



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

REPLY TO
ATTENTION OF:

January 17, 2002

Regulatory Branch

SUBJECT: Nationwide Permit Reissuance and 60-Day Deadline for
CZMA Concurrence, Application No. 02-001-2(3)

Ms. Kimberly A. Baker
Ohio Department of Natural Resources
Division of Real Estate & Land Mgmt.
1952 Belcher Drive
Columbus, Ohio 43224-1386

Dear Ms. Baker:

On 15 January 2002, in Part II of the *Federal Register* (67FR 2020- 2095), the U.S. Army Corps of Engineers announced the reissuance of all existing Nationwide Permits (NWP), General Conditions, and definitions with some modifications, and one new General Condition (copy enclosed).

The notice in the *Federal Register* and this letter serve as our final notification of the 60-day deadline to complete the Section 401 Water Quality Certification (WQC) for NWP activities that will result in a discharge in the State of Ohio. The *Federal Register* notice and this letter also serve as our final notification of the 60-day deadline to complete the Coastal Zone Management Act (CZMA) consistency determination, pursuant to Section 307(c)(1) of the Coastal Zone Management Act for NWP activities within or affecting the coastal zone of the State of Ohio. We believe the reissued NWPs meet State water quality standards and are consistent with the State coastal zone management plan. However, we recognize that in some cases it may be necessary to add regional conditions to be consistent with State coastal zone plans. Furthermore, we understand the State may need to add conditions or require individual State review for some activities to ensure consistency with State coastal zone management goals. We are available to continue working with you to develop such conditions when necessary.

In accordance with Corps regulations at 33 CFR 330.4(d), if you disagree with our CZMA consistency determination for certain activities authorized by the new and modified NWPs, then we will

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deny authorization for those activities without prejudice. Anyone wanting to perform such activities must present a consistency determination to the appropriate State agency. Upon concurrence by the State, the activity would be authorized by the NWP.

We will defer to States regarding CZMA conditions. Any conditions the State provides become conditions of issued NWP authorizations. However, the Corps does not have the resources to enforce all Corps-imposed conditions. Consequently, we will prioritize our efforts to focus on those conditions that provide the most value added for protection of the aquatic environment. This means that CZM conditions may not be enforced by the Corps. Additionally, if a State condition would impose an unacceptable level of additional work on the Corps or if it is illegal, we will view the State conditions as a denial without prejudice.

You must take a position by 16 March 2002. If you do not take a position concerning CZMA consistency by this date, then the CZMA consistency determination will be presumed consistent.

Thank you for your attention regarding this matter. We remain available to discuss issues or proposed conditions you may be considering for the reissued NWPs. We look forward to continuing to work with your office in the near future.

Questions pertaining to this matter should be directed to Martin Wargo at (716) 879-4116, by writing to the following address: U.S. Army Corps of Engineers, 1776 Niagara Street, Buffalo, New York 14207-3199, or by e-mail at: martin.p.wargo@usace.army.mil

Sincerely,

- S -

Glen R. DeWillie
Lieutenant Colonel, U.S. Army
District Engineer

Enclosure

 1/18/02