based upon this review, the New York SHPO has determined that no historic properties will be affected by this undertaking.

If further correspondence is required regarding this project, please be sure to refer to the OPRHP Project Review (PR) number noted above.

Sincerely,

Michael F. Lynch, P.E., AIA
Director, Division for Historic Preservation



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Appendix F

Nationwide Permit General and Regional Conditions

**NATIONWIDE PERMIT 11
DEPARTMENT OF THE ARMY
CORPS OF ENGINEERS
FINAL NOTICE OF ISSUANCE AND MODIFICATION OF NATIONWIDE PERMITS
FEDERAL REGISTER
AUTHORIZED MARCH 19, 2012**

Temporary Recreational Structures. Temporary buoys, markers, small floating docks, and similar structures placed for recreational use during specific events such as water skiing competitions and boat races or seasonal use, provided that such structures are removed within 30 days after use has been discontinued. At Corps of Engineers reservoirs, the reservoir manager must approve each buoy or marker individually. (Section 10)

NATIONWIDE PERMIT CONDITIONS

The following General Conditions must be followed in order for any authorization by a NWP to be valid:

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

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

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

2. Aquatic Life Movements. No activity may substantially disrupt the necessary life cycle movements of those species of aquatic life indigenous to the waterbody, including those species that normally migrate through the area, unless the activity's primary purpose is to impound water. All permanent and temporary crossings of waterbodies shall be suitably culverted, bridged, or otherwise designed and constructed to maintain low flows to sustain the movement of those aquatic species.

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

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

5. Shellfish Beds. No activity may occur in areas of concentrated shellfish populations, unless the activity is directly related to a shellfish harvesting activity authorized by 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.

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

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

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

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

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

13. Removal of Temporary Fills. Temporary fills must be removed in their entirety and the affected areas returned to pre-construction elevations. The affected areas must be revegetated, as appropriate.

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

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

16. Wild and Scenic Rivers. No activity may occur in a component of the National Wild and Scenic River System, or in a river officially designated by Congress as a “study river” for possible inclusion in the system while the river is in an official study status, unless the appropriate Federal agency with direct management responsibility for such river, has determined in writing that the proposed activity will not adversely affect the Wild and Scenic River designation or study status. Information on Wild and Scenic Rivers may be obtained from the appropriate Federal land management agency responsible for the designated Wild and Scenic River or study river (e.g., National Park Service, U.S. Forest Service, Bureau of Land Management, U.S. Fish and Wildlife Service).

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

18. Endangered Species. (a) No activity is authorized under any NWP which is likely to directly or indirectly jeopardize the continued existence of a threatened or endangered species or a species proposed for such designation, as identified under the Federal Endangered Species Act (ESA), or which will directly or indirectly destroy or adversely modify the critical habitat of such species. No activity is authorized under any NWP which “may affect” a listed species or critical habitat, unless Section 7 consultation addressing the effects of the proposed activity has been completed.

(b) Federal agencies should follow their own procedures for complying with the requirements of the ESA. Federal permittees must provide the district engineer with the appropriate documentation to demonstrate compliance with those requirements. The district engineer will review the documentation and determine whether it is sufficient to address ESA compliance for the NWP activity, or whether additional ESA consultation is necessary.

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

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

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

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

19. Migratory Birds and Bald and Golden Eagles. The permittee is responsible for obtaining any “take” permits required under the U.S. Fish and Wildlife Service’s regulations governing compliance with the Migratory Bird Treaty Act or the Bald and Golden Eagle Protection Act. The permittee should contact the appropriate local office of the U.S. Fish and Wildlife Service to determine if such “take” permits are required for a particular activity.

20. Historic Properties. (a) In cases where the district engineer determines that the activity may affect properties listed, or eligible for listing, in the National Register of Historic Places, the activity is not authorized, until the requirements of Section 106 of the National Historic Preservation Act (NHPA) have been satisfied.

(b) Federal permittees should follow their own procedures for complying with the requirements of Section 106 of the National Historic Preservation Act. Federal permittees must provide the district engineer with the appropriate documentation to demonstrate compliance with those requirements. The district engineer will review the documentation and determine whether it is sufficient to address section 106 compliance for the NWP activity, or whether additional section 106 consultation is necessary.

(c) Non-federal permittees must submit a pre-construction notification to the district engineer if the authorized activity may have the potential to cause effects to any historic properties listed on, determined to be eligible for listing on, or potentially eligible for listing on the National Register of Historic Places, including previously unidentified properties. For such activities, the pre-construction notification must state which historic properties may be affected by the proposed work or include a vicinity map indicating the location of the historic properties or the potential for the presence of historic properties. Assistance regarding information on the location of or potential for the presence of historic resources can be sought from the State Historic Preservation Officer or Tribal Historic Preservation Officer, as appropriate, and the National Register of Historic Places (see 33 CFR 330.4(g)). When reviewing pre-construction notifications, district engineers will comply with the current procedures for addressing the requirements of Section 106 of the National Historic Preservation Act. The district engineer shall make a reasonable and good faith effort to carry out appropriate identification efforts, which may include background research, consultation, oral history interviews, sample field investigation, and field survey. Based on the information submitted and these efforts, the district engineer shall determine whether the proposed activity has the potential to cause an effect on the historic properties. Where the non-Federal applicant has identified historic properties on which the activity may have the potential to cause effects and so notified the Corps, the non-Federal applicant shall not begin the activity until notified by the district engineer either that the activity has no potential to cause effects or that consultation under Section 106 of the NHPA has been completed.

(d) The district engineer will notify the prospective permittee within 45 days of receipt of a complete pre-construction notification whether NHPA Section 106 consultation is required. Section 106 consultation is not required when the Corps determines that the activity does not have the potential to cause effects on historic properties (see 36 CFR §800.3(a)). If NHPA

section 106 consultation is required and will occur, the district engineer will notify the non-Federal applicant that he or she cannot begin work until Section 106 consultation is completed. If the non-Federal applicant has not heard back from the Corps within 45 days, the applicant must still wait for notification from the Corps.

(e) Prospective permittees should be aware that section 110k of the NHPA (16 U.S.C. 470h-2(k)) prevents the Corps from granting a permit or other assistance to an applicant who, with intent to avoid the requirements of Section 106 of the NHPA, has intentionally significantly adversely affected a historic property to which the permit would relate, or having legal power to prevent it, allowed such significant adverse effect to occur, unless the Corps, after consultation with the Advisory Council on Historic Preservation (ACHP), determines that circumstances justify granting such assistance despite the adverse effect created or permitted by the applicant. If circumstances justify granting the assistance, the Corps is required to notify the ACHP and provide documentation specifying the circumstances, the degree of damage to the integrity of any historic properties affected, and proposed mitigation. This documentation must include any views obtained from the applicant, SHPO/THPO, appropriate Indian tribes if the undertaking occurs on or affects historic properties on tribal lands or affects properties of interest to those tribes, and other parties known to have a legitimate interest in the impacts to the permitted activity on historic properties.

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

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

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

(b) For NWPs 3, 8, 10, 13, 15, 18, 19, 22, 23, 25, 27, 28, 30, 33, 34, 36, 37, and 38, notification is required in accordance with general condition 31, for any activity proposed in the designated critical resource waters including wetlands adjacent to those waters. The district engineer may authorize activities under these NWPs only after it is determined that the impacts to the critical resource waters will be no more than minimal.

23. Mitigation. The district engineer will consider the following factors when determining appropriate and practicable mitigation necessary to ensure that adverse effects on the aquatic environment are minimal:

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

(b) Mitigation in all its forms (avoiding, minimizing, rectifying, reducing, or compensating for resource losses) will be required to the extent necessary to ensure that the adverse effects to the aquatic environment are minimal.

(c) Compensatory mitigation at a minimum one-for-one ratio will be required for all wetland losses that exceed 1/10-acre and require pre-construction notification, unless the district engineer determines in writing that either some other form of mitigation would be more environmentally appropriate or the adverse effects of the proposed activity are minimal, and provides a project-specific waiver of this requirement. For wetland losses of 1/10-acre or less that require pre-construction notification, the district engineer may determine on a case-by-case basis that compensatory mitigation is required to ensure that the activity results in minimal adverse effects on the aquatic environment. Compensatory mitigation projects provided to offset losses of aquatic resources must comply with the applicable provisions of 33 CFR part 332.

(1) The prospective permittee is responsible for proposing an appropriate compensatory mitigation option if compensatory mitigation is necessary to ensure that the activity results in minimal adverse effects on the aquatic environment.

(2) Since the likelihood of success is greater and the impacts to potentially valuable uplands are reduced, wetland restoration should be the first compensatory mitigation option considered.

(3) If permittee-responsible mitigation is the proposed option, the prospective permittee is responsible for submitting a mitigation plan. A conceptual or detailed mitigation plan may be used by the district engineer to make the decision on the NWP verification request, but a final mitigation plan that addresses the applicable requirements of 33 CFR 332.4(c)(2) – (14) must be approved by the district engineer before the permittee begins work in waters of the United States, unless the district engineer determines that prior approval of the final mitigation plan is not practicable or not necessary to ensure timely completion of the required compensatory mitigation (see 33 CFR 332.3(k)(3)).

(4) If mitigation bank or in-lieu fee program credits are the proposed option, the mitigation plan only needs to address the baseline conditions at the impact site and the number of credits to be provided.

(5) Compensatory mitigation requirements (e.g., resource type and amount to be provided as compensatory mitigation, site protection, ecological performance standards, monitoring requirements) may be addressed through conditions added to the NWP authorization, instead of components of a compensatory mitigation plan.

(d) For losses of streams or other open waters that require pre-construction notification, the district engineer may require compensatory mitigation, such as stream rehabilitation, enhancement, or preservation, to ensure that the activity results in minimal adverse effects on the aquatic environment.

(e) Compensatory mitigation will not be used to increase the acreage losses allowed by the acreage limits of the NWPs. For example, if an NWP has an acreage limit of 1/2-acre, it cannot be used to authorize any project resulting in the loss of greater than 1/2-acre of waters of

the United States, even if compensatory mitigation is provided that replaces or restores some of the lost waters. However, compensatory mitigation can and should be used, as necessary, to ensure that a project already meeting the established acreage limits also satisfies the minimal impact requirement associated with the NWP.

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

(g) Permittees may propose the use of mitigation banks, in-lieu fee programs, or separate permittee-responsible mitigation. For activities resulting in the loss of marine or estuarine resources, permittee-responsible compensatory mitigation may be environmentally preferable if there are no mitigation banks or in-lieu fee programs in the area that have marine or estuarine credits available for sale or transfer to the permittee. For permittee-responsible mitigation, the special conditions of the NWP verification must clearly indicate the party or parties responsible for the implementation and performance of the compensatory mitigation project, and, if required, its long-term management.

(h) Where certain functions and services of waters of the United States are permanently adversely affected, such as the conversion of a forested or scrub-shrub wetland to a herbaceous wetland in a permanently maintained utility line right-of-way, mitigation may be required to reduce the adverse effects of the project to the minimal level.

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

25. Water Quality. Where States and authorized Tribes, or EPA where applicable, have not previously certified compliance of an NWP with CWA Section 401, individual 401 Water Quality Certification must be obtained or waived (see 33 CFR 330.4(c)). The district engineer or State or Tribe may require additional water quality management measures to ensure that the authorized activity does not result in more than minimal degradation of water quality.

26. Coastal Zone Management. In coastal states where an NWP has not previously received a state coastal zone management consistency concurrence, an individual state coastal zone management consistency concurrence must be obtained, or a presumption of concurrence must occur (see 33 CFR 330.4(d)). The district engineer or a State may require additional measures to ensure that the authorized activity is consistent with state coastal zone management requirements.

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

28. Use of Multiple Nationwide Permits. The use of more than one NWP for a single and complete project is prohibited, except when the acreage loss of waters of the United States authorized by the NWPs does not exceed the acreage limit of the NWP with the highest specified acreage limit. For example, if a road crossing over tidal waters is constructed under NWP 14, with associated bank stabilization authorized by NWP 13, the maximum acreage loss of waters of the United States for the total project cannot exceed 1/3-acre.

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

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

(Transferee)

(Date)

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

(a) A statement that the authorized work was done in accordance with the NWP authorization, including any general, regional, or activity-specific conditions;

(b) A statement that the implementation of any required compensatory mitigation was completed in accordance with the permit conditions. If credits from a mitigation bank or in-lieu fee program are used to satisfy the compensatory mitigation requirements, the certification must include the documentation required by 33 CFR 332.3(1)(3) to confirm that the permittee secured the appropriate number and resource type of credits; and

(c) The signature of the permittee certifying the completion of the work and mitigation.

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

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

(2) 45 calendar days have passed from the district engineer's receipt of the complete PCN and the prospective permittee has not received written notice from the district or division engineer. However, if the permittee was required to notify the Corps pursuant to general condition 18 that listed species or critical habitat might be affected or in the vicinity of the project, or to notify the Corps pursuant to general condition 20 that the activity may have the potential to cause effects to historic properties, the permittee cannot begin the activity until receiving written notification from the Corps that there is "no effect" on listed species or "no potential to cause effects" on historic properties, or that any consultation required under Section 7 of the Endangered Species Act (see 33 CFR 330.4(f)) and/or Section 106 of the National Historic Preservation (see 33 CFR 330.4(g)) has been completed. Also, work cannot begin under NWPs 21, 49, or 50 until the permittee has received written approval from the Corps. If the proposed activity requires a written waiver to exceed specified limits of an NWP, the permittee may not begin the activity until the district engineer issues the waiver. If the district or division engineer notifies the permittee in writing that an individual permit is required within 45 calendar days of receipt of a complete PCN, the permittee cannot begin the activity until an individual permit has been obtained. Subsequently, the permittee's right to proceed under the NWP may be modified, suspended, or revoked only in accordance with the procedure set forth in 33 CFR 330.5(d)(2).

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

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

(2) Location of the proposed project;

(3) A description of the proposed project; the project's purpose; direct and indirect adverse environmental effects the project would cause, including the anticipated amount of loss of water of the United States expected to result from the NWP activity, in acres, linear feet, or other appropriate unit of measure; any other NWP(s), regional general permit(s), or individual permit(s) used or intended to be used to authorize any part of the proposed project or any related activity. The description should be sufficiently detailed to allow the district engineer to determine that the adverse effects of the project will be minimal and to determine the need for compensatory mitigation. Sketches should be provided when necessary to show that the activity complies with the terms of the NWP. (Sketches usually clarify the project and when provided results in a quicker decision. Sketches should contain sufficient detail to provide an illustrative description of the proposed activity (e.g., a conceptual plan), but do not need to be detailed engineering plans);

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

(5) If the proposed activity will result in the loss of greater than 1/10-acre of wetlands and a PCN is required, the prospective permittee must submit a statement describing how the mitigation requirement will be satisfied, or explaining why the adverse effects are minimal and why compensatory mitigation should not be required. As an alternative, the prospective permittee may submit a conceptual or detailed mitigation plan.

(6) If any listed species or designated critical habitat might be affected or is in the vicinity of the project, or if the project is located in designated critical habitat, for non-Federal applicants the PCN must include the name(s) of those endangered or threatened species that might be affected by the proposed work or utilize the designated critical habitat that may be affected by the proposed work. Federal applicants must provide documentation demonstrating compliance with the Endangered Species Act; and

(7) For an activity that may affect a historic property listed on, determined to be eligible for listing on, or potentially eligible for listing on, the National Register of Historic Places, for non-Federal applicants the PCN must state which historic property may be affected by the proposed work or include a vicinity map indicating the location of the historic property. Federal applicants must provide documentation demonstrating compliance with Section 106 of the National Historic Preservation Act.

(c) Form of Pre-Construction Notification: The standard individual permit application form (Form ENG 4345) may be used, but the completed application form must clearly indicate that it is a PCN and must include all of the information required in paragraphs (b)(1) through (7) of this general condition. A letter containing the required information may also be used.

(d) Agency Coordination: (1) The district engineer will consider any comments from Federal and state agencies concerning the proposed activity's compliance with the terms and conditions of the NWPs and the need for mitigation to reduce the project's adverse environmental effects to a minimal level.

(2) For all NWP activities that require pre-construction notification and result in the loss of greater than 1/2-acre of waters of the United States, for NWP 21, 29, 39, 40, 42, 43, 44, 50, 51, and 52 activities that require pre-construction notification and will result in the loss of greater than 300 linear feet of intermittent and ephemeral stream bed, and for all NWP 48 activities that require pre-construction notification, the district engineer will immediately provide (e.g., via e-mail, facsimile transmission, overnight mail, or other expeditious manner) a copy of the complete PCN to the appropriate Federal or state offices (U.S. FWS, state natural resource or water quality agency, EPA, State Historic Preservation Officer (SHPO) or Tribal Historic Preservation Office (THPO), and, if appropriate, the NMFS). With the exception of NWP 37, these agencies will have 10 calendar days from the date the material is transmitted to telephone or fax the district engineer notice that they intend to provide substantive, site-specific comments. The comments must explain why the agency believes the adverse effects will be more than minimal. If so contacted by an agency, the district engineer will wait an additional 15 calendar days before making a decision on the pre-construction notification. The district engineer will fully consider agency comments received within the specified time frame concerning the proposed activity's compliance with the terms and conditions of the NWPs, including the need for mitigation to ensure the net adverse environmental effects to the aquatic environment of the proposed activity are minimal. The district engineer will provide no response to the resource agency, except as provided below. The district engineer will indicate in the administrative record associated with each pre-construction notification that the resource agencies' concerns were considered. For NWP 37, the emergency watershed protection and rehabilitation activity may proceed immediately in cases where there is an unacceptable hazard to life or a significant loss of property or economic hardship will occur. The district engineer will consider any comments received to decide whether the NWP 37 authorization should be modified, suspended, or revoked in accordance with the procedures at 33 CFR 330.5.

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

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

D. District Engineer's Decision

1. In reviewing the PCN for the proposed activity, the district engineer will determine whether the activity authorized by the NWP will result in more than minimal individual or cumulative adverse environmental effects or may be contrary to the public interest. For a linear project, this determination will include an evaluation of the individual crossings to determine whether they individually satisfy the terms and conditions of the NWP(s), as well as the cumulative effects caused by all of the crossings authorized by NWP. If an applicant requests a waiver of the 300 linear foot limit on impacts to intermittent or ephemeral streams or of an otherwise applicable limit, as provided for in NWPs 13, 21, 29, 36, 39, 40, 42, 43, 44, 50, 51 or 52, the district engineer will only grant the waiver upon a written determination that the NWP activity will result in minimal adverse effects. When making minimal effects determinations the district engineer will consider the direct and indirect effects caused by the NWP activity. The district engineer will also consider site specific factors, such as the environmental setting in the

vicinity of the NWP activity, the type of resource that will be affected by the NWP activity, the functions provided by the aquatic resources that will be affected by the NWP activity, the degree or magnitude to which the aquatic resources perform those functions, the extent that aquatic resource functions will be lost as a result of the NWP activity (e.g., partial or complete loss), the duration of the adverse effects (temporary or permanent), the importance of the aquatic resource functions to the region (e.g., watershed or ecoregion), and mitigation required by the district engineer. If an appropriate functional assessment method is available and practicable to use, that assessment method may be used by the district engineer to assist in the minimal adverse effects determination. The district engineer may add case-specific special conditions to the NWP authorization to address site-specific environmental concerns.

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

3. If the district engineer determines that the adverse effects of the proposed work are more than minimal, then the district engineer will notify the applicant either: (a) That the project does not qualify for authorization under the NWP and instruct the applicant on the procedures to seek authorization under an individual permit; (b) that the project is authorized under the NWP subject to the applicant's submission of a mitigation plan that would reduce the adverse effects on the aquatic environment to the minimal level; or (c) that the project is authorized under the NWP with specific modifications or conditions. Where the district engineer determines that mitigation is required to ensure no more than minimal adverse effects occur to the aquatic environment, the activity will be authorized within the 45-day PCN period, with activity-specific

conditions that state the mitigation requirements. The authorization will include the necessary conceptual or detailed mitigation or a requirement that the applicant submit a mitigation plan that would reduce the adverse effects on the aquatic environment to the minimal level. When mitigation is required, no work in waters of the United States may occur until the district engineer has approved a specific mitigation plan or has determined that prior approval of a final mitigation plan is not practicable or not necessary to ensure timely completion of the required compensatory mitigation.

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.

DEFINITIONS

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

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

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

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

Discharge: The term “discharge” means any discharge of dredged or fill material.

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

Ephemeral stream: An ephemeral stream has flowing water only during, and for a short duration after, precipitation events in a typical year. Ephemeral stream beds are located above the water table year-round. Groundwater is not a source of water for the stream. Runoff from rainfall is the primary source of water for stream flow.

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

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

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

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

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

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

Intermittent stream: An intermittent stream has flowing water during certain times of the year, when groundwater provides water for stream flow. During dry periods, intermittent streams may not have flowing water. Runoff from rainfall is a supplemental source of water for stream flow.

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

Non-tidal wetland: A non-tidal wetland is a wetland that is not subject to the ebb and flow of tidal waters. The definition of a wetland can be found at 33 CFR 328.3(b). Non-tidal wetlands contiguous to tidal waters are located landward of the high tide line (i.e., spring high tide line).

Open water: For purposes of the NWPs, an open water is any area that in a year with normal patterns of precipitation has water flowing or standing above ground to the extent that an ordinary high water mark can be determined. Aquatic vegetation within the area of standing or

flowing water is either non-emergent, sparse, or absent. Vegetated shallows are considered to be open waters. Examples of “open waters” include rivers, streams, lakes, and ponds.

Ordinary High Water Mark: An ordinary high water mark is a line on the shore established by the fluctuations of water and indicated by physical characteristics, or by other appropriate means that consider the characteristics of the surrounding areas (see 33 CFR 328.3(e)).

Perennial stream: A perennial stream has flowing water year-round during a typical year. The water table is located above the stream bed for most of the year. Groundwater is the primary source of water for stream flow. Runoff from rainfall is a supplemental source of water for stream flow.

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

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

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

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

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

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

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

Riparian areas: Riparian areas are lands adjacent to streams, lakes, and estuarine-marine shorelines. Riparian areas are transitional between terrestrial and aquatic ecosystems, through

which surface and subsurface hydrology connects riverine, lacustrine, estuarine, and marine waters with their adjacent wetlands, non-wetland waters, or uplands. Riparian areas provide a variety of ecological functions and services and help improve or maintain local water quality. (See general condition 23.)

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

Single and complete linear project: A linear project is a project constructed for the purpose of getting people, goods, or services from a point of origin to a terminal point, which often involves multiple crossings of one or more waterbodies at separate and distant locations. The term “single and complete project” is defined as that portion of the total linear project proposed or accomplished by one owner/developer or partnership or other association of owners/developers that includes all crossings of a single water of the United States (i.e., a single waterbody) at a specific location. For linear projects crossing a single or multiple waterbodies several times at separate and distant locations, each crossing is considered a single and complete project for purposes of NWP authorization. However, individual channels in a braided stream or river, or individual arms of a large, irregularly shaped wetland or lake, etc., are not separate waterbodies, and crossings of such features cannot be considered separately.

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

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

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

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

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

Structure: An object that is arranged in a definite pattern of organization. Examples of structures include, without limitation, any pier, boat dock, boat ramp, wharf, dolphin, weir, boom, breakwater, bulkhead, revetment, riprap, jetty, artificial island, artificial reef, permanent

mooring structure, power transmission line, permanently moored floating vessel, piling, aid to navigation, or any other manmade obstacle or obstruction.

Tidal wetland: A tidal wetland is a wetland (i.e., water of the United States) that is inundated by tidal waters. The definitions of a wetland and tidal waters can be found at 33 CFR 328.3(b) and 33 CFR 328.3(f), respectively. Tidal waters rise and fall in a predictable and measurable rhythm or cycle due to the gravitational pulls of the moon and sun. Tidal waters end where the rise and fall of the water surface can no longer be practically measured in a predictable rhythm due to masking by other waters, wind, or other effects. Tidal wetlands are located channelward of the high tide line, which is defined at 33 CFR 328.3(d).

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

Waterbody: For purposes of the NWP, a waterbody is a jurisdictional water of the United States. If a jurisdictional wetland is adjacent – meaning bordering, contiguous, or neighboring – to a waterbody determined to be a water of the United States under 33 CFR 328.3(a)(1)-(6), that waterbody and its adjacent wetlands are considered together as a single aquatic unit (see 33 CFR 328.4(c)(2)). Examples of “waterbodies” include streams, rivers, lakes, ponds, and wetlands.

Final Regional Conditions 2012

NOTICE ABOUT WEB LINKS IN THIS DOCUMENT:

The web links (both internal to our District and any external links to collaborating agencies) in this document are valid at the time of publication. However, the Wilmington District Regulatory Program web page addresses, as with other agency web sites, may change over the timeframe of the five-year Nationwide Permit renewal cycle, in response to policy mandates or technology advances. While we will make every effort to check on the integrity of our web links and provide re-direct pages whenever possible, we ask that you report any broken links to us so we can keep the page information current and usable. We apologize in advanced for any broken links that you may encounter, and we ask that you navigate from the regulatory home page (wetlands and stream permits) of the Wilmington District Corps of Engineers, to the “Permits” section of our web site to find links for pages that cannot be found by clicking directly on the listed web link in this document.

Final 2012 Regional Conditions for Nationwide Permits (NWP) in the Wilmington District

1.0 Excluded Waters

The Corps has identified waters that will be excluded from the use of all NWP’s during certain timeframes. These waters are:

1.1 Anadromous Fish Spawning Areas

Waters of the United States identified by either the North Carolina Division of Marine Fisheries (NCDMF) or the North Carolina Wildlife Resources Commission (NCWRC) as anadromous fish spawning areas are excluded during the period between February 15 and June 30, without prior written approval from NCDMF or NCWRC and the Corps.

1.2 Trout Waters Moratorium

Waters of the United States in the twenty-five designated trout counties of North Carolina are excluded during the period between October 15 and April 15 without prior written approval from the NCWRC. (See Section 2.7 for a list of the twenty-five trout counties).

1.3 Sturgeon Spawning Areas as Designated by the National Marine Fisheries Service (NMFS)

Waters of the United States designated as sturgeon spawning areas are excluded during the period between February 1 and June 30, without prior written approval from the NMFS.

2.0 Waters Requiring Additional Notification

The Corps has identified waters that will be subject to additional notification requirements for activities authorized by all NWP's. These waters are:

2.1 Western NC Counties that Drain to Designated Critical Habitat

For proposed activities within Waters of the U.S. that require a Pre-Construction Notification pursuant to General Condition 31 (PCN) and are located in the sixteen counties listed below, applicants must provide a copy of the PCN to the US Fish and Wildlife Service, 160 Zillicoa Street, Asheville, North Carolina 28801. This PCN must be sent concurrently to the US Fish and Wildlife Service and the Corps Asheville Regulatory Field Office. Please see General Condition 18 for specific notification requirements related to Federally Endangered Species and the following website for information on the location of designated critical habitat.

Counties with tributaries that drain to designated critical habitat that require notification to the Asheville US Fish and Wildlife Service: Avery, Cherokee, Forsyth, Graham, Haywood, Henderson, Jackson, Macon Mecklenburg, Mitchell, Stokes, Surry, Swain, Transylvania, Union and Yancey.

Website and office addresses for Endangered Species Act Information:

The Wilmington District has developed the following website for applicants which provides guidelines on how to review linked websites and maps in order to fulfill NWP general condition 18 requirements: <http://www.saw.usace.army.mil/wetlands/ESA>

Applicants who do not have internet access may contact the appropriate US Fish and Wildlife Service offices listed below or the US Army Corps of Engineers at (910) 251- 4633:

US Fish and Wildlife Service
Asheville Field Office
160 Zillicoa Street
Asheville, NC 28801
Telephone: (828) 258-3939

Asheville US Fish and Wildlife Service Office counties: All counties west of and including Anson, Stanly, Davidson, Forsyth and Stokes Counties

US Fish and Wildlife Service
Raleigh Field Office
Post Office Box 33726
Raleigh, NC 27636-3726
Telephone: (919) 856-4520

Raleigh US Fish and Wildlife Service Office counties: all counties east of and including Richmond, Montgomery, Randolph, Guilford, and Rockingham Counties.

2.2 Special Designation Waters

Prior to the use of any NWP in any of the following identified waters and contiguous wetlands in North Carolina, applicants must comply with Nationwide Permit General Condition 31 (PCN). The North Carolina waters and contiguous wetlands that require additional notification requirements are:

“Outstanding Resource Waters” (ORW) or “High Quality Waters” (HQW) as designated by the North Carolina Environmental Management Commission; “Inland Primary Nursery Areas” (IPNA) as designated by the NCWRC; “Contiguous Wetlands” as defined by the North Carolina Environmental Management Commission; or “Primary Nursery Areas” (PNA) as designated by the North Carolina Marine Fisheries Commission.

2.3 Coastal Area Management Act (CAMA) Areas of Environmental Concern

Non-federal applicants for any NWP in a designated “Area of Environmental Concern” (AEC) in the twenty (20) counties of Eastern North Carolina covered by the North Carolina Coastal Area Management Act (CAMA) must also obtain the required CAMA permit. Development activities for non-federal projects may not commence until a copy of the approved CAMA permit is furnished to the appropriate Wilmington District Regulatory Field Office (Wilmington Field Office – 69 Darlington Avenue, Wilmington, NC 28403 or Washington Field Office – 2407 West 5th Street, Washington, NC 27889).

2.4 Barrier Islands

Prior to the use of any NWP on a barrier island of North Carolina, applicants must comply with Nationwide Permit General Condition 31 (PCN).

2.5 Mountain or Piedmont Bogs

Prior to the use of any NWP in a Bog classified by the North Carolina Wetland Assessment Methodology (NCWAM), applicants shall comply with Nationwide Permit General Condition 31 (PCN). The latest version of NCWAM is located on the NC DWQ web site at: <http://portal.ncdenr.org/web/wq/swp/ws/pdu/ncwam> .

2.6 Animal Waste Facilities

Prior to use of any NWP for construction of animal waste facilities in waters of the US, including wetlands, applicants shall comply with Nationwide Permit General Condition 31 (PCN).

2.7 Trout Waters

Prior to any discharge of dredge or fill material into streams or waterbodies within the twenty-five (25) designated trout counties of North Carolina, the applicant shall comply with Nationwide Permit General Condition 31 (PCN). The applicant shall also provide a copy of the notification to the appropriate NCWRC office to facilitate the determination of any potential

impacts to designated Trout Waters. Notification to the Corps of Engineers will include a statement with the name of the NCWRC biologist contacted, the date of the notification, the location of work, a delineation of wetlands, a discussion of alternatives to working in the mountain trout waters, why alternatives were not selected, and a plan to provide compensatory mitigation for all unavoidable adverse impacts to mountain trout waters.

NCWRC and NC Trout Counties

Western Piedmont Region Coordinator	Alleghany	Caldwell	Watauga
20830 Great Smoky Mtn. Expressway	Ashe	Mitchell	Wilkes
Waynesville, NC 28786	Avery	Stokes	
Telephone: (828) 452-2546	Burke	Surry	

Mountain Region Coordinator	Buncombe	Henderson	Polk
20830 Great Smoky Mtn. Expressway	Cherokee	Jackson	Rutherford
Waynesville, NC 28786	Clay	Macon	Swain
Telephone: (828) 452-2546	Graham	Madison	Transylvania
Fax: (828) 452-7772	Haywood	McDowell	Yancey

3.0 List of Corps Regional Conditions for All Nationwide Permits

The following conditions apply to all Nationwide Permits in the Wilmington District:

3.1 Limitation of Loss of Perennial Stream Bed

NWPs may not be used for activities that may result in the loss or degradation of greater than 300 total linear feet of perennial, intermittent or ephemeral stream, unless the District Commander has waived the 300 linear foot limit for ephemeral and intermittent streams on a case-by-case basis and he determines that the proposed activity will result in minimal individual and cumulative adverse impacts to the aquatic environment. Loss of stream includes the linear feet of stream bed that is filled, excavated, or flooded by the proposed activity. Waivers for the loss of ephemeral and intermittent streams must be in writing and documented by appropriate/accepted stream quality assessments*. This waiver only applies to the 300 linear feet threshold for NWPs.

*NOTE: Applicants should utilize the most current methodology prescribed by Wilmington District to assess stream function and quality. Information can be found at:

<http://www.saw.usace.army.mil/wetlands/permits/nwp/nwp2012> (see “Quick Links”)

3.2 Mitigation for Loss of Stream Bed

For any NWP that results in a loss of more than 150 linear feet of perennial and/or ephemeral/intermittent stream, the applicant shall provide a mitigation proposal to compensate for more than minimal individual and cumulative adverse impacts to the aquatic environment. For stream losses less than 150 linear feet, that require a PCN, the District Commander may determine, on a case-by-case basis that compensatory mitigation is required to ensure that the activity results in minimal adverse effect on the aquatic environment.

3.3 Pre-construction Notification for Loss of Streambed Exceeding 150 Feet.

Prior to use of any NWP for any activity which impacts more than 150 total linear feet of perennial stream or ephemeral/ intermittent stream, the applicant must comply with Nationwide Permit General Condition 31 (PCN). This applies to NWPs that do not have specific notification requirements. If a NWP has specific notification requirements, the requirements of the NWP should be followed.

3.4 Restriction on Use of Live Concrete

For all NWPs which allow the use of concrete as a building material, live or fresh concrete, including bags of uncured concrete, may not come into contact with the water in or entering into waters of the US. Water inside coffer dams or casings that has been in contact with wet concrete shall only be returned to waters of the US when it is no longer poses a threat to aquatic organisms.

3.5 Requirements for Using Riprap for Bank Stabilization

For all NWPs that allow for the use of riprap material for bank stabilization, the following measures shall be applied:

3.5.1. Filter cloth must be placed underneath the riprap as an additional requirement of its use in North Carolina waters.

3.5.2. The placement of riprap shall be limited to the areas depicted on submitted work plan drawings.

3.5.3. The riprap material shall be clean and free from loose dirt or any pollutant except in trace quantities that would not have an adverse environmental effect.

3.5.4. It shall be of a size sufficient to prevent its movement from the authorized alignment by natural forces under normal conditions.

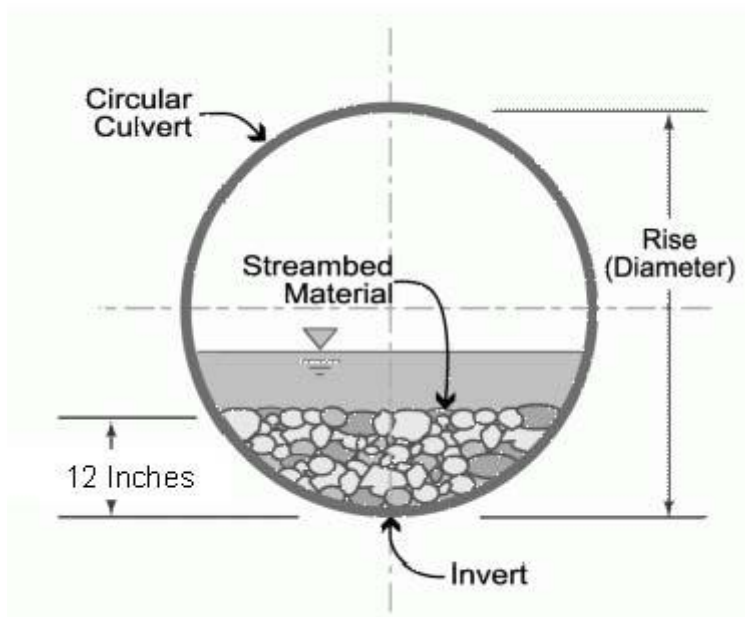
3.5.5. The riprap material shall consist of clean rock or masonry material such as, but not limited to, granite, marl, or broken concrete.

3.5.6. A waiver from the specifications in this Regional Condition may be requested in writing. The waiver will only be issued if it can be demonstrated that the impacts of complying with this Regional condition would result in greater adverse impacts to the aquatic environment.

3.6 Safe Passage Requirements for Culvert Placement

For all NWP's that involve the construction/installation of culverts, measures will be included in the construction/installation that will promote the safe passage of fish and other aquatic organisms. The dimension, pattern, and profile of the stream above and below a pipe or culvert should not be modified by widening the stream channel or by reducing the depth of the stream in connection with the construction activity. The width, height, and gradient of a proposed culvert should be such as to pass the average historical low flow and spring flow without adversely altering flow velocity. Spring flow should be determined from gage data, if available. In the absence of such data, bankfull flow can be used as a comparable level.

In the twenty (20) counties of North Carolina designated as coastal counties by the Coastal Area Management Act (CAMA): All pipes/culverts must be sufficiently sized to allow for the burial of the bottom of the pipe/culvert at least one foot below normal bed elevation when they are placed within the Public Trust Area of Environmental Concern (AEC) and/or the Estuarine Waters AEC as designated by CAMA, and/or all streams appearing as blue lines on United States Geological Survey (USGS) 7.5-minute quadrangle maps.



In all other counties: Culverts greater than 48 inches in diameter will be buried at least one foot below the bed of the stream. Culverts 48 inches in diameter or less shall be buried or placed on the stream bed as practicable and appropriate to maintain aquatic passage, and every effort shall be made to maintain the existing channel slope. The bottom of the culvert must be placed at a

depth below the natural stream bottom to provide for passage during drought or low flow conditions.

Culverts are to be designed and constructed in a manner that minimizes destabilization and head cutting. Destabilizing the channel and head cutting upstream should be considered and appropriate actions incorporated in the design and placement of the culvert.

A waiver from the depth specifications in this condition may be requested in writing. The waiver will be issued if it can be demonstrated that the proposal would result in the least impacts to the aquatic environment.

All counties: Culverts placed within riparian and/or riverine wetlands must be installed in a manner that does not restrict the flow and circulation patterns of waters of the United States. Culverts placed across wetland fills purely for the purposes of equalizing surface water do not have to be buried.

3.7 Notification to NCDENR Shellfish Sanitation Section

Applicants shall notify the NCDENR Shellfish Sanitation Section prior to dredging in or removing sediment from an area closed to shell fishing where the effluent may be released to an area open for shell fishing or swimming in order to avoid contamination from the disposal area and cause a temporary shellfish closure to be made. Such notification shall also be provided to the appropriate Corps of Engineers Regulatory Field Office. Any disposal of sand to the ocean beach should occur between November 1 and April 30 when recreational usage is low. Only clean sand should be used and no dredged sand from closed shell fishing areas may be used. If beach disposal were to occur at times other than stated above or if sand from a closed shell fishing area is to be used, a swimming advisory shall be posted, and a press release shall be issued by the permittee.

3.8 Preservation of Submerged Aquatic Vegetation

Adverse impacts to Submerged Aquatic Vegetation (SAV) are not authorized by any NWP within any of the twenty coastal counties defined by North Carolina's Coastal Area Management Act of 1974 (CAMA).

3.9 Sedimentation and Erosion Control Structures and Measures

3.9.1. All PCNs will identify and describe sedimentation and erosion control structures and measures proposed for placement in waters of the US. The structures and measures should be depicted on maps, surveys or drawings showing location and impacts to jurisdictional wetlands and streams.



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

DEPARTMENT OF THE ARMY PERMIT

Permittee: Adam J. Czekanski
Lieutenant Colonel, Corps of Engineers
District Commander
On Behalf of the General Public

Regional Permit No.: 87-000-1
Processing No.:
Effective Date: December 8, 2016
Expiration Date: December 8, 2021
Affirmation Date:

Issuing Office: U.S. Army Engineer District, Buffalo
1776 Niagara Street
Buffalo, New York 14207-3199

IMPORTANT:

Please note that written affirmation from this office is required prior to commencing the activity authorized by this permit as outlined in the General Permit Notification Requirements on page 3. Otherwise this permit is available for use without pre-construction notification to this office, provided all parties read, understand, and comply will all terms and conditions of this permit.

Noncompliance with any of the terms or conditions may result in an order to remove the structure; civil and/or criminal penalties or both.

AUTHORITIES: You have been authorized to undertake the activity described below pursuant to:

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

AUTHORIZED ACTIVITY: Install and maintain open pile or floating: dock(s) (seasonal and permanent), deck, observation platform(s) in wetlands or other special aquatic sites, stairway(s), railings, electrical lines along dock(s), mooring pile(s), mooring buoy(s), floating swim platform, marine railway, boat hoist(s)/jet ski hoist(s), covered (not enclosed) boat slips and hoists. Boathouses (enclosed boat slips) are not authorized by this permit.

LOCATION OF THE AUTHORIZED ACTIVITY: Navigable waters of the United States located within the State of New York and subject to regulation by the U.S. Army Engineer District, Buffalo (see map at Appendix A).

The general public is hereby authorized by the Secretary of the Army to perform the work authorized by this permit provided the following general and special conditions are fully complied with.

The District Commander 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.

NOTE: When the property associated with the work authorized by this permit is sold or 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 liabilities associated with compliance with its terms and conditions, have the transferee sign and date on the last page of this permit and forward a copy of the permit to this office to validate the transfer of this authorization..

DEFINITIONS: The term "you" and its derivatives, as used in this permit, mean the permittee or any future transferee. The term "this office" refers to the Buffalo District Corps of Engineers Regulatory office having jurisdiction over the permitted activity or the appropriate official of that office acting under the authority of the commanding officer. The term "activity" as used in this permit includes all structures and work authorized by this permit.

Barrier beach - A low-lying, sandy island or spit, resulting from coastal sedimentation that lies along the shoreline and is generally parallel to, but separated from the mainland by an embayment, and often has dunes superimposed on it.

Navigable waters (as regulated under Section 10 of the Rivers and Harbors Act) - 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. A list of navigable waters in the Buffalo District can be found on the Buffalo District web site at

<http://www.lrb.usace.army.mil/Missions/Regulatory/DistrictInformation/NavigableWaterways>, or by calling (716) 879-4330.

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

Regulations at 33 CFR 322.5(d) ***Structures for small boats.*** (1) In the absence of overriding public interest, favorable consideration will generally be given to applications from riparian owners for permits for piers, boat docks, moorings, platforms and similar structures for small boats. Particular attention will be given to the location and general design of such structures to prevent possible obstructions to navigation with respect to both the public's use of the waterway

and the neighboring proprietors' access to the waterway. Obstructions can result from both the existence of the structure, particularly in conjunction with other similar facilities in the immediate vicinity, and from its inability to withstand wave action or other forces which can be expected. District engineers will inform applicants of the hazards involved and encourage safety in location, design, and operation. District engineers will encourage cooperative or group use facilities in lieu of individual proprietary use facilities.

GENERAL PERMIT NOTIFICATION REQUIREMENTS:

The special conditions listed in the next section identify which activities do or do not require written verification of the applicability of this general permit from the Buffalo District prior to commencement of the work.

If your project **DOES NOT** require notification and subsequent authorization from the Buffalo 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 submit project drawings (including location map and plan view diagram) and the attached compliance certification form to the Buffalo District office.

For projects that **DO** require notification to the Buffalo District prior to commencement of the work, the following information must be submitted with the U.S. Army Corps of Engineers joint application for permit:

1. Name, address and telephone number of the applicant.
2. Location map identifying project site.
3. A brief project description.
4. Project plans depicting proposed work in reference to the Ordinary High Water mark of the waterway and/or wetland limits. This must include a plan view diagram, identifying the dimensions of all existing structures and fills, as well as dimensions of proposed structures. The diagram shall include dimensions of all existing and proposed structures. The plans must also include a cross-sectional plan that identifies the water level at Ordinary High Water mark as it relates to the structure and depth of waterway.

Work may not proceed on projects requiring pre-construction notification until written affirmation of the applicability of this permit is received from this office.

Pre-construction notification and written affirmation from this office of the applicability of this permit is required for the following:

1. any variances noted in the conditions below;
2. activities in wetlands; projects located on barrier beaches per Special Condition No. 17;
3. projects located within Coastal Erosion Hazard Areas per Special Condition No. 18;
4. projects requiring coastal zone consistency as required in Special Condition No. 19;
5. projects located in areas identified on Table 1, as noted in Special Condition No. 20;
6. projects which may have the potential to cause effects to historical resources, as noted in Special Condition No. 21; and
7. projects located in wild and scenic rivers, as noted in Special Condition No. 22.

GENERAL CONDITIONS:

1. The installation of the permitted structure authorized under this regional permit must be completed prior to the expiration date noted on the first page of this authorization. In the event that the affirmation date is less than twelve months prior to the expiration date, the regional permit will remain valid for a period of twelve months from the affirmation date. In no case shall authorization exceed twelve months beyond the expiration date.
2. You must maintain the structure authorized by this permit in good condition and in conformance with the terms and conditions of this permit in perpetuity. You are not relieved of this requirement if you abandon the permitted structure, unless you make a good faith transfer to a third party in accordance with requirements noted below. Should you wish to cease to maintain the authorized structure or should you desire to abandon it without a good faith transfer, you may be required to remove the structure(s) and restore the site to its original pre-project conditions.
3. If you discover any previously unknown historic or archaeological 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. 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.
5. The permittee understands and agrees that, if future operations by the United States require the removal, relocation, or other alteration, of the structure herein authorized, or if, in the opinion of the Secretary of the Army or his authorized representative, said structure 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.
6. This office reserves the right to use this regional permit in combination with any existing or future nationwide, regional or individual permit or any letter of permission issued by this office.
7. All work will be completed in accordance with appropriate best management practices, to include, but not limited to, off site washing of equipment to be used in waters prior to commencement of authorized work, with measures in place to ensure that wash water is not directly released into waters of the US, as well as ensuring that all construction debris is disposed of in such a way as to preclude entry into waters of the US.

SPECIAL CONDITIONS:

1. The authorized structure must not interfere with the public's right to free navigation on all navigable waters of the United States (see 33 CFR 322.5(d)).
2. All structures authorized by this permit must be set back a minimum of 10 feet from the common boundary line of adjoining properties that are under separate ownership. The setback is measured at the point where the common boundary terminates at the Ordinary High Water (OHW) shoreline (i.e., the common boundary line does not extend waterward of OHW). A variance in this distance may be granted where there are natural limiting features or limited shoreline available and coordination with adjacent property owner(s) has occurred. All variances must be approved by this office on a case by case basis. Note that the dispute over property ownership will not be a factor in the Corps public interest decision (see 33 CFR 320.4(g)).
3. Structures authorized by this permit shall not extend waterward more than 100 feet from the OHW shoreline or 20 percent of the waterway width, whichever is less. The waterway width is measured from the Ordinary High Water shoreline perpendicular to the centerline of the waterway. A variance in the maximum offshore distance of a structure may be granted in cases where exceptions would be reasonable due to the shoreline configuration, or for structures crossing shoals, wetlands or other special aquatic sites. All variances must be approved by this office on a case by case basis.
4. Configuration of dock(s) may vary in plan (i.e. straight, T, U, or L shaped, etc.) provided the total length of all segments and separate structures does not exceed 150 feet and the surface area of the dock(s), including finger piers, deck, platform, etc. does not exceed 1200 square feet from the Ordinary High Water mark. Docks parallel to and along the shoreline (within 20 feet of the shoreline) are not permitted by this Regional Permit, unless a variance is granted. All variances must be approved by this office on a case by case basis. A variance may be granted in cases where exceptions would be reasonable, such as but not limited to topography of the shoreline, or navigational reasons. The dock(s) shall not exceed 8 feet in width.
5. Multiple docks, extensions to existing docks, and/or docks with a deck or platform may be constructed provided the proposed and all existing structures, if any, are within the size limitations specified in this permit, for each property. Note: For the purposes of this Regional Permit, a deck is any portion of the dock that exceeds 8 feet in width. See Special Condition No. 19 for additional requirements on multiple docks and/or docks with deck located in the Coastal Zone Management area.
6. A deck is allowed in the middle or at the waterward terminus of the structure provided the surface area of the deck does not exceed 240 square feet. A variance to this condition (i.e., shoreline deck) may be granted in cases where exceptions would be reasonable due to the topography of the shoreline, or for navigational reasons. All variances must be approved by this office on a case by case basis. Only one deck per property is authorized by this permit. See Special Condition No. 19 for additional requirements on decks located in the Coastal Zone Management area.

7. The top of open pile docks must be a minimum of one foot above the Ordinary High Water elevation.
8. Side staving, if used, shall not extend lower than one half of the distance between the Ordinary High and Low Water levels.
9. Only one swim platform per property owner is authorized by this permit. The surface area of a swim platform shall not exceed 200 square feet, and shall not be connected to other structures. The swim platform must be a free-floating structure. Small anchors to moor the floating swim platform are authorized by this Regional Permit.
10. Only one marine railway per property owner is authorized by this permit.
11. The total surface area of all boat and jet ski hoist(s) and covered boat slips, shall not exceed 900 square feet.
12. Mooring buoys: Private and commercial mooring buoys may be installed under this Regional Permit. Mooring buoys must be tagged with the name and the address of the owner. The placement of buoys must not hinder navigation, create unsafe conditions to the public, or hinder safe access to and from a person's property. Buoys must be placed so that each moored vessel will avoid contact or interference with any other moored vessel or structure.
13. Structures authorized by this permit may cross wetlands or other special aquatic sites, but the crossing must not exceed four feet in width and shall be a minimum of four feet above the Ordinary High Water elevation. **Pre-construction notification** and written affirmation from this office of the applicability of this permit is required for all activities in wetlands. Any proposal that would result in fragmentation of the contiguous wetlands or essentially overcrowd the wetland with docks and related human activity so as to adversely impact the functions and values of the wetland will not be authorized by this regional permit.
14. The total surface area of all observation platform(s) located in wetlands or other special aquatic sites shall not exceed 900 square feet. The authorization of observation platform(s) located in wetlands or other special aquatic sites must be for interpretive or educational purposes. Access to observation platforms may cross wetlands or other special aquatic sites, but the crossing must not exceed four feet in width and shall be a minimum of four feet above the Ordinary High Water elevation. **Pre-construction notification** and written affirmation from this office of the applicability of this permit is required for activities in wetlands.
15. Use of creosote treated wood under this permit is prohibited in New York State. All treated wood must be aged in the open air for at least three months prior to in-water use. Wood must be clean and free of surface deposits. Timber with surface deposits must be washed for at least five minutes under running water prior to use. Any wood debris, such as sawdust or wash water, must not enter any water body including wetlands. This washing must occur more than 100 feet from a wetland or waterbody. All treated wood debris must be disposed of at a proper disposal facility. For more information, contact the applicable New York State Department of

Environmental Conservation regional office and U.S. Environmental Protection Agency regional office.

16. All in-water work shall be restricted to dates that will preclude the adverse impacts to indigenous fish species. It is the applicant's responsibility to obtain these dates from the appropriate New York State Department of Environmental Conservation (NYSDEC) regional office and the NYS Department of State if applicable.

17. This permit does not authorize work on barrier beaches when it is determined by the District Engineer that the work would adversely impact a barrier beach. **Pre-construction notification** and written affirmation from this office of the applicability of this permit is required for any project that may adversely impact a barrier beach.

18. This permit does not authorize work in areas designated by New York State as erosion hazard areas, unless a permit is obtained under the New York Coastal Erosion Hazard Area Act (Article 34 of the Environmental Conservation Law). Permits are administered by either the New York State Department of Environmental Conservation (NYSDEC), municipality, or county. **Pre-construction notification** and written affirmation from this office of the applicability of this permit is required for any project within a NYS Coastal Erosion Hazard Area.

19. You must obtain an individual consistency concurrence from the New York State Department of State (NYSDOS) for proposed private recreational docks not accessory to a private residential upland use, all decks and/or multiple docks located within the entire Coastal Zone Management (CZM) area, for all activities requiring a variance under Special Conditions 2, 3, and 4, and for all activities and structures located in New York State Significant Coastal Fish and Wildlife Habitat areas and/or areas with approved Local Waterfront Revitalization Programs. Information regarding the NYS coastal area and NYS designated Significant Coastal Fish and Wildlife Habitats may be found at http://appext20.dos.ny.gov/coast_map_public/map.aspx. Pre-construction notification and written affirmation from this office of the applicability of this permit is required for any project requiring consistency from the NYSDOS. No work shall be started under this permit until the concurrence has been secured or the State has failed to act on the consistency certification within six months of the date your completed determination is received by NYSDOS and the certification is presumed. You must comply with all conditions of your individual coastal certification concurrence. See below AGENCY COORDINATION REQUIREMENTS for additional information.

20. Endangered Species: **Pre-construction notification** and written affirmation from this office of the applicability of this permit is required for activities located within areas identified on the attached list. For activities that are proposed to occur within these areas, the application must include a discussion of potential threatened and endangered species (T&E) habitat within the project site. Refer to the USFWS T&E website at <http://www.fws.gov/northeast/nyfo/es/section7.htm> for information on habitat requirements for listed species. If there is potential habitat for any federally listed species within the project site:

- 1) send the results of any habitat surveys
- 2) include a detailed description of the proposed project, including approximate

- proposed project construction schedule and project activities (e.g., land clearing, utilities, stormwater management).
- 3) include a description of the natural characteristics of the property and surrounding area (e.g., forested areas, freshwater wetlands, open waters, and soils). Additionally, please include a description of surrounding land use (residential, agricultural, or commercial).
 - 4) provide a description of the area to be impacted by the proposed project, including trees to be removed.
 - 5) provide a description of conservation measures to avoid or minimize impacts to listed species.
 - 6) provide photos of the site
 - 7) if tree clearing will take place, provide a map outlining the tree removal area

Applicants shall not commence work in these townships, waterways, or locations under this permit until the requirements of the Endangered Species Act have been satisfied and the applicant receives written verification that the work may proceed. Note that as a result of consultation with the USFWS, the District Engineer may add species-specific conditions to the permit.

21. Cultural Resources: **Pre-construction notification (PCN)** and written affirmation from this office of the applicability of this permit is required for activities 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, including previously unidentified properties. In order for the Buffalo District to determine if National Historic Preservation Act Section 106 consultation is required, all PCNs must include a written statement indicating if any properties listed or eligible for listing, in the National Register of Historic Places may be affected by the proposed project. A copy of any completed survey reports shall be provided with the PCN. If a survey has not been performed then the statement shall include a list of resources checked in the determination. Copies of any available correspondence from NYS Office of Parks, Recreation, and Historic Preservation (SHPO) regarding historic properties shall be provided with the PCN. Information regarding cultural resources may be found at: <http://parks.ny.gov/shpo>. Assistance regarding information on the location of or potential for the presence of historic resources can be sought from the State Historic Preservation Officer or Tribal Historic Preservation Officer (THPO), as appropriate, and the National Register of Historic Places (see 33 CFR 330.4(g)). Based on the information submitted and these efforts, the district engineer shall determine whether the proposed activity has the potential to cause an effect on the historic properties. Where the applicant has identified historic properties which the activity may have the potential to cause effects and so notified the Corps, the applicant shall not begin the activity until notified by the district engineer either that the activity has no potential to cause effects or that consultation under Section 106 of the NHPA has been completed. Prospective permittees should be aware that section 110k of the NHPA (16 U.S.C. 470h-2(k)) prevents the Corps from granting a permit or other assistance to an applicant who, with intent to avoid the requirements of Section 106 of the NHPA, has intentionally significantly adversely affected a historic property to which the permit would relate, or having legal power to prevent it, allowed such significant adverse effect to occur, unless the Corps, after consultation with the Advisory Council on Historic Preservation (ACHP), determines that circumstances justify

granting such assistance despite the adverse effect created or permitted by the applicant. If circumstances justify granting the assistance, the Corps is required to notify the ACHP and provide documentation specifying the circumstances, explaining 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.

22. **Pre-construction notification** and written affirmation from this office of the applicability of this permit is required for all activities located within a component of the National Wild and Scenic Rivers (NWSR) System, or on rivers currently being studied at the direction of Congress as potential additions to the NWSR System, or rivers for which Wild and Scenic Rivers studies have been completed and forwarded to Congress and which Congress is still considering. 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. 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. In addition, **Pre-construction notification** and written affirmation from this office of the applicability of this permit is required for all activities located within areas listed in the Nationwide Rivers Inventory (list is available at: <http://www.nps.gov/ncrc/programs/rtca/nri/states/ny.html>). Activities located in the above areas will be evaluated on a case by case basis, which will include coordination with the National Park Service.

AGENCY COORDINATION REQUIREMENTS:

1. You must furnish the New York State Department of State (NYS DOS) with a completed permit application, a signed copy of the Federal Consistency Assessment Form (FCAF) and policy analysis (available at: http://www.dos.ny.gov/opd/programs/pdfs/Consistency/FCAF_fillable.pdf), project drawings, recent color photographs, and all supporting information as described in D.2 of the FCAF for the following activities:

- a) for all private recreational docks not accessory to a private residential upland use in the entire Coastal Zone Management area;
- b) for all decks located in the entire Coastal Zone Management (CZM) area;
- c) for multiple docks on one property located in the entire Coastal Zone Management (CZM) area;
- d) for all activities and structures located in New York State Significant Coastal Fish & Wildlife Habitat Areas;
- e) for all activities and structures located within approved Local Waterfront Revitalization Programs;
- f) and for all activities requiring a variance under Special Conditions 2, 3, and 4.

In addition, you must furnish the District Engineer, Buffalo District, with a copy of the CZM certification concurrence letter or a dated copy of the Federal Consistency Assessment Form that

you provided to the NYSDOS. Consistency statements and all of the above mentioned information should be forwarded to:

NYS Department of State
Office of Planning and Development
Consistency Review Unit
One Commerce Plaza
99 Washington Ave.
Albany, NY 12231-0001
Telephone (518) 474-6000

Electronic submissions can be made by e-mailing all of the above mentioned information to NYS DOS at: CR@dos.state.ny.us.

2. All mooring buoys must be approved by the Ninth Coast Guard District. In addition, prior to or immediately following construction of the dock(s) authorized by this permit you shall contact the U.S. Coast Guard to determine if any safety lights or signals are required. If directed by the U.S. Coast Guard, you shall install and maintain these devices at your expense. Information concerning the approval process may be obtained by calling (216) 902-6074 or by writing to:

Commander (OAN)
Ninth Coast Guard District
ATTN: Private Aids to Navigation
1240 East Ninth Street
Cleveland, Ohio 44199-2060

EXCLUSIONS:

This permit does not apply to:

1. Any freshwater wetland as defined in Department of the Army permit regulations at Title 33 of the Code of Federal Regulations, Parts 320 et. seq., or other special aquatic sites as defined in the U.S. Environmental Protection Agency Guidelines for Specification of Disposal Sites for Dredged or Fill Material at Title 40 of the Code of Federal Regulations, Part 230, except for structures described in Special Conditions 13 and 14 of this permit.
2. Cases where the District Engineer determines that the activity may affect properties listed, or eligible for listing, in the National Register of Historic Places, the activity is not authorized, until the requirements of Section 106 of the National Historic Preservation Act (NHPA) have been satisfied.
3. Any other areas named in Acts of Congress or Presidential Proclamations as National Wilderness Areas, National Recreational Areas, Lakeshores, Parks, Monuments and such areas as may be established under Federal Law for similar and related purposes, such as estuaries and marine sanctuaries, except where specifically authorized by this regional permit.
4. Structures which may jeopardize the continued existence of species listed as endangered or threatened under the Endangered Species Act (ESA) 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, as appropriate, to be a critical habitat under the Endangered Species Act of 1973, as amended. No activity is authorized under this Regional Permit which is likely to 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, or which will destroy or adversely modify the Critical Habitat of such species. Authorization of an activity by this Regional Permit does not authorize the 'take' of a threatened or endangered species as defined under the ESA. In absence of separate authorization (E.G., an ESA Section 10 Permit, a Biological Opinion with 'incidental take' provisions, etc.) from the U.S. Fish and Wildlife Service, both lethal and non-lethal 'takes' of protected species are in violation of the ESA.

5. This permit does not authorize the placement of enclosed buildings, boathouses, fuel storage tanks, sinks, toilets, showers, fuel dispensing or sanitary pump out facilities waterward of the Ordinary High Water shoreline.

LIMITS OF THIS AUTHORIZATION:

1. The granting of this permit does not obviate the need to obtain, nor does it supersede, other Federal, State or local authorizations as required by law. Specifically, a permit pursuant to the Environmental Conservation Law Articles 15, 24 or 34 may be required from the New York State Department of Environmental Conservation.
2. Issuance of this permit does not grant you any property rights or exclusive privileges, nor does it authorize any access or injury to the property or rights of others.
3. This permit does not authorize interference with any existing or proposed Federal project, nor does it convey any authority to interfere with the right of the public to free navigation on all navigable waters of the United States.

LIMITS OF FEDERAL LIABILITY: In issuing this permit, the Federal Government does not assume any liability for the following:

1. Damages to the permitted project or uses thereof as a result of other permitted or unpermitted activities or from natural causes.
2. 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.
3. Damages to persons, property, or to other permitted or unpermitted activities or structures caused by the activity authorized by this permit.
4. Design or construction deficiencies associated with the permitted work.
5. Damages associated with any future modification, suspension, or revocation of this permit.

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.

RE-EVALUATION OF THE DECISION TO GRANT A REGIONAL PERMIT: This office may re-evaluate its decision on this permit at any time circumstances warrant. Circumstances that could require a re-evaluation include, but are not limited to, the following:

1. You fail to comply with the terms and conditions of this permit.
2. The information provided by you in support of your application proves to have been false, incomplete, or inaccurate.
3. Significant and relevant information surfaces which this office did not have the opportunity to consider in reaching the original public interest decision.

Such a re-evaluation may result in a determination that it is appropriate to use the suspension, modification, and revocation procedures contained in Title 33 of the Code of Federal Regulations Part 325.7 or enforcement procedures such as those contained in Title 33 of the Code of Federal Regulations Parts 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 Title 33 of the Code of Federal Regulations Part 209.170) accomplish the corrective measures by contract or otherwise and bill you for the cost.

BY AUTHORITY OF THE SECRETARY OF THE ARMY:

District Commander

Date

When the property associated with the work authorized by this permit is sold or 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 liabilities associated with compliance with its terms and conditions, you must obtain the signature of the new owner in the space provided and forward a copy of the permit to this office to validate the transfer of this authorization.

Transferee

Date

Table 1. Locations of Federally-Listed Threatened and Endangered Species and Candidate Species that may be affected by Regional Permits 79-000-3, 81-000-1, 86-000-1, 87-000-1, and 87-000-13 in waters of the U.S. within the State of New York and subject to regulation by the U.S. Army Engineer District, Buffalo, under Section 404 of the Clean Water Act 1977 (33 U.S.C. 1344) and Section 10 of the Rivers and Harbors Act of 1899.

County	Townships/Watershed	Species/Status/and or Critical Habitat	Avoidance Action Code ₁
Allegany	All Towns, for projects with proposed tree removal	Northern long-eared bat (Threatened)	2
Broome	All Towns, for projects with proposed tree removal	Northern long-eared bat	2
Cattaraugus	HUCs 05010001 and 05010002 (Allegheny River, Cassadaga and Conewango Creek basin.)	Clubshell, Rayed bean mussel (Endangered)	1
	All Towns, for projects with proposed tree removal	Northern long-eared bat	2
Cayuga	Projects in wetlands in all Towns where project is at elevation < 1,000 ft	Bog turtle (Threatened)	1
	All Towns, elevation under 900'	Indiana bat (Endangered)	2
	All Towns, for projects with proposed tree removal	Northern long-eared bat	2
Chautauqua	HUCs 05010001, 05010002, and 05010004 (Allegheny River, Cassadaga and Conewango Creek basin.)	Clubshell, Rayed bean mussel	1
	All Towns, for projects with proposed tree removal	Northern long-eared bat	2
Chemung	All Towns, for projects with proposed tree removal	Northern long-eared bat	2
Chenango	All Towns, for projects with proposed tree removal	Northern long-eared bat	2
Cortland	All Towns, for projects with proposed tree removal	Northern long-eared bat	2
Erie	All Towns, for projects with proposed tree removal	Northern long-eared bat	2
Genesee	Projects in wetlands in all Towns where project is at elevation < 1,000 ft.	Bog turtle, Houghton's goldenrod (Threatened), Eastern massasauga rattlesnake (Candidate)	1
	All Towns, for projects with proposed tree removal	Northern long-eared bat	2

Table 1. Locations of Federally-Listed Threatened and Endangered Species and Candidate Species that may be affected by Regional Permits 79-000-3, 81-000-1, 86-000-1, 87-000-1, and 87-000-13 in waters of the U.S. within the State of New York and subject to regulation by the U.S. Army Engineer District, Buffalo, under Section 404 of the Clean Water Act 1977 (33 U.S.C. 1344) and Section 10 of the Rivers and Harbors Act of 1899.

County	Townships/Watershed	Species/Status/and or Critical Habitat	Avoidance Action Code ¹
Herkimer	All Towns, for projects with proposed tree removal	Northern long-eared bat	2
Jefferson	All Towns, elevation under 900'	Indiana bat	2
	All Towns, for projects with proposed tree removal	Northern long-eared bat	2
	Town of Ellisburg, within 500 meters or 1,640 feet of the Lake Ontario Ordinary High Water line	Piping plover (Endangered) Great Lakes critical habitat	1
Lewis	All Towns, elevation under 900'	Indiana bat	2
	All Towns, for projects with proposed tree removal	Northern long-eared bat	2
Livingston	All Towns, for projects with proposed tree removal	Northern long-eared bat	2
Madison	All Towns, elevation under 900'	Indiana bat	2
	All Towns, for projects with proposed tree removal	Northern long-eared bat	2
Monroe	Projects in wetlands in all Towns where project is at elevation < 1,000 ft.	Bog turtle	1
	All Towns, for projects with proposed tree removal	Northern long-eared bat	2
Niagara	All Towns, for projects with proposed tree removal	Northern long-eared bat	2
Oneida	All Towns within 40 miles of the Town of Dewitt and elevation under 900'	Indiana bat	2
	All Towns, for projects with proposed tree removal	Northern long-eared bat	2
	Projects in wetlands in all Towns where project is at elevation < 1,000 ft.	Bog turtle	1

Table 1. Locations of Federally-Listed Threatened and Endangered Species and Candidate Species that may be affected by Regional Permits 79-000-3, 81-000-1, 86-000-1, 87-000-1, and 87-000-13 in waters of the U.S. within the State of New York and subject to regulation by the U.S. Army Engineer District, Buffalo, under Section 404 of the Clean Water Act 1977 (33 U.S.C. 1344) and Section 10 of the Rivers and Harbors Act of 1899.

County	Townships/Watershed	Species/Status/and or Critical Habitat	Avoidance Action Code ¹
Onondaga	Projects in wetlands in all Towns where project is at elevation < 1,000 ft. In addition, all stream projects in Town of Cicero.	Bog turtle	1
	All Towns, elevation under 900'	Indiana bat	2
	All Towns, for projects with proposed tree removal	Northern long-eared bat	2
Ontario	Projects in wetlands in all Towns where project is at elevation < 1,000 ft.	Bog turtle	1
	All Towns, for projects with proposed tree removal	Northern long-eared bat	2
Orleans	Projects in wetlands in all Towns where project is at elevation < 1,000 ft.	Bog turtle	1
	All Towns, for projects with proposed tree removal	Northern long-eared bat	2
Oswego	Projects in wetlands in all Towns where project is at elevation < 1,000 ft.	Bog turtle	1
	All Towns, elevation under 900'	Indiana bat	2
	All Towns, for projects with proposed tree removal	Northern long-eared bat	2
	Sandy Creek and Richland, within 500 meters or 1,640 feet of the Lake Ontario Ordinary High Water line	Piping plover Great Lakes critical habitat	1
St. Lawrence	All Towns within 40 miles of Watertown, and elevation under 900'	Indiana bat	2
	All Towns, for projects with proposed tree removal	Northern long-eared bat	2
Schuyler	Dix, along west side of Seneca Lake	Leedy's roseroot (Threatened)	1
	All Towns, for projects with proposed tree removal	Northern long-eared bat	2

Table 1. Locations of Federally-Listed Threatened and Endangered Species and Candidate Species that may be affected by Regional Permits 79-000-3, 81-000-1, 86-000-1, 87-000-1, and 87-000-13 in waters of the U.S. within the State of New York and subject to regulation by the U.S. Army Engineer District, Buffalo, under Section 404 of the Clean Water Act 1977 (33 U.S.C. 1344) and Section 10 of the Rivers and Harbors Act of 1899.

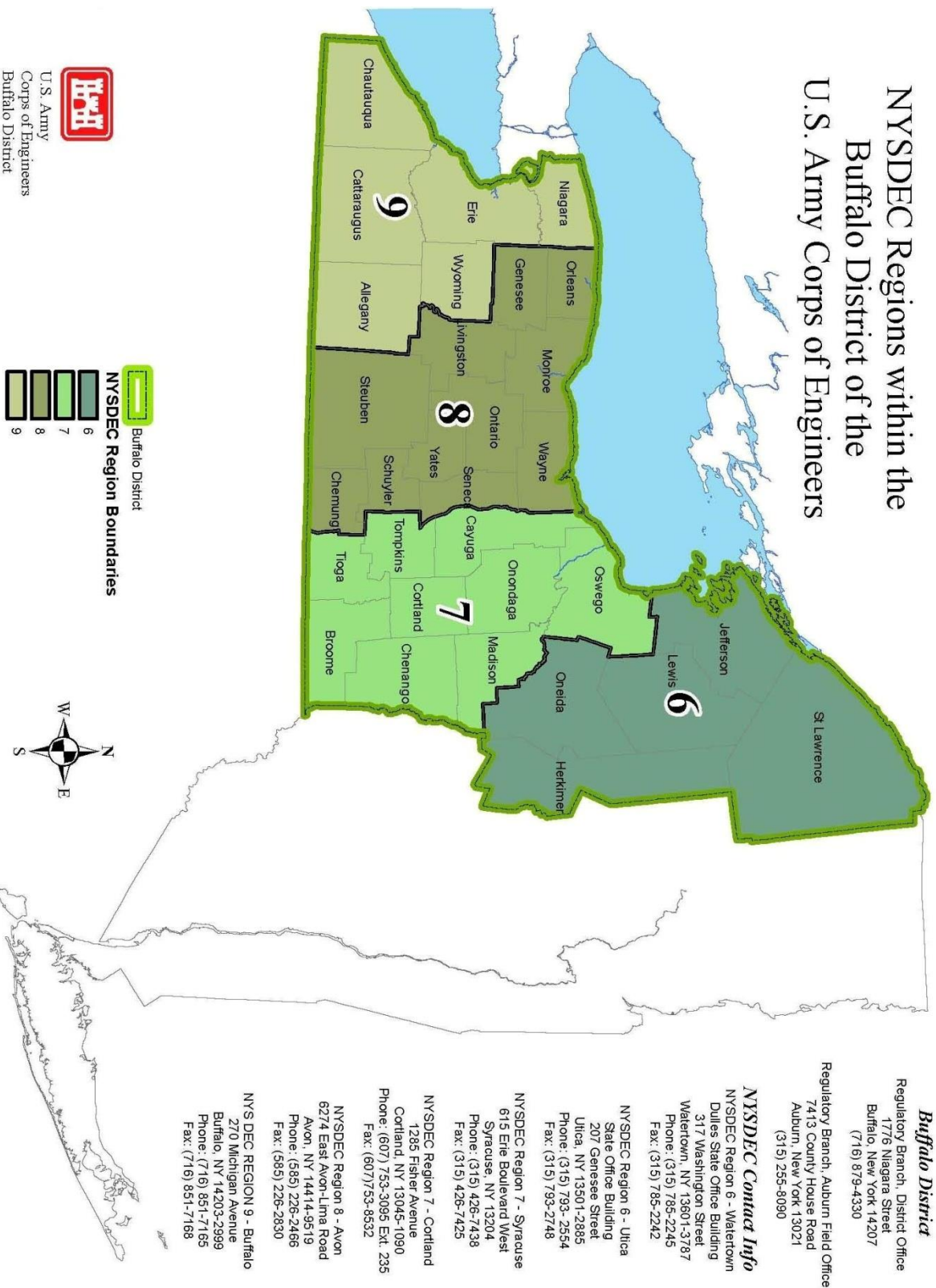
County	Townships/Watershed	Species/Status/and or Critical Habitat	Avoidance Action Code ¹
Seneca	Projects in wetlands in all Towns where project is at elevation < 1,000 ft.	Bog turtle	1
	All Towns within 40 miles of Town of Dewitt and elevation under 900'	Indiana bat	2
	All Towns, for projects with proposed tree removal	Northern long-eared bat	2
Steuben	All Towns, for projects with proposed tree removal	Northern long-eared bat	2
Tioga	All Towns, for projects with proposed tree removal	Northern long-eared bat	2
Tompkins	Projects in wetlands in all Towns where project is at elevation < 1,000 ft.	Bog turtle	1
	All Towns, for projects with proposed tree removal	Northern long-eared bat	2
Wayne	Projects in wetlands in all Towns where project is at elevation < 1,000 ft.	Bog turtle	1
	All Towns within 40 miles of Town of Dewitt, elevation under 900'	Indiana bat	2
	All Towns, for projects with proposed tree removal	Northern long-eared bat	2
Wyoming	All Towns, for projects with proposed tree removal	Northern long-eared bat	2
Yates	Starkey, along west side of Seneca Lake	Leedy's roseroot	1
	All Towns, for projects with proposed tree removal	Northern long-eared bat	2

¹ Avoidance Action Codes:

1) The Corps will coordinate with the USFWS per the Standard Local Operating Procedures for Endangered Species.

2) The Corps will coordinate with the USFWS per the Standard Local Operating Procedures for Endangered Species for any project that includes tree removal (trees 3 inches in diameter or larger). If tree removal occurs within urban areas (refer to USFWS 2016 Rangewide Indiana Bat Summer Survey Guidelines), Pre-construction Notification is NOT required. If no tree removal is proposed, Pre-construction notification is NOT required for these locations.

NYSDEC Regions within the Buffalo District of the U.S. Army Corps of Engineers



IMPORTANT

This form must be completed and mailed to the District Commander **upon completion** of any work authorized by Department of the Army Permit No. 87-000-1

Date:

Regulatory Branch
U.S. Army Corps of Engineers
1776 Niagara Street
Buffalo, New York 14207

To whom it may concern:

You are hereby notified that the work authorized under Department of the Army Regional General Permit No. 87-000-1, was completed on or about _____
(Month/Day/Year)

The work undertaken was as follows (detailed project drawings* are required to supplement written description): _____

*detailed location map and plan view diagram (identifying property and structure dimensions)

I certify that I have complied with the terms and conditions of the Regional Permit 87-000-1.

Applicant Information:

Name:

Mailing Address:

Phone Number:

Site Information (Please attach a location map depicting work site):

Street Address:

Town/Village/City:

County:

State: New York

By: _____
(Authorized Signature) (Title) (Date)



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ARCHITECTS ENGINEERS PLANNERS

Appendix G

NYSDOC Coastal Consistency Form and LWRP Policy Consistency Narrative

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: City of Oswego
2. Address: 20 West Oneida Street Oswego, NY 13126
3. Telephone: Area Code () (315)343-3795

B. **PROPOSED ACTIVITY:**

1. Brief description of activity:

The City of Oswego in Oswego, NY would like to install transient docks along the western bank of the
Oswego River onto an existing steel sheet pile seawall.

2. Purpose of activity:

The proposed temporary docking facility would provide overnight and short term boat mooring with the goal
of increasing traffic on the Oswego River to the downtown Oswego Area.

3. Location of activity:

<u>Oswego</u>	<u>City of Oswego</u>	<u>near 21 Water Street</u>
County	City, Town, or Village	Street or Site Description

4. Type of federal permit/license required: Nationwide Permit 11/ GP 87-000-1 Section 10 Navigable Waterways Permit

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:

NYS OGS- Grants of Easement in Lands Underwater and NYDEC Article 15 Protection of Waters Permit

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

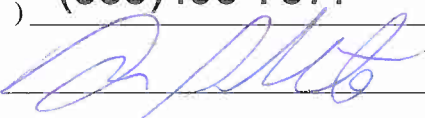
1. If all of the questions in Section C are answered "NO", then the applicant or agency shall complete Section E and submit the documentation required by Section F.

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: David Plante
Address: 200 E. Broad St., Suite 200 Rochester, NY 14604
Telephone: Area Code () (585)498-7877
Applicant/Agent's Signature:  Date: 03/21/18

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.



The proposed project is consistent with Oswego LWRP policies 2, 2b, 6, 9, 9A, 9B, 18, 19, 21, 21A, 21C, and 22A. In addition to being consistent with the policies, the proposed transient docks facilitate the implementation of these policies.

- **POLICY 2:** FACILITATE THE SITING OF WATER-DEPENDANT USES AND FACILITIES ON OR ADJACENT TO COASTAL WATERS.
-The docks will be open to the public.
- **POLICY 2B:** FACILITATE APPROPRIATE ACTIVE AND PASSIVE RECREATIONAL USES AND CULTURAL USES IN OSWEGO WATERFRONT AREA WHICH REQUIRE OR CAN BENEFIT SUBSTANTIALLY FROM A WATERFRONT LOCATION AND WHICH, WHENEVER POSSIBLE, WILL INCREASE NUMBER OF JOBS AND USE OF OSWEGO'S WATERFRONT.
-The increased traffic from boats will increase revenue for local businesses and create jobs.
- **POLICY 6:** EXPEDITE PERMIT PROCEDURES IN ORDER TO FACILITATE THE SITING OF DEVELOPMENT ACTIVITIES AT SUITABLE LOCATIONS.
-Permits for this project have been obtained as quickly as possible.
- **POLICY 9:** EXPAND RECREATIONAL USE OF FISH AND WILDLIFE RESOURCES IN COASTAL AREAS BY DECREASING ACCESS TO EXISTING RESOURCES, SUPPLEMENTING EXISTING STOCKS AND DEVELOPING NEW RESOURCES. SUCH EFFORTS SHALL BE MADE, IN A MANNER WHICH ENSURES THE PROTECTION OF RENEWABLE FISH AND WILDLIFE RESOURCES AND CONSIDERS OTHER ACTIVITIES DEPENDENT ON THEM.
-Efforts have been made to avoid natural wildlife by consulting with New York Natural Heritage and National Wetlands Inventory.
- **POLICY 9A:** EXPAND THE RECREATIONAL USE OF THE OSWEGO FISH AND WILDLIFE RESOURCES, INCLUDING THE FISHERY IDENTIFIED ON FIGURE 2, SECTION II, BY ASSISTING, WHERE FEASIBLE, IN IMPLEMENTING NEW WATERFRONT FACILITIES OR IMPROVEMENT OF EXISTING FACILITIES FOR FISHING AND BOATING ACTIVITIES.
-The proposed dock would facilitate recreational fishing.
- **POLICY 9B:** ENCOURAGE THE EXPANSION OF RECREATIONAL FACILITIES TO SUPPORT THE GROWTH OF THE TOURIST INDUSTRY.
-The docks will allow tourists to dock their boats so they may visit the area.
- **POLICY 18:** TO SAFEGUARD THE VITAL ECONOMIC, SOCIAL AND ENVIRONMENTAL INTERESTS OF THE STATE AND OF ITS CITIZENS, PROPOSED MAJOR ACTIONS IN THE COASTAL AREA MUST GIVE FULL CONSIDERATION TO THOSE INTERESTS, AND TO THE SAFEGUARDS WHICH THE STATE HAS ESTABLISHED TO PROTECT VALUABLE COASTAL RESOURCE AREAS.
-The City of Oswego has considered the economic, social, and environmental interests of the State and its citizens before proposing said project.
- **POLICY 19:** PROTECT, MAINTAIN AND INCREASE THE LEVELS AND TYPES OF ACCESS TO PUBLIC WATER-RELATED RECREATION RESOURCES AND FACILITIES SO THAT THESE RESOURCES AND FACILITIES MAY BE FULLY UTILIZED BY ALL THE PUBLIC IN ACCORDANCE WITH REASONABLY ANTICIPATED PUBLIC RECREATION NEEDS AND THE PROTECTION OF HISTORIC AND NATURAL RESOURCES, IN PROVIDING SUCH ACCESS, PRIORITY SHALL BE GIVEN TO PUBLIC BEACHES, BOATING FACILITIES, FISHING AREAS AND WATERFRONT PARKS.
-This proposed project will increase public access by supplying a place for visitors to temporarily park their boats.
- **POLICY 21:** WATER-DEPENDENT AND WATER-ENHANCED RECREATION SHALL BE ENCOURAGED AND FACILITATED AND SHALL BE GIVEN PRIORITY OVER NONWATER-RELATED USES ALONG THE COAST, PROVIDED IT IS CONSISTENT WITH THE PRESERVATION AND ENHANCEMENT OF



OTHER COASTAL RESOURCES AND TAKES INTO ACCOUNT DEMAND FOR SUCH FACILITIES, IN FACILITATING SUCH ACTIVITIES, PRIORITY SHALL BE GIVEN TO AREAS WHERE ACCESS TO THE RECREATION OPPORTUNITIES OF THE COAST CAN BE PROVIDED BY NEW OR EXISTING PUBLIC TRANSPORTATION SERVICES AND TO THOSE AREAS WHERE THE USE OF THE SHORE IS SEVERELY RESTRICTED BY EXISTING DEVELOPMENT.

-The Oswego River has not been developed in this area. This project would provide a new access point for visitors.

- **POLICY 21A:** PROVIDE OPPORTUNITIES FOR WATER-RELATED RECREATION SUCH AS BOATING AND FISHING AS WELL AS RECREATIONAL ACTIVITIES WHICH ARE ENHANCED BY A COASTAL LOCATION SUCH AS PEDESTRIAN AND JOGGING PATHS, PICNIC AREAS, AND SCENIC VIEWS.

-The above mentioned amenities are already currently available close by the proposed project area. The transient docks would provide visitors with another form of access to those that strictly use boats as transportation when visiting the area.

- **POLICY 21C:** CONTINUE TO MAINTAIN ADEQUATE TRANSPORTATION FACILITIES SERVING WATER-RELATED RECREATIONAL NEEDS.

-No public transportation will be discontinued due to this project.

- **POLICY 22A:** ENCOURAGE THE EXPANSION OF WATER-RELATED RECREATIONAL FACILITIES TO SUPPORT THE GROWTH OF THE TOURIST INDUSTRY.

-Similar to Policy 9B, the proposed docks will allow tourists to dock their boats and visit the area.



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Appendix H

NYSOGS Land Underwater License Form

**NEW YORK STATE OFFICE OF GENERAL SERVICES
INSTRUCTIONS
APPLICATION FOR A LICENSED USE OF LAND UNDERWATER
(marinas & marina structures, moorings, docks. etc.)**

An application for use of land underwater, pursuant to Article 6 Section 75 7(b) of the Public Lands Law, shall be made to the Commissioner of General Services.

Please read these instructions and the enclosed pages. The application is composed of pages 1 thru 5 and is intended to provide information on the existing or proposed structure, use or project, and notice of the project to your shorefront neighbors and municipality. Applicant should fill out each page of the application and return the same to the address set forth at the end of these instructions.

- ◆ Pages 1 & 2 is the application pursuant to Article 6 Section 75 of the Public Lands Law
 - **Please Note, as detailed on Page II of these instructions, the requirement of material necessary to complete the application process.**
- ◆ Page 3 is a notice of your application, to be served upon the local municipality.
- ◆ Page 4 is a notice of your application to be served upon your adjoining WATERFRONT owners (your neighbors on either side of your property.) For the purpose of identifying an adjacent owner of waterfront lands, you may use the latest completed tax assessment roll.
- ◆ Page 5 is the Affidavit of Service providing proof that you served the local municipality and adjacent waterfront owners with notice of the application. An affidavit of service must be completed for each service of notice.

PLEASE ALLOW A PERIOD OF AT LEAST TWENTY (20) DAYS AFTER THE DATE OF SERVICE OF THE NOTICE OF APPLICATION BEFORE YOU SUBMIT YOUR APPLICATION, TO ALLOW THE MUNICIPALITY AND ADJOINING SHOREFRONT OWNERS SUFFICIENT TIME TO COMMENT ON YOUR APPLICATION.

The following additional documents shall be submitted with your application for use of underwater lands. (You may wish to check off these documents prior to submission of the application).

- ☐ A certified copy of the deed of applicant's adjacent upland (available from the County Clerk's Office).
- ☐ Copies of adjoining waterfront owner's deeds (available from the County Clerk's Office).
- ☐ A full size copy of the Tax Map (available from the County Tax Office).
- ☐ A drawing or survey delineating the applicant's upland property boundaries and Stateowned lands to be used, including in-water docks and structures (existing or proposed).
- ☐ Photograph(s) of the project area, showing the project in relation to adjacent property lines.
- ☐ A State Environmental Quality Review Act (SEQR) Form (new projects only).

The Commissioner may require additional submissions such as a legal description, permits or letters from the U.S. Army Corps of Engineers, the NYS Department of Environmental Conservation, the NYS Department of State, the NYS Office of Parks, Recreation and Historic Preservation, and county or local agencies.

Receipt of these materials will be acknowledged immediately. After an initial review, the applicant will be advised of the fees required and whether further information is necessary.

Applications should be sent to:

NYS OFFICE OF GENERAL SERVICES
BUREAU OF LAND MANAGEMENT
CORNING TOWER, 26TH FLOOR
EMPIRE STATE PLAZA
ALBANY, NY 12242

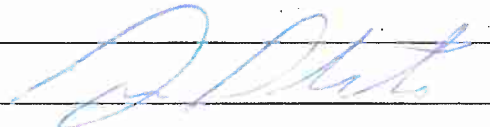
**NEW YORK STATE OFFICE OF GENERAL SERVICES
APPLICATION FOR USE OF LAND UNDERWATER
PURSUANT TO THE PUBLIC LANDS LAW
ARTICLE 6 -- SECTION 75**

Check one:

- ☐ Existing facility
☐ Expansion of existing facility
☒ New facility

For official use only
File No. _____

Please print or type information requested.

NAME OF APPLICANT: City of Oswego	
If Corporation:	Profit <input type="checkbox"/> Non-profit <input type="checkbox"/> Municipal <input checked="" type="checkbox"/>
ADDRESS OF APPLICANT: 20 West Oneida Street	TELEPHONE: (315) 343-3795 FEDERAL TAX ID #:
AGENT FOR APPLICANT: David Plante	
ADDRESS OF AGENT: 280 E. Broad St., Suite 200 Rochester, NY 14604	TELEPHONE: (585) 498-7941
LOCATION OF PROJECT: (include street address of upland and body of water) near 21 Water Street Oswego, NY on the bank of the Oswego River	
CITY/TOWN/VILLAGE OF: City of Oswego	
COUNTY OF: Oswego	
TAX MAP NUMBER: 128.55-02-02	LONGITUDE: -76.511133 LATITUDE: 43.458611 X
DESCRIPTION OF PROJECT OR STRUCTURE: (INCLUDE NO. OF SLIPS/MOORINGS, DOCK MEASUREMENTS, AND DIMENSIONS OF LAND UNDERWATER ENCUMBERED BY THE PROJECT) The purpose of the proposed project is to construct transient docks along the western bank of the Oswego River for short term and overnight boat mooring. This would require the installation of a removable docking system with the ultimate goal of increasing traffic from boats on the Oswego River/ Canal system to the downtown Oswego area. The temporary docking facility is to consist of a temporary dock (measuring 300 ft. long by 8 ft. wide), a gangway (80 ft. x 6 ft.), and a platform (8 ft. by 10 ft.).	
Signature: 	Date: 03/26/18

NEW YORK STATE OFFICE OF GENERAL SERVICES

AFFIDAVIT OF APPLICANT

STATE OF New York }

:

SS.:

COUNTY OF Oswego }

On the 28th day of March, in the year 2018, before me, the undersigned, a Notary Public in and for said State, personally appeared William J. Barlow, Jr., personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

LISA M DONABELLA
Notary Public, State of New York
No. 01DO6102601
Qualified in Oswego County
Commission Expires December 8, 2019

Lisa M Donabella

Notary Public, State of New York

Qualified in County of:

My Commission Expires

**NEW YORK STATE OFFICE OF GENERAL SERVICES
NOTICE OF APPLICATION PURSUANT TO
THE PUBLIC LANDS LAW**

To be served upon: Mayor, Supervisor, Clerk or Corporation
Counsel, as required

Check One:

- ☐ Existing facility
- ☐ Expansion of
existing facility
- ☐ New facility

In the Matter of the Application of

Not Applicable
(the applicant is the
City of Oswego)

for use of land under the waters of
City/Town

County

**NOTICE
OF
APPLICATION**

To:

Name and Title of Official and Municipality

Address:

You are hereby notified that it is the intention of the undersigned to apply on the ____ day of _____, 20____
(Application must be dated at least 20 days after the date of Service of Notice) to the Commissioner of General
Services, pursuant to the provisions of the Public Lands Law, for use of land underwater of the State of New York,
described as follows (insert brief description of project area including dimensions and use):

**If you believe that you will be adversely affected by this application, you should file, on or before the above
date, or within 20 days upon receipt of this notice, your objections to the application with the
Commissioner of General Services, Corning Tower, Empire State Plaza, Albany, NY 12242.**

Applicant address and telephone: (please print or type)

Applicant (signature)

Dated:

**NEW YORK STATE OFFICE OF GENERAL SERVICES
NOTICE OF APPLICATION PURSUANT TO
THE PUBLIC LANDS LAW**

Check One:

- ☐ Existing facility
- ☐ Expansion of
existing facility
- ☐ New facility

To be served upon: Adjoining Owner

In the Matter of the Application of

Not Applicable
(Applicant owns
adjoining properties)

for use of land under the waters of
City/Town

County

**NOTICE
OF
APPLICATION**

To:

Name of Adjoining Owner

Address:

You are hereby notified that it is the intention of the undersigned to apply on the ____ day of _____, 20____
(*Application must be dated at least 20 days after the date of Service of Notice*) to the Commissioner of General
Services, pursuant to the provisions of the Public Lands Law, for use of land underwater of the State of New York,
described as follows (*insert brief description of project area including dimensions and use*):

**If you believe that you will be adversely affected by this application, you should file, on or before the above
date, or within 20 days upon receipt of this notice, your objections to the application with the
Commissioner of General Services, Corning Tower, Empire State Plaza, Albany, NY 12242.**

Applicant address and telephone: (please print or type)

Applicant (signature)

Dated:

NEW YORK STATE OFFICE OF GENERAL SERVICES

(Extra copies of this form may be made as needed)

Application of

Not Applicable

: **AFFIDAVIT OF SERVICE**
:
: **OF**
:
: **NOTICE OF APPLICATION**

for use of land under the waters of
in the City/Town _____ County _____

: **(To be completed by the person**
: **serving the Notice of Application)**

STATE OF NEW YORK, COUNTY OF _____, _____ being duly sworn,
deposes and says; deponent is over 18 years of age and resides at _____
_____. That on _____ 20__ at _____ deponent served
the Notice of Application on _____ personally known to the deponent to be the
owner(s) of record of the waterfront land adjoining the land of the applicant and the area applied for, as follows:

INDIVIDUAL by delivering a true copy to said owner(s) personally; deponent knew the person so served
1. ☐ to be the owner(s) described in said record.

CORPORATION a _____ corporation, by delivering thereat a true copy to
2. ☐ _____ personally, deponent knew said corporation so served to be said
(includes City, corporate owner(s) and knew said individual to be the _____ thereof.
Town, Village)

SUITABLE AGE by delivering thereat a true copy to _____, a person of suitable
PERSON age and discretion. Said premises is owner's(s') actual place of business, dwelling place,
3. ☐ usual place of abode within the State.

**If the owner(s) cannot be personally served within this State after making diligent efforts
to do so, then service methods 4 and 5 may be used.**

AFFIXING TO by affixing a true copy to the door of said premises, which is owner(s) actual place of
DOOR, ETC. place of business, dwelling place, usual place of abode within the State.
4. ☐

AND

MAILING TO EITHER deponent enclosed a copy of same in a postpaid envelope properly addressed to
RESIDENCE OR owner(s) at owner(s) last known residence, as shown on local tax rolls at
BUSINESS _____ and deposited said
5. ☐ envelope (certified mail) in an official depository under the exclusive care and custody of the
U.S. Postal Service within New York State OR deponent enclosed a copy of same in a
postpaid envelope addressed to owner(s) at owner's actual place of business, at _____
_____ and deposited said envelope (certified mail) in an official
depository under the care and custody of the U.S. Postal Service within New York State.

STATE OF

}

:

SS.:

COUNTY OF

}

Deponent's (Server's) Signature

On the _____ day of _____, in the year 20__ , before me, the undersigned, a Notary Public in and for said State,
personally appeared _____, personally known to me or proved to me on the basis of satisfactory
evidence to be the individual(s) whose name(s) is (are) subscribed to the instrument and acknowledged to me that
he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the
individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.


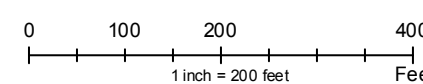
Notary Public, State of New York
Qualified in County of:
My Commission Expires

PLEASE ATTACH COPY OF THE NOTICE OF APPLICATION

Tax Map



Oswego County Real Property Tax Service

 	<p>PROPERTY LINE</p> <p>PUBLIC RIGHT OF WAY</p> <p>BLOCK LIMIT</p> <p>PRIVATE RIGHT OF WAY</p> <p>TOWN VILLAGE CITY</p>	<p>SCHOOL DISTRICT LINE</p> <p>GREAT LOT LINE</p> <p>HYDROLOGY</p> <p>DENOTES COMMON OWNER</p>	<p>CALCULATED ACREAGE 7.50 A (C)</p> <p>DEED ACREAGE 7.50 A</p> <p>SCALED DIMENSION 22.5 (S)</p> <p>DEED DIMENSION 150</p>
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FOR ASSESSMENT PURPOSES ONLY. THIS IS NOT A SURVEY.



MAP PREPARED BY
**OSWEGO COUNTY OFFICE
OF REAL PROPERTY**
OSWEGO, NEW YORK

COORDINATES BASED ON
NEW YORK STATE PLANE COORDINATE SYSTEM
CONTIGUOUS ZONE 1818
Scale: 1 inch = 50 feet
1:500
Map updated on: 09/08/2018

LOCUS MAP

SPECIAL DISTRICTS
SCHOOL DISTRICT LINE
GREAT LOT LINE
HYDROLOGY
DENOTES COMMON OWNER

LEGEND
PROPERTY LINE
PUBLIC RIGHT OF WAY
BLOCK LIMIT
PRIVATE RIGHT OF WAY
TOWN VILLAGE CITY

LEGEND
GREAT LOT NUMBER
TAX MAP BLOCK NUMBER
SUBDIVISION LOT NUMBER
TAX MAP PARCEL NUMBER

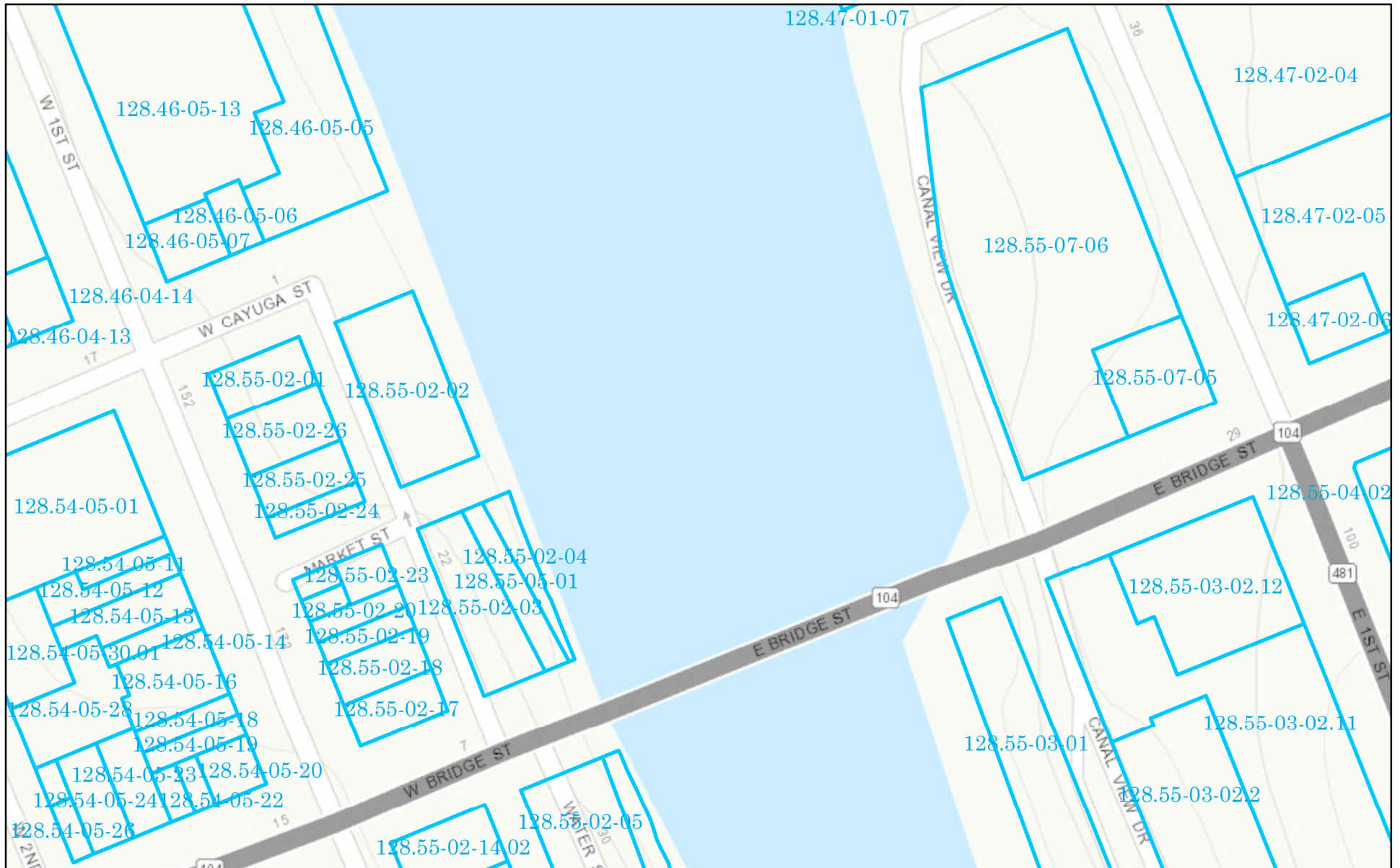
LEGEND
CALCULATED ACREAGE
DEED ACREAGE
SCALED DIMENSION
DEED DIMENSION

N



TAX MAP
OSWEGO COUNTY, NEW YORK
CITY OF OSWEGO
FOR ABBREVIATION PURPOSES ONLY. THIS IS NOT A SURVEY.

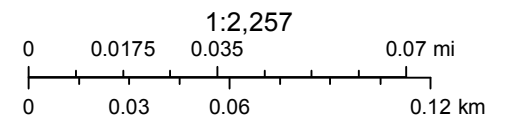
128.55

Oswego County GIS Viewer



March 26, 2018

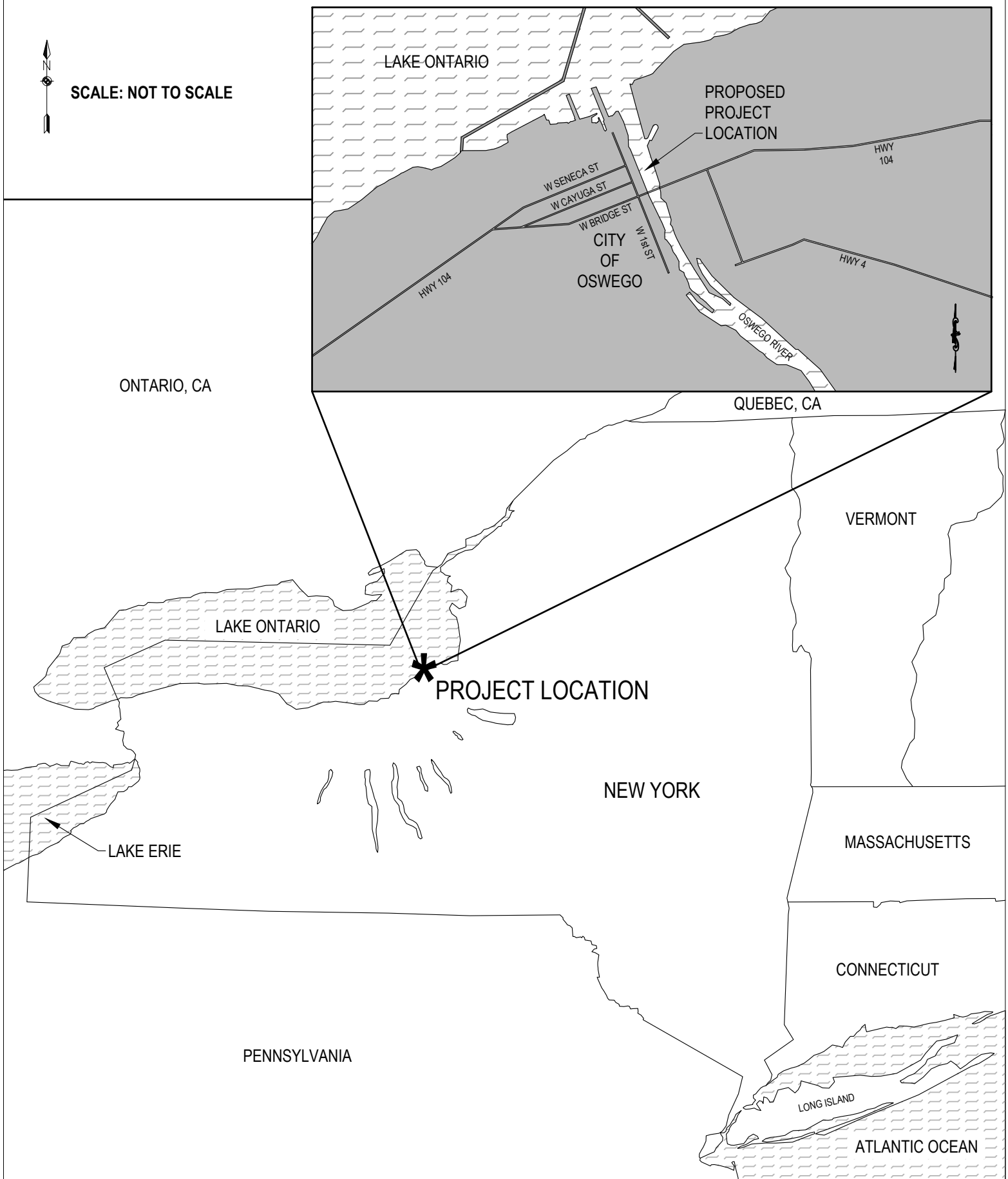
-  Municipalities
-  Parcels



Sources: Esri, HERE, Garmin, Intermap, increment P Corp., GEBCO, USGS, FAO, NPS, NRCAN, GeoBase, IGN, Kadaster NL, Ordnance Survey, Esri



SCALE: NOT TO SCALE



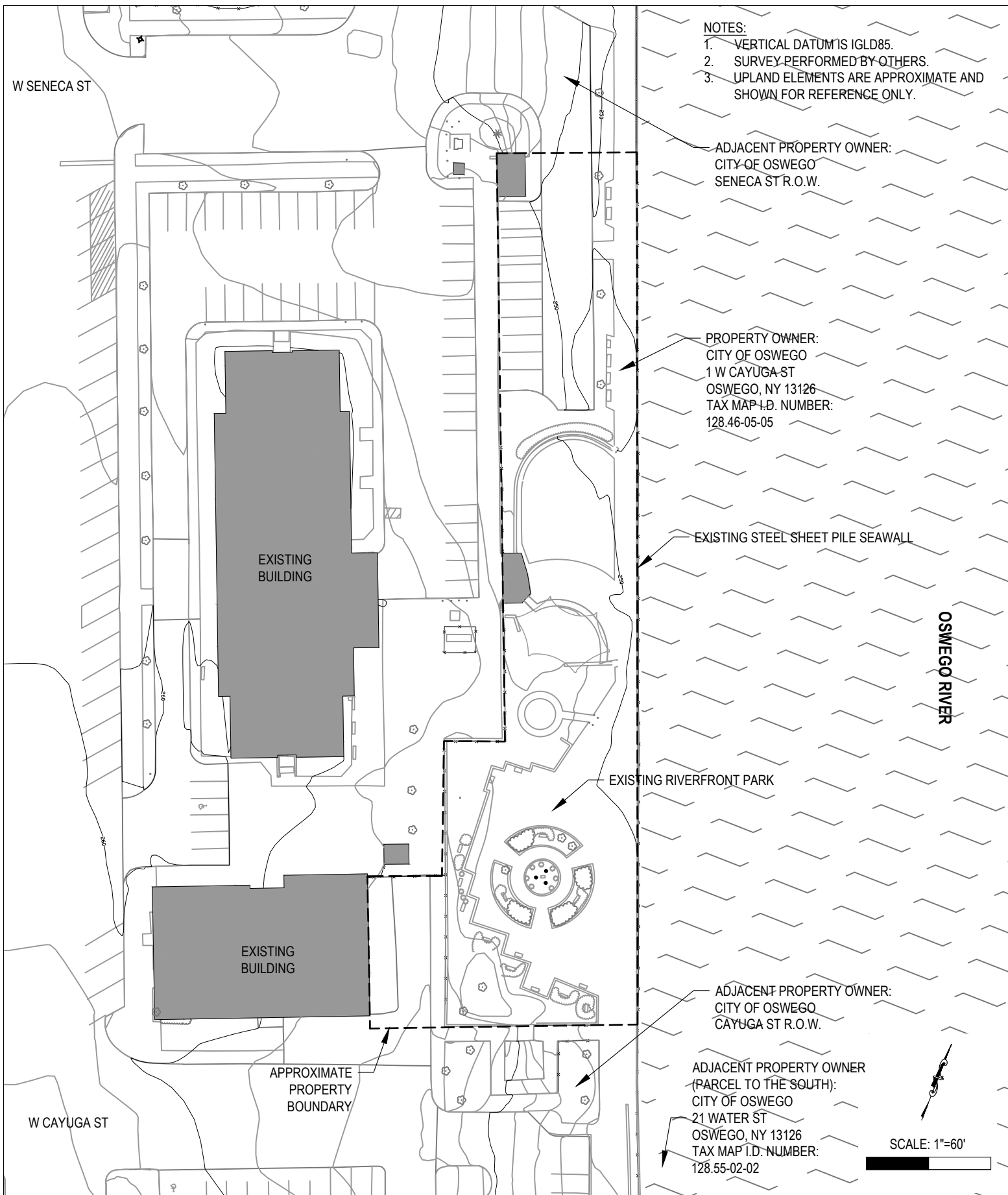
Edgewater
resources

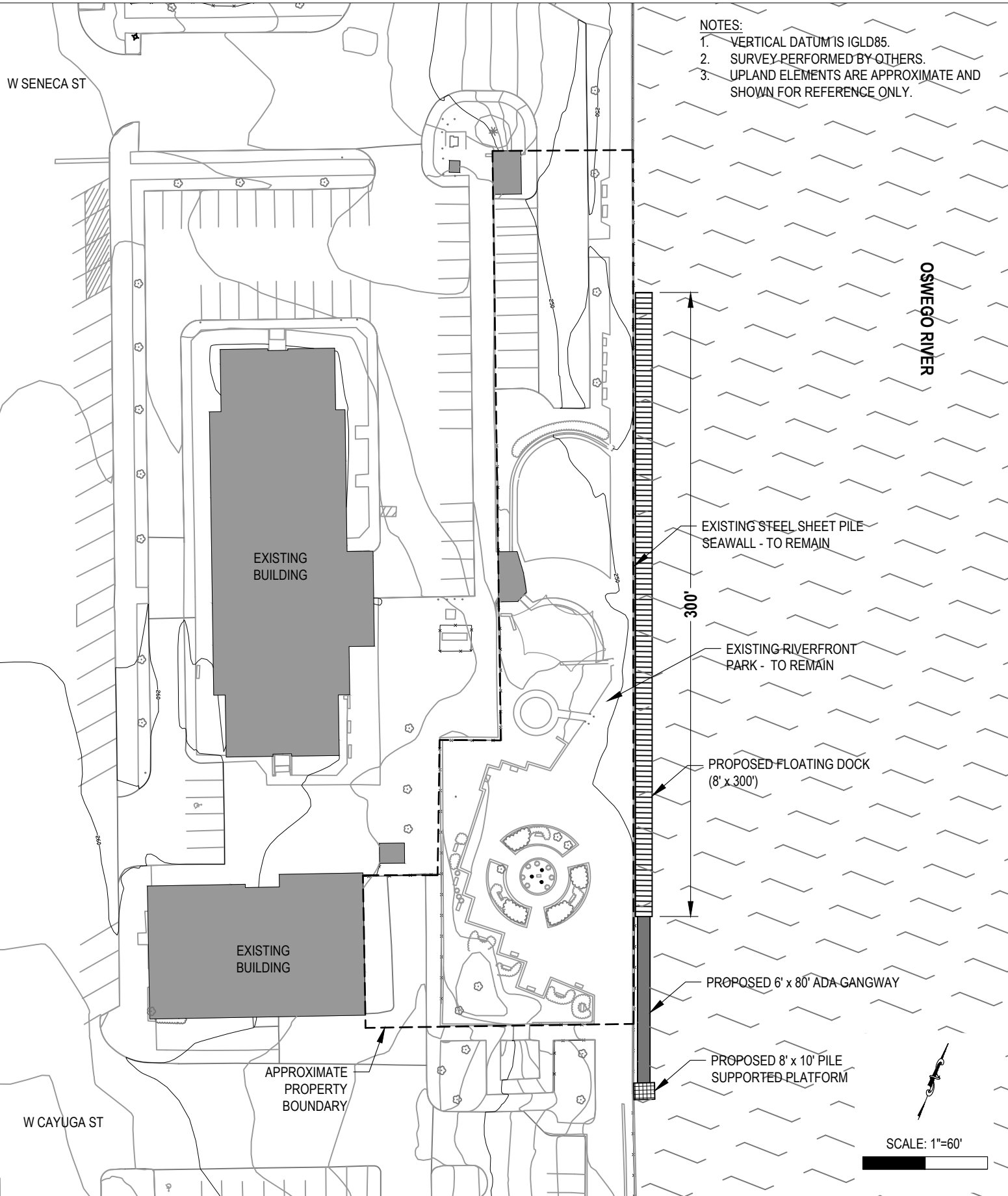
518 BROAD STREET, SUITE 200
ST. JOSEPH, MI 49085
P: 269 932 4502
F: 269 932 3542

LOCATION MAP

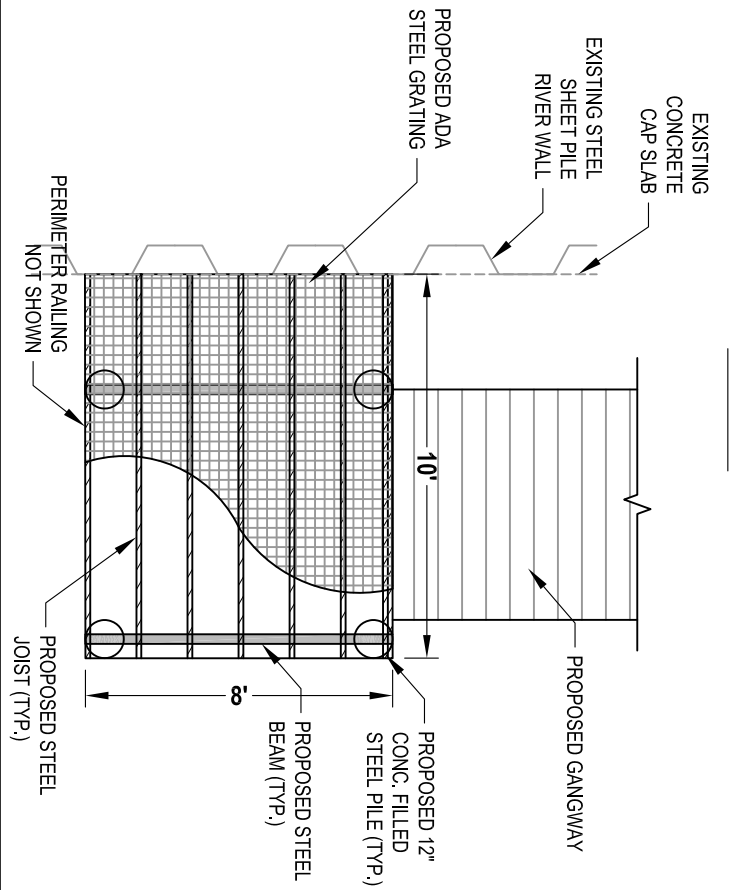
APPLICANT: CITY OF OSWEGO
WATERWAY: OSWEGO RIVER
CITY: OSWEGO, NY
COUNTY: OSWEGO
DATE: 3/5/2018
DATUM: IGLD85

SHEET: 1 OF 5

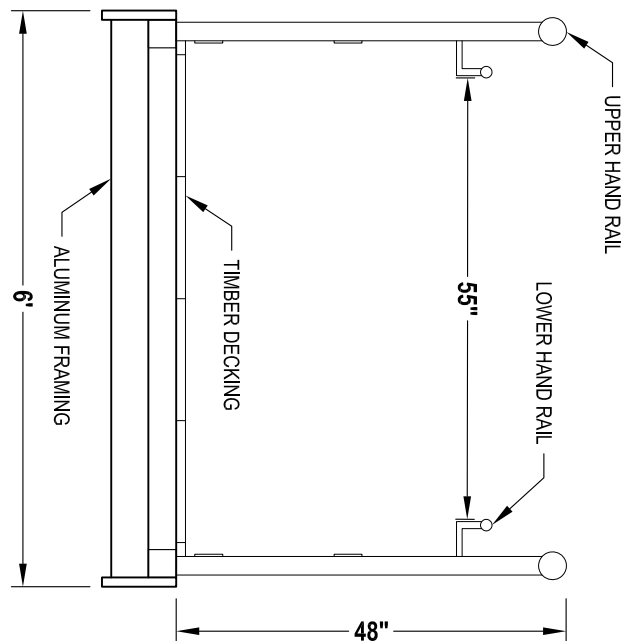




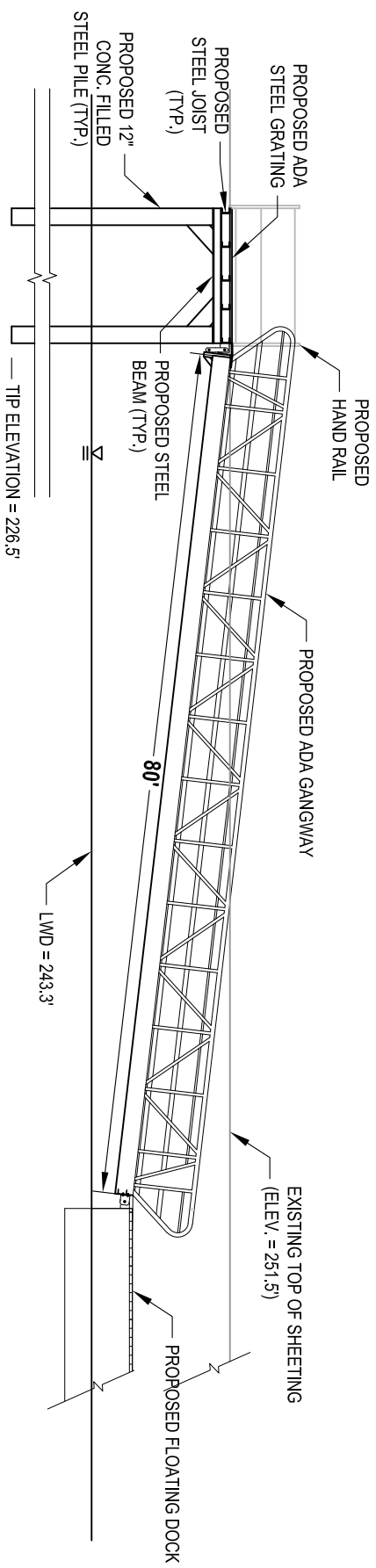
PLAN VIEW



TYPICAL GANGWAY SECTION



PROFILE VIEW



NOTES:

1. VERTICAL DATUM IS IGLD85.
2. SURVEY PERFORMED BY OTHERS.
3. UPLAND ELEMENTS ARE APPROXIMATE AND SHOWN FOR REFERENCE ONLY.

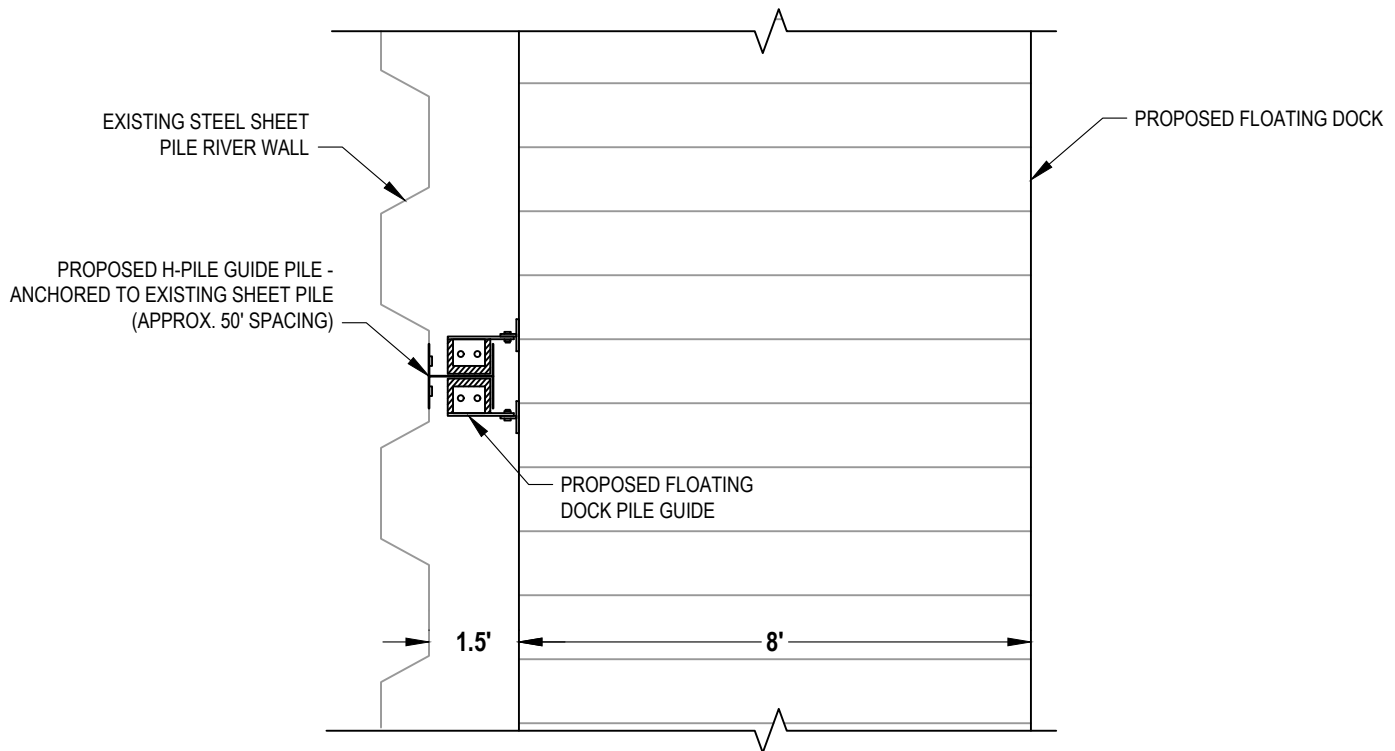
SCALE: NTS

PLATFORM & GANGWAY DETAILS

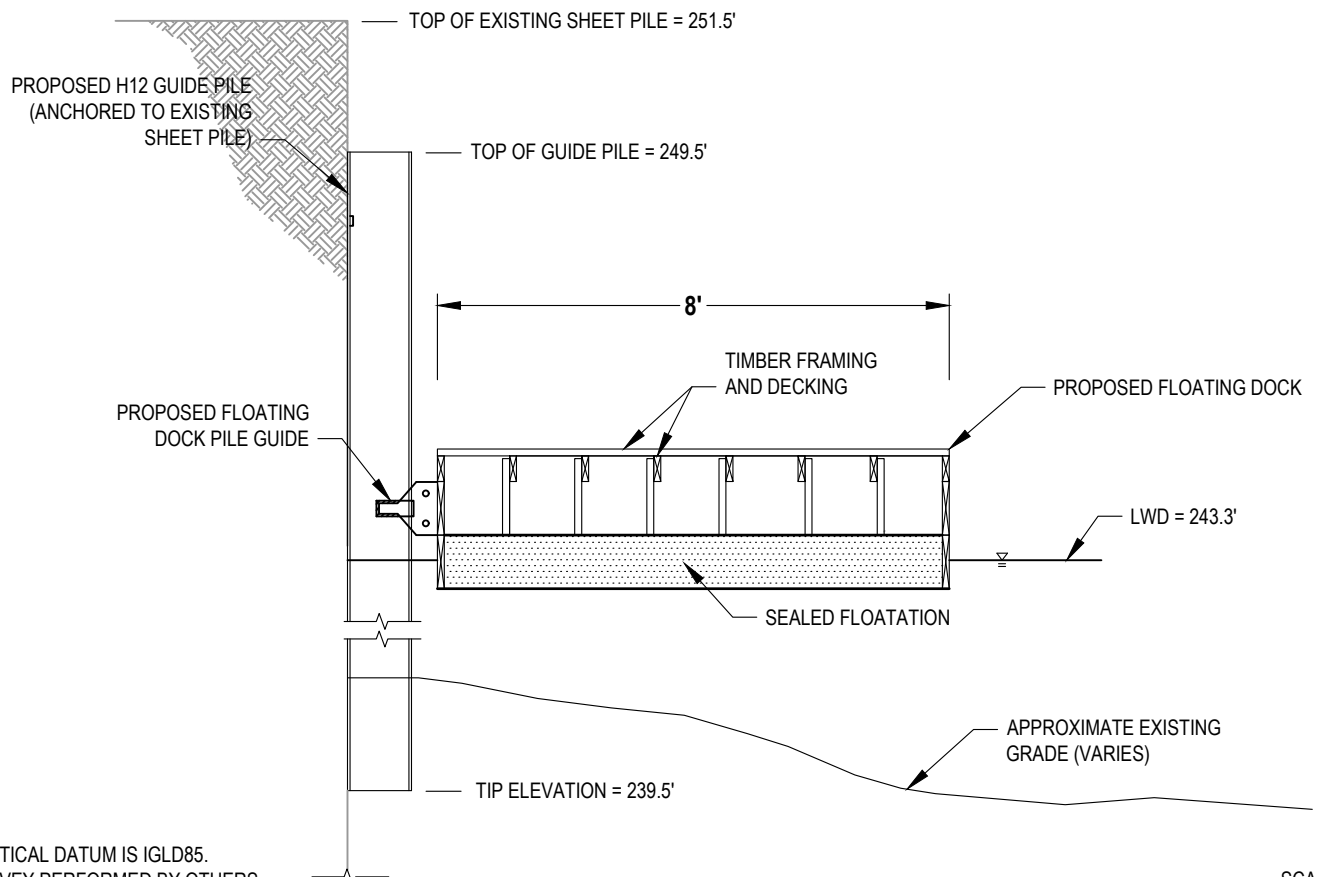
APPLICANT: CITY OF OSWEGO
WATERWAY: OSWEGO RIVER
CITY: OSWEGO, NY
COUNTY: OSWEGO
DATE: 3/5/2018
DATUM: IGLD85

SHEET: 4 OF 5

PLAN VIEW



TYPICAL SECTION



NOTES:

1. VERTICAL DATUM IS IGLD85.
2. SURVEY PERFORMED BY OTHERS.
3. UPLAND ELEMENTS ARE APPROXIMATE AND SHOWN FOR REFERENCE ONLY.

SCALE: 1"=3'



518 BROAD STREET, SUITE 200
ST. JOSEPH, MI 49085
P: 269 932 4502
F: 269 932 3542

FLOATING DOCK DETAILS

APPLICANT: CITY OF OSWEGO
WATERWAY: OSWEGO RIVER
CITY: OSWEGO, NY
COUNTY: OSWEGO
DATE: 3/5/2018
DATUM: IGLD85

SHEET: 5 OF 5



Subject property (facing north)



Within subject property (facing north)



Within subject property (facing south)



Facing south along Water Street



Sidewalk on east side of subject property and Oswego River.



Facing east towards subject property



Water St. (west of subject property)



Northwest corner of subject property. Parking lot entrance with sewer manhole

A 285
Rev Stamp
1286.00
12

Standard N.Y.B.T.U. Form 6008
Warranty Deed with full Covenants—Ind. or Corp.

DATE CODE

850 35
JULIUS ROSENBERG, THE LAW BLANK PUBLISHERS
80 EXCHANGE PL. AT BROADWAY, N. Y. C. 10004

CONSULT YOUR LAWYER BEFORE SIGNING THIS INSTRUMENT—THIS INSTRUMENT SHOULD BE USED BY LAWYERS ONLY.

THIS INDENTURE, made the 15th day of September, nineteen hundred and eighty-one.
BETWEEN NEAL-O'BRIEN BUILDING AND MATERIALS CORPORATION,
West First Street and Erie Street, Oswego,
New York 13126,

party of the first part, and CITY OF OSWEGO, NEW YORK, a duly incorporated
Municipal Corporation, City Hall, Oswego,
New York 13126,

party of the second part,
WITNESSETH, that the party of the first part, in consideration of TWO HUNDRED SIXTY THOUSAND AND
NO/100-----(\$260,000.00) dollars,
lawful money of the United States, and other good and valuable consideration paid
by the party of the second part, does hereby grant and release unto the party of the second part, their heirs or
successors and assigns of the party of the second part forever,

ALL that certain plot, piece or parcel of land, with the buildings and improvements thereon erected, situate,
lying and being in the City of Oswego, County of Oswego and State of New York
being part of Block 17 and being more particularly bounded and
described as follows:

PARCEL NO. 1: ALL THAT TRACT OR PARCEL OF LAND in said Block 17
and being part of Lot No. 7, beginning at a point at the intersection
of the Southerly line of West Seneca Street and the Easterly line of
West First Street; running thence Easterly along the Southerly line of
West Seneca Street a distance of 100 feet to the Westerly line of Water
Street; thence Southerly along said Westerly street line of Water Street
a distance of 66 feet; thence Westerly, parallel with the said West
Seneca Street a distance of 100 feet to the said Easterly line of West
First Street; thence Northerly along the Easterly street line of West
First Street a distance of 66 feet to the place of beginning, containing
6,600 square feet of land, more or less. The premises hereby intended
to be conveyed are all those tracts or parcels of land described in a
deed dated the 1st day of January, 1971, from the William G. O'Brien
Realty Co., Inc. to the grantor herein, said deed recorded in the Oswego
County Clerk's Office on the 24th day of January, 1971, in Book of Deeds
736 at Page 513; said described premises also being generally known as
109 thru 115 West First Street.
Together with all right, title and interest, if any, to the road-
beds of adjoining streets, roads, or highways, and adjacent strips,
alleys, and gores of land.

PARCEL NO. 2: ALL THOSE TRACTS OR PARCELS OF LAND in said Block 17
and being the part of Lots 7, 8, 9, 10, 11 and 12 of said Block lying
East of Water Street and West of the Oswego River, more particularly
bounded and described as follows: BEGINNING at a point at the inter-
section of the Southerly line of West Seneca Street and the Easterly
line of Water Street; running thence Easterly along said Southerly line
of West Seneca Street a distance of 99 feet to the Northeasterly corner
of said Lot No. 7; running thence Southerly along the division line
between said Oswego River on the East and Lot 7, 8, 9, 10, 11 and 12 on
the West 396 feet to the Northerly line of West Cayuga Street; running
thence Westerly along said Northerly line a distance of 94 feet to the
Easterly line of the said Water Street; running thence Northerly along
said Easterly line of the said Water Street 396 feet to the place of

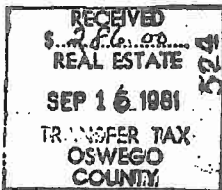
LINE 850 PG 36

beginning, containing 38,214 square feet of land, more or less. The premises hereby intended to be conveyed are all those tracts or parcels of land described in a deed dated the 1st day of January, 1971, from the William G. O'Brien Realty Co., Inc. to the grantor herein, said deed recorded in the Oswego County Clerk's Office on the 24th day of January, 1971, in Book of Deeds 735 at Page 511.

Together with all right, title and interest, if any, to the road-beds of adjoining streets, roads, or highways, and adjacent strips, alleys and gores of land.

PARCEL NO. 3: ALL THAT TRACT OR PARCEL OF LAND in said Block 17 and being part of Lots 8, 9, 10, 11 and 12 in said Block 17, beginning at a point in the Easterly line of West First Street a distance of 61 feet Northerly along said street line from the Northerly line of West Cayuga Street; running thence Northerly along the Easterly line of West First Street a distance of 244 feet to the Southerly line of lands of Weir P. Mitchell (more particularly described in a deed recorded in the Oswego County Clerk's Office in Book of Deeds 419 at Page 514); running thence along the Southerly line of the lands of the said Mitchell Easterly parallel with West Seneca Street a distance of 50 feet; running thence Northerly along the lines of the said Mitchell and parallel with the said West First Street a distance of 5 feet; running thence Easterly along the Southerly line of the lands of the said Mitchell and parallel with the said West Seneca Street a distance of 50 feet to the Westerly line of Water Street; running thence Southerly along said Westerly line of the said Water Street a distance of 244 feet to the Northerly line of said Lot No. 12; running thence Westerly along the said Northerly line of Lot No. 12 a distance of 42.5 feet; running thence Southerly and parallel with the said West First Street a distance of 5 feet; running thence Westerly and parallel with the said Northerly line of Lot No. 12 and 5 feet Southerly therefrom a distance of 57.5 feet to the place of beginning, containing 24,438 square feet of land, more or less. The premises hereby intended to be conveyed are all those tracts or parcels of land described in two deeds as follows: A deed dated the 1st day of January, 1971, from the William G. O'Brien Realty Co., Inc. to the grantor herein, said deed recorded in the Oswego County Clerk's Office on the 24th day of January, 1971, in Book of Deeds 735 at Page 507; and a deed dated the 8th day of January, 1974, from Harold D. Coe to the grantor herein, said deed recorded in the Oswego County Clerk's Office on the 8th day of January, 1974, in Book of Deeds 773 at Page 234; said described premises also being generally known as 119 thru 139 West First Street.

Together with all right, title and interest, if any, to the road-beds of adjoining streets, roads, or highways, and adjacent strips, alleys and gores of land.



LIBER 850 FC 37

TOGETHER with all right, title and interest, if any, of the party of the first part in and to any streets and roads abutting the above described premises to the center lines thereof,

TOGETHER with the appurtenances and all the estate and rights of the party of the first part in and to said premises.

TO HAVE AND TO HOLD the premises herein granted unto the party of the second part, the heirs or successors and assigns of the party of the second part forever.

OSWEGO COUNTY
CLERK'S OFFICE
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SEP 16 PM 3:14

AND the party of the first part, in compliance with Section 13 of the Lien Law, covenants that the party of the first part will receive the consideration for this conveyance and will hold the right to receive such consideration as a trust fund to be applied first for the purpose of paying the costs of the improvement and will apply the same first to the payment of the cost of the improvement before using any part of the total of the same for any other purpose.

AND the party of the first part covenants as follows:

FIRST.—That said party of the first part is seized of the said premises in fee simple, and has good right to convey the same;

SECOND.—That the party of the second part shall quietly enjoy the said premises;

THIRD.—That the said premises are free from incumbrances, except as aforesaid;

FOURTH.—That the party of the first part will execute or procure any further necessary assurance of the title to said premises;

FIFTH.—That said party of the first part will forever warrant the title to said premises.

The word "party" shall be construed as if it read "parties" whenever the sense of this indenture so requires.
IN WITNESS WHEREOF, the party of the first part has duly executed this deed the day and year first above written.

IN PRESENCE OF:

NEAL-O'BRIEN BUILDING AND MATERIALS
CORPORATION

By:

Lawrence W. O'Brien, President

<p>LIBER 850 PG 38</p> <p>STATE OF NEW YORK, COUNTY OF</p> <p>On the day of 19 , before me personally came</p> <p>to me known to be the individual described in and who executed the foregoing instrument, and acknowledged that executed the same.</p>		<p>STATE OF NEW YORK, COUNTY OF</p> <p>On the day of 19 , before me personally came</p> <p>to me known to be the individual described in and who executed the foregoing instrument, and acknowledged that executed the same.</p>	
<p>STATE OF NEW YORK, COUNTY OF</p> <p>On the 15th day of September, 1981, before me personally came Lawrence W. O'Brien to me known, who, being by me duly sworn, did depose and say that he resides at No. Oswego, New York</p> <p>that he is the President of NEAL-O'BRIEN BUILDING AND MATERIALS CORPORATION, the corporation described in and which executed the foregoing instrument; that he knows the seal of said corporation; that the seal affixed to said instrument is such corporate seal; that it was so affixed by order of the board of directors of said corporation, and that he signed his name thereto by like order.</p> <p><i>Paul H. [Signature]</i> NOTARY PUBLIC My COMMISSION EXPIRES MARCH 30, 1983</p>		<p>STATE OF NEW YORK, COUNTY OF</p> <p>On the day of 19 , before me personally came the subscribing witness to the foregoing instrument, with whom I am personally acquainted, who, being by me duly sworn, did depose and say that he resides at No. that he knows to be the individual described in and who executed the foregoing instrument; that he, said subscribing witness, was present and saw execute the same; and that he, said witness, at the same time subscribed his name as witness thereto.</p>	
<p>Warranty Deed WITH FULL COVENANTS</p> <p>TITLE No.</p> <p>NEAL-O'BRIEN BUILDING AND MATERIALS CORPORATION,</p> <p>TO</p> <p>CITY OF OSWEGO, NEW YORK,</p>		<p>SECTION BLOCK 17 LOTE 7, 8, 9, 10, 11 and 12 COUNTY OR TOWN Oswego</p> <p>✓ RETURN BY MAIL TO: <i>Amendurey Law Office</i> <i>26 E. Oneida St.</i> <i>Oswego, N. Y.</i> Zip No.</p>	
<p>RECEIVE THIS SPACE FOR USE OF RECORDING OFFICE</p> <p>State of New York Oswego County, ss Recorded on the 16th day of Sept 1981 3:14 o'clock P.M. in Book No. 850 of deeds At Page 35 and examined.</p> <p><i>George J. Williams</i> Clerk</p> <p>50-200-2</p>			

708 278

THIS INDENTURE, made the 15TH day of AUGUST
in the year One Thousand Nine Hundred and Sixty-Eight,

B E T W E E N

ERIE LACKAWANNA RAILWAY COMPANY, a corporation of the State
of Delaware, having an office and place of business at Midland Building,
Cleveland, Ohio, party of the first part, and

THE CITY OF OSWEGO, a municipal corporation of the State of
New York, in the County of Oswego and State of New York, party of the
second part,

WITNESSETH:

That the party of the first part in consideration of the sum
of Ninety-Nine Thousand Five Hundred Dollars (\$99,500.00), lawful money
of the United States, and other good and valuable consideration paid by
the party of the second part, does hereby grant and release unto the
party of the second part, its successors and assigns, forever,

ALL those three (3) certain tracts or parcels of
land situated in the City of Oswego, County of Oswego,
State of New York, and bounded and described as follows:

PARCEL NO. 1

Beginning at a point in the northerly line of West
Mohawk Street at the southwesterly corner of a parcel of
land located in Lot 24, Block 45, which was conveyed by
deed dated September 17, 1853, from William and Elizabeth
Lewis to The Oswego and Syracuse Railroad Company, said
point being also one hundred seventy-eight and thirty-nine
hundredths (178.39) feet easterly as measured along said
northerly line of West Mohawk Street from its intersection
with the easterly line of West First Street;

(1) Thence northerly along the westerly property line
of lands of Erie Lackawanna Railway Company three hundred
ninety-seven (397) feet, more or less, to a point in the
southerly line of West Oneida Street Distant one hundred
fifty-one and seven tenths (151.7) feet easterly as
measured along said southerly line of West Oneida
Street from its intersection with the easterly line of
West First Street;

(2) Thence easterly along said southerly line of
West Oneida Street, seventy-three (73) feet, more or less,

to a point distant fifteen (15) feet westerly, at right angles, from the center line of the main track of Erie Lackawanna Railway Company's Syracuse Branch;

(3) Thence southerly, parallel and concentric with said main track, three hundred ninety-six (396) feet, more or less, to a point in the northerly line of West Mohawk Street;

(4) Thence westerly along said northerly line of West Mohawk Street, fifty-nine (59) feet, more or less, to the point or place of beginning.

Containing six tenths (0.6) of an acre, more or less.

PARCEL NO. 2

Beginning at the point of intersection of the northerly line of West Oneida Street with the easterly line of Water Street;

(1) Thence northerly along said easterly line of Water Street, three hundred ninety-six (396) feet to the southerly line of West Bridge Street;

(2) Thence easterly along said southerly line of West Bridge Street sixty-five (65) feet, more or less, to the easterly face, at present base of rail elevation of the main track of Erie Lackawanna Railway Company's Syracuse Branch, of a concrete retaining wall;

(3) Thence southerly along said face of retaining wall at said base of rail elevation, thirty-seven (37) feet, more or less, to a corner thereof;

(4) Thence easterly along said face of retaining wall at said base of rail elevation, ten (10) feet, more or less, to a corner thereof;

(5) Thence southerly along said face of retaining wall at said base of rail elevation, three hundred fifty-nine (359) feet, more or less, to the northerly line of West Oneida Street;

(6) Thence westerly along said northerly line of West Oneida Street seventy-five (75) feet, more or less, to the point or place of beginning.

Containing sixty-seven hundredths (0.67) of an acre, more or less.

PARCEL NO. 3

Beginning at a point in the southerly line of Market Street distant fifteen (15) feet easterly, by radial measurement, from the center line of the main track of Erie Lackawanna Railway Company's Syracuse Branch;

(1) Thence easterly along said southerly line of Market Street, twenty (20) feet, more or less, to the

708 280

easterly property line of land of Erie Lackawanna Railway Company and being also the easterly line of Market Block Number twenty-six (26);

(2) Thence southerly along said easterly property line of land of Erie Lackawanna Railway Company, and being also said easterly line of Market Block Number twenty-six (26), one hundred fifty-eight (158) feet, more or less, to a point distant fifteen (15) feet easterly, at right angles, from aforesaid center line of main track;

(3) Thence northerly, parallel and concentric with said center line of main track, one hundred fifty-nine (159) feet, more or less, to the point or place of beginning.

Containing three hundredths (0.03) of an acre, more or less.

EXCEPTING AND RESERVING unto the party of the first part, its successors and assigns, all the materials comprising the trackage situated upon said Parcel No. 1 and said Parcel No. 2, including without limitation the ballast, salvagable crossties, tie plates, rails, connections and fastenings, together with the right to remove the same at any time within 90 days from the date of delivery hereof, without liability on the part of the party of the first part, its successors or assigns, for any and all damage that may be sustained by the party of the second part, its successors or assigns, in connection therewith or in consequence thereof; and

EXCEPTING AND RESERVING unto the Grantor, its successors and assigns, the existing trackage situate upon the said Parcel No. 3, together with a permanent easement in, upon, along, across and over the said Parcel No. 3 for the purpose, at the option of the Grantor, its successors and assigns, of maintaining, repairing, renewing and rebuilding said trackage and all necessary or convenient appurtenances, and for the purpose, at its or their option, of operating trains, engines and cars thereon and thereover.

The party of the second part, for itself, its successors and assigns by the acceptance of this deed covenants and agrees to and with the party of the first part, its successors and assigns, as part of the consideration for this conveyance, that:

(1) this conveyance is delivered and accepted upon the understanding that neither the party of the first part nor its successors or assigns shall be liable or obligated to construct or maintain a fence between the premises and the lands of the party of the first part adjoining the same, or be liable or obligated to pay any part of the cost of constructing or maintaining such a fence or any part thereof, or be liable for any damage that may result from the nonexistence of such a fence;

(2) in any development of the premises, they shall divert the concentration of surface drainage on the premises away from the remaining lands of the party of the first part, its successors and assigns;

(3) the party of the second part, its successors and assigns, at its or their sole cost and expense, shall:

(a) at all times maintain in good condition and repair and, when necessary, renew along the easterly line of Parcel No. 2

of the premises the existing concrete retaining wall effectively to provide and maintain lateral support of and for the premises and any improvements of the party of the second part, its successors and assigns, thereon; and

(b) construct, maintain, repair and, when necessary, renew along the easterly or track side of the premises a curb or other suitable barrier adequate to prevent vehicles from approaching the remaining right-of-way and tracks of the party of the first part; and

(4) the aforesaid covenants shall run with the land.

TO HAVE AND TO HOLD the premises herein granted unto the party of the second part, its successors and assigns forever.

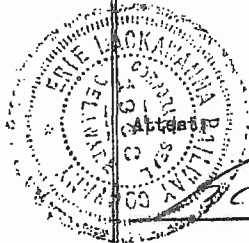
IN WITNESS WHEREOF, the party of the first part has caused these presents to be signed by its Vice President, thereunto duly authorized, and its corporate seal to be hereunto affixed and duly attested, the day and year first above written.

ERIE LACKAWANNA RAILWAY COMPANY

By

Richard J. ...

Vice President



W. C. Frank
Secretary

001126

REAL ESTATE STATE OF
TRANSFER TAX NEW YORK
Dept. of SEP 27 '68 109.45
& Finance

708 282

STATE OF OHIO)
; SS:
COUNTY OF CUYAHOGA)

On this 15TH day of AUGUST, in the year
One Thousand Nine Hundred and Sixty-Eight, before me, the subscriber,
personally appeared RICHARD JACKSON, to me known, who,
being by me duly sworn, did depose and say that he resides at
13805 SHAKER BLVD. CLEVELAND, O.; that he is a Vice
President of Erie Lackawanna Railway Company, the corporation described
in and which executed the foregoing instrument; that he knows the seal
of said corporation; that the seal affixed to said instrument is such
corporate seal; that it was so affixed by authority of the Board of
Directors of said corporation; that he signed his name thereto by like
authority; and that the consideration for said instrument is
\$99,500.00.

Ontario County, es
Recorded on the 27th
day of Sept. 1968
in Book No. 17
At Page 4
John W. [Signature]
Clerk

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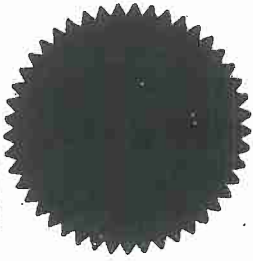
17 4 PM 27 SEP 1968

OSWEGO COUNTY
CLERKS OFFICE

Donald F. Miskinis
DONALD F. MISKINIS, Notary Public
Cuyahoga County, Ohio
My Commission Expires Feb. 8, 1973



The State of Ohio }
Cuyahoga County }



I, EMIL J. MASGAY, Clerk of the Court of Common Pleas, a Court of Record of
Cuyahoga County, aforesaid, do hereby certify that
before whom the annexed acknowledgment, oath, affidavit, was taken, was at the date
thereof a NOTARY PUBLIC, in and for said County, duly authorized by the laws
of Ohio to take the same, also to make acknowledgments, affidavits and proofs, of
deeds or conveyances for land, tenements or hereditaments situated and lying in said
State of Ohio, and further that I am well acquainted with his handwriting and believe
his signature thereto is genuine, and that the annexed instrument is executed accord-
ing to the laws of the State of Ohio.

Commission expires February 8, 1973
In Testimony Whereof, I hereunto subscribe my name and affix the seal of said
Court, at Cleveland, Ohio, this 11th day of September A.D. 1968

D 7973

EMIL J. MASGAY, CLERK OF COURTS
Sophie Dyke Deputy Clerk

BOOK 839 PG 1011

11.00

S. 4

QUITCLAIM DEED

THIS INDENTURE made the 15th day of April, 1980

BETWEEN

THOMAS F. PATTON and RALPH S. TYLER, JR., Trustees of the property of the ERIE LACKAWANNA RAILWAY COMPANY, Debtor, having its principal offices in the Midland Building, Cleveland, Ohio (hereinafter referred to as "Grantors").

AND

THE CITY OF OSWEGO, in Oswego County, New York (hereinafter referred to as "Grantee").

WITNESSETH

That Grantors, in consideration of Ten Thousand Dollars (\$10,000.00)

, paid by Grantee, do hereby remise, release and quitclaim unto Grantee, its successors and assigns, forever, all of Grantors' right, title, and interest in and to -

All of those pieces or parcels of land situated in the City of Oswego, County of Oswego, State of New York, and further described as:

TRACT 1

BEGINNING at a point at the intersection of the southerly line of Lake St., and the easterly line of West Fourth St.;

- (1) Thence, southeasterly a distance of 220.00 ft. more or less, to a point on the westerly line of West Third Street;
- (2) Thence, S22°22'E along said westerly line of West Third Street a distance of 75.00 ft. more or less, to a point;
- (3) Thence, northwesterly a distance of 227.12 ft. more or less, to a point on the easterly line of West Fourth Street;
- (4) Thence, northeasterly along said line of West Fourth Street a distance of 45.00 ft. more or less, to a Point. The True Place of Beginning. Said tract contains 0.31 acres more or less.

TRACT 2.

BEGINNING at a point at the intersection of the easterly line of West Third Street, with the southerly line of Lake Street.

- (1) Thence, southeasterly a distance of 220.00 ft., more or less, to a point on the westerly line of West Second Street;

25.00

OSWEGO COUNTY
CLERKS OFFICE

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- (2) Thence, southerly along said line of West Second Street, a distance of 70.00 ft., more or less, to a point;
- (3) Thence, northwesterly a distance of 220.00 ft., more or less, to a point on the easterly line of West Third Street;
- (4) Thence, northerly along said line of West Third Street, a distance of 71.00 ft., more or less, to a point. The True Place of Beginning. Said parcel contains 0.35 acres more or less.

TRACT 3.

BEGINNING at a point at the intersection of the easterly line of West Second Street with the northerly line of West Van Buren Street.

- (1) Thence, northerly along the easterly line of West Second Street, a distance of 96.00 ft., more or less, to a point;
- (2) Thence, southeasterly, a distance of 9.23 ft., more or less, to a point;
- (3) Thence, northeasterly a distance of 190.00 ft., more or less, to a point on the westerly line of West First Street;
- (4) Thence, southerly along said line of West First Street, a distance of 90.00 ft., more or less, to a point on the northerly line of West Van Buren Street;
- (5) Thence, S67°38'W along said northerly line of West Van Buren Street a distance of 205.00 ft., more or less, to a point. The True Place of Beginning. Said parcel contains 0.42 acres more or less.

TRACT 4

BEGINNING at a point which marks the intersection of the southerly line of West Van Buren Street with the westerly line of West First Street;

- (1) Thence, southerly along said line of West First Street a distance of 66.00 ft., more or less, to a point;
- (2) Thence, southwesterly, a distance of 30.00 ft., more or less to a point;
- (3) Thence, northerly a distance of 66.00 ft., more or less, to a point on the southerly line of West Van Buren Street;
- (4) Thence, Northeasterly along said line of West Van Buren Street a distance of 30.00 ft., more or less to a point. The True Place of Beginning. Said parcel contains 0.05 acres more or less.

TRACT 5

BEGINNING at a point at the intersection of the southerly line of West Van Buren Street with the easterly line of West First Street;

- (1) Thence, northeasterly along the southerly line of West Van Buren Street a distance of 25.00 ft., more or less, to a point;
- (2) Thence, southerly a distance of 45.00 ft., more or less, to a point;

BOOK 839 PG 1013

- (3) Thence, northeasterly a distance of 30.00 ft., more or less to a point;
- (4) Thence, southerly a distance of 40.00 ft., more or less, to a point;
- (5) Thence, northeasterly a distance of 50.00 ft., more or less, to a point on the westerly line of Water Street;
- (6) Thence, southerly along said line of Water Street a distance of 310.00 ft., more or less to a point on the northerly line of West Schuyler Street;
- (7) Thence, westerly along said line of West Schuyler Street, a distance of 25.00 ft., more or less to a point;
- (8) Thence, northerly a distance of 45.00 ft., more or less to a point;
- (9) Thence, westerly a distance of 25.00 ft., more or less, to a point;
- (10) Thence, northerly a distance of 45.00 ft., more or less, to a point;
- (11) Thence, southwesterly a distance of 50.00 ft., more or less to a point on the easterly line of West First Street;
- (12) Thence, N22°22'W along the easterly line of West First Street a distance of 310.00 ft., more or less, to a point. The True Place of Beginning. Said parcel contains 0.66 acres, more or less.

TRACT 6

Beginning at a point at the intersection of the northerly line of West Cayuga Street with the easterly line of Water Street;

- (1) Thence, S22°22'E along said line of Water Street a distance of 176.00 ft., more or less to a point on the northerly line of Market Street;
- (2) Thence, easterly along said line of Market Street a distance of 92.25 ft., more or less to a point;
- (3) Thence, northerly a distance of 175.00 ft., more or less to a point on the southerly line of West Cayuga Street;
- (4) Thence, westerly along the southerly line of West Cayuga Street a distance of 92.64 ft., more or less to a point. The True Place of Beginning. Said parcel contains 0.37 acres, more or less;

TRACT 7

BEGINNING at a point on the southerly line of Market Street, at a point 47.00 ft., more or less easterly from the easterly line of Water Street;

- (1) Thence, easterly along the southerly line of Market Street a distance of 25.00 ft., more or less, to a point;
- (2) Thence, southeasterly a distance of 170.00 ft., more or less, to a point on the northerly line of West Bridge Street;

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- (3) Thence, westerly along the northerly line of West Bridge Street, a distance of 25.00 ft., more or less, to a point;
- (4) Thence, northerly a distance of 172.00 ft., more or less to a point. The True Place of Beginning. Said parcel contains 0.10 acres, more or less.

TRACT 8

BEGINNING at a point on the southerly line of West Bridge Street, said point also being easterly a distance of 65.00 ft. from the easterly line of Water Street.

- (1) Thence, easterly along said line of West Bridge Street, a distance of 30.00 ft. to a point on the West Bank of the Oswego River;
- (2) Thence, southerly along said bank line a distance of 400.00 ft., more or less to a point on the northerly line of West Oneida Street;
- (3) Thence, westerly along said line of West Oneida Street a distance of 45.00 ft., more or less to a point.
- (4) Thence, northerly a distance of 360.00 ft., more or less, to a point;
- (5) Thence, westerly a distance of 10.00 ft., more or less;
- (6) Thence, northerly a distance of 37.00 ft., more or less, to a point on the southerly line of West Bridge Street. The True Place of Beginning. Said parcel contains 0.32 acres, more or less.

TRACT 9

BEGINNING at a point on the southerly line of West Oneida Street, said point also being 225.00 ft. easterly of the East Line of West First Street.

- (1) Thence, easterly along said line of West Oneida Street a distance of 35.00 ft., more or less, to a point on the West Bank of the Oswego River;
- (2) Thence, southerly along the West Bank of the Oswego River, a distance of 395.00 ft., more or less, to a point on the northerly line of West Mohawk Street;
- (3) Thence, westerly along said line of Mohawk Street a distance of 45.00 ft., more or less to a point;
- (4) Thence, northerly a distance of 396.00 ft., more or less to a point on the southerly line of West Oneida Street. The True Place of Beginning. Said parcel contains 0.39 acres, more or less;

TRACT 10

BEGINNING at a point on the southerly line of West Mohawk Street a distance of 198.00 ft., more or less, easterly, from the easterly line of West First Street;

- (1) Thence, easterly along said line of West Mohawk Street, a distance of 100.00 ft., more or less to a point on the West Bank of the Oswego River;
- (2) Thence, southerly along said bank line a distance of 240.00 ft., more or less to a point;

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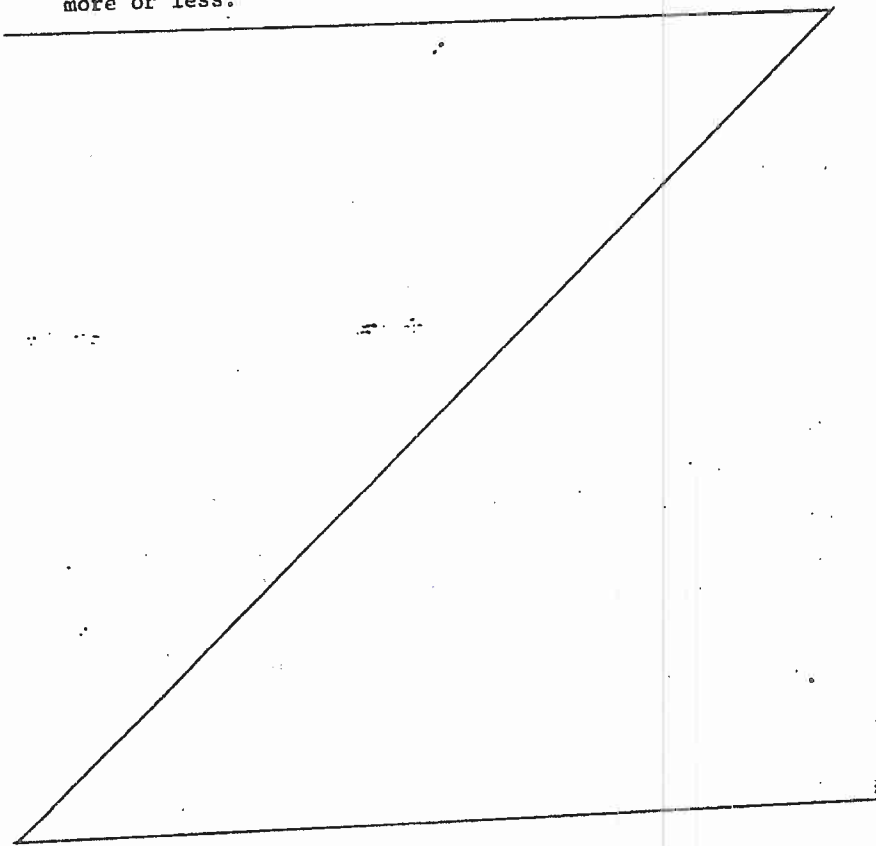
- (3) Thence, on a curve to the left along said bank line of the Oswego River a distance of 170.00 ft., more or less, to a point on the northerly line of West Utica Street;
- (4) Thence, westerly along said line of West Utica Street a distance of 130.00 ft., more or less to a point;
- (5) Thence, on a curve to the left, a distance of 410.00 ft., more or less, to a point on the southerly line of West Mohawk Street. The True Place of Beginning. Said parcel contains 0.95 acres, more or less.

TRACT 11

BEGINNING at a point at the intersection of the easterly line of West First Street and the southerly line of West Utica Street.

- (1) Thence, easterly along said line of West Utica Street a distance of 36.44 ft., more or less to a point;
- (2) Thence, southwesterly a distance of 44.02 ft., more or less, to a point on the easterly line of West First Street;
- (3) Thence, northerly along said line of West First Street a distance of 24.71 ft., more or less to a point. The True Place of Beginning. Said parcel contains 0.01 acres, more or less;

Total acreage for the 11 parcels of land is 3.93 acres, more or less.



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Title to the above described property is being conveyed
subject to:

- (1) Statutory and municipal requirements relating to the land and buildings;
- (2) Any state of facts that an accurate survey and an inspection of the premises would disclose;
- (3) Easements, covenants, and restrictions of record, if any;
- (4) Those leases, easements, license privileges or other agreements for the use of the subject property;
- (5) Assessments, if any, for public improvements..

TOGETHER WITH:

The appurtenances and all of the estate and rights of the Grantors in and to said premises, as well as all of Grantors' interest in the agreements mentioned in (4) above; however, this conveyance does not include any right of ingress or egress or easement of access, express or implied, in lands or premises of Grantors which are not granted herein.

TO HAVE AND TO HOLD the premises herein granted unto the Grantee and its successors and assigns, forever. The premises conveyed herein do not constitute all or substantially all of the assets of Thomas F. Patton and Ralph S. Tyler, Jr., Trustees of the property of the Erie Lackawanna Railway Company.

The Erie-Lackawanna Railroad Company is the successor-in-interest of the Erie Railroad Company and The Delaware, Lacka-

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wanna and Western Railroad Company by virtue of a Joint Agreement of Merger made as of June 24, 1959, Interstate Commerce Commission Finance Docket No. 20707, recorded with the Secretary of State of the State of New York, October 17, 1960.

The Erie Lackawanna Railway Company is the successor-in-interest of the Erie-Lackawanna Railroad Company by virtue of Agreement and Plan of Merger as of April 1, 1968, recorded with the Secretary of State of the State of New York, April 1, 1968.

Erie Lackawanna Railway Company filed its petition in the United States District Court, The Northern District of Ohio, Eastern Division, for reorganization under Section 77 of the bankruptcy laws of the United States and said petition was granted by Order No. 1 in Case No. B72-2838 dated and filed June 26, 1972 and Thomas F. Patton and Ralph S. Tyler, Jr., were duly appointed and qualified as Trustees of the property of Erie Lackawanna Railway Company pursuant to Orders No. 2 and 6 in said proceeding and have been and still are serving as such Trustees.

IN WITNESS WHEREOF, Thomas F. Patton and Ralph S. Tyler, Jr., Trustees of the Property of the Erie Lackawanna Railway Company have hereunto set their hands the day and year first above written, having been duly authorized so to do pursuant to Order No. 830.

(As to T. F. Patton)
Signed and delivered
in the presence of:

M. M. Adams
S. M. Spisak

THOMAS F. PATTON & RALPH S. TYLER, JR.,
Trustees of the Property of the
ERIE LACKAWANNA RAILWAY COMPANY

By: Thomas F. Patton
Thomas F. Patton, Trustee

(As to R. S. Tyler, Jr.)
Signed and delivered
in the presence of:

M. M. Adams
S. M. Spisak

By: Ralph S. Tyler, Jr.
Ralph S. Tyler, Jr., Trustee

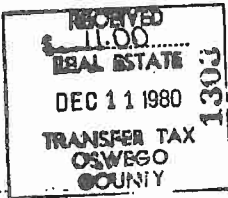
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STATE OF OHIO

COUNTY OF CUYAHOGA

On the 15th day of APRIL, 1980, before me personally came Thomas F. Patton and Ralph S. Tyler, Jr., to me known to be the Trustees of the property of the Erie Lackawanna Railway Company appointed by the United States District Court for the Northern District of Ohio, Eastern Division, in an action entitled in re Erie Lackawanna Railway Company, Debtor, Case No. B72-2838 on the docket of said court, and the persons described in and who executed the foregoing instrument, and acknowledged that they executed the same as such Trustees for the uses and purposes therein mentioned.

David L. Lind
Notary Public
DAVID L. LIND, Notary Public
State of Ohio - Cuyahoga County
My commission expires June 12, 1984



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80 DEC 11 PM 1:20
OSWEGO COUNTY
CLERKS OFFICE

State of New York
Oswego County, ss
Recorded on the 11
day of Dec 19 80
1:20 o'clock P. M., in Book No.
839 of Deeds At Page
1044 and examined.
David A. Wilcox Clerk