



Public Notice

Applicant:

U.S. Army Corps of Engineers
Buffalo District

Date:

Published: September 30, 2004

Expires: October 29, 2004

**U.S. Army Corps
of Engineers**

Buffalo District CELRB-TD-R RE: 99-000-1(1) Section: NY 10 and 404

In Reply Refer To:

**Application for Permit under Authority of
Section 10 of the Rivers and Harbors Act of 1899 and
Section 404 of the Clean Water Act (33 U.S.C. 1344).**

The District Commander, U.S. Army Corps of Engineer District, Buffalo, New York, is considering, on behalf of the general public, reissuance of Regional Permit 99-000-1 for minor channel work and temporary access and construction needed as a result of major storm events. This permit is valid in waters of the United States within the regulatory jurisdiction of the Buffalo District. This renewal action is being taken in accordance with Title 33 of the Code of Federal Regulations Parts 320 thru 330 as published in the November 13, 1986 Federal Register, Volume 51, No. 219.

Within the past five years, 42 projects have been approved by this permit. Proposed changes to the Regional Permit include the following:

- a. Added authorization and conditions for the repair or replacement of collapsed roads or other structures or fills which failed as a result of the storm event.
- b. Added authorization and conditions for the discharges of dredged or fill material into waters of the United States for the restoration and enhancement of stream beds and banks damaged as a result of the storm event.
- c. Modified Special Conditions 13 and 14 to allow the excavation of **all** storm deposited material, as opposed to only storm deposited gravel. Subsequently, Special Condition number 15 was removed.
- d. Minor changes were made to the permit, clarifying that the permit is only valid when activated by the District Commander, and that work must be completed within 1 year from the activation date.

If this permit is reissued, the attached terms and conditions would apply.

Complete details of the above proposed Regional Permit are described in the attached text.

Questions pertaining to the work described in this notice should be directed to Margaret A. Crawford, who can be contacted by calling (315) 255-8090, or by e-mail at: margaret.a.crawford@usace.army.mil

The applicant has certified that the proposed activity complies with New York's approved Coastal Zone Management Program and will be conducted in a manner consistent with that program. Any comments on the consistency of the proposed activity with New York State's Coastal Zone Management Program should be forwarded to:

Ms. Laurissa Parent
New York Department of State
Division of Coastal Resources
Consistency Coordinator
Coastal Management Program
41 State Street
Albany, New York 12231-0001
Telephone (518) 486-3200

The following authorization(s) may be required for this project:

Water Quality Certification (or waiver thereof) from the New York State Department of Environmental Conservation.

There are no registered historic properties or properties listed as being eligible for inclusion in the National Register of Historic Places that will be affected by this project.

In addition, available evidence indicates that the proposed work will not affect a species proposed or designated by the U.S. Department of the Interior as threatened or endangered, nor will it affect the critical habitat of any such species. For protection of Federally threatened and endangered species, coordination with the U.S. Fish and Wildlife Service is required prior to the issuance of this permit in certain towns within New York State. The Corps is requesting that the U.S. Fish and Wildlife Service provide a list of these areas in response to this Public Notice comment period.

This notice is promulgated in accordance with Title 33, Code of Federal Regulations, parts 320-330. Any interested party desiring to comment on the work described herein may do so by submitting their comments, in writing, so that they are received no later than 4:30 pm on the expiration date of this notice.

Comments should be sent to the U. S. Army Corps of Engineers, 7413 County House Road, Auburn, New York 13021, and should be marked to the attention of Margaret A. Crawford, or by e-mail at: margaret.a.crawford@usace.army.mil. A lack of response will be interpreted as meaning that there is no objection to the work as proposed.

Comments submitted in response to this notice will be fully considered during the public interest review for this permit application. All written comments will be made a part of the administrative record which is available to the public under the Freedom of Information Act. The Administrative Record, or portions thereof may also be posted on a Corps of Engineers internet web site. Due to resource limitations, this office will normally not acknowledge the receipt of comments or respond to individual letters of comment.

Any individual may request a public hearing by submitting their written request, stating the specific reasons for holding a hearing, in the same manner and time period as other comments.

Public hearings for the purposes of the Corps permit program will be held when the District Commander determines he can obtain additional information, not available in written comments, that will aid him in the decision making process for this application. A Corps hearing is not a source of information for the general public, nor a forum for the resolution of issues or conflicting points of view (witnesses are not sworn and cross examination is prohibited). Hearings will not be held to obtain information on issues unrelated to the work requiring a permit, such as property ownership, neighbor disputes, or the behavior or actions of the public or applicant on upland property not regulated by the Department of the Army. Information obtained from a public hearing is given no greater weight than that obtained from written comments. Therefore, you should not fail to make timely written comments because a hearing might be held.

The decision to approve or deny this permit request will be based on an evaluation of the probable impact, including

cumulative impacts of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefits which reasonably may be expected to accrue from the proposal must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the proposal will be considered including the cumulative effects thereof; among these are conservation, economics, aesthetics, general environmental concerns, wetlands, historic properties, fish and wildlife values, flood hazards, flood plain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, considerations of property ownership, and in general, the needs and welfare of the people.

The Corps of Engineers is soliciting comments from the public; Federal, state and local agencies and officials; Indian Tribes; and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps of Engineers to determine whether to issue, modify, condition or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

SIGNED

Thomas C. Switala
Chief, Regulatory Branch

NOTICE TO POSTMASTER: It is requested that this notice be posted continuously and conspicuously for 30 days from the date of issuance.

DEPARTMENT OF THE ARMY PERMIT

Permittee: Timothy B. Touchette
Lieutenant Colonel, Corps of Engineers
District Commander
On Behalf of the General Public

Regional Permit No.: 99-000-1

Processing No.: Not Assigned

Effective Period: December 28, 2004 to December 28, 2009

Activation Period: Not Activated*

Issuing Office: U.S. Army Engineer District, Buffalo
1776 Niagara Street
Buffalo, New York 14207-3199

IMPORTANT: PRIOR TO COMMENCING THE ACTIVITY AUTHORIZED BY THIS PERMIT OR DIRECTING A CONTRACTOR TO PERFORM SUCH ACTIVITY ON YOUR BEHALF, BE SURE THAT ALL PARTIES READ, UNDERSTAND AND COMPLY WITH THE TERMS AND CONDITIONS OF THIS PERMIT.

NONCOMPLIANCE WITH ANY OF THE TERMS OR CONDITIONS OF THIS PERMIT MAY RESULT IN AN ORDER TO REMOVE THE ACTIVITY; CIVIL AND/OR CRIMINAL PENALTIES OR BOTH.

***THIS PERMIT IS ACTIVATED BY THE DISTRICT COMMANDER AS NEEDED IN RESPONSE TO MAJOR STORM EVENTS. THIS PERMIT IS NOT VALID UNLESS ACTIVATED BY THE DISTRICT COMMANDER. SEE THE ATTACHED TERMS AND CONDITIONS OF THIS PERMIT TO DETERMINE IF WRITTEN AFFIRMATION FROM THIS OFFICE IS NECESSARY PRIOR TO COMMENCING WORK. APPLICANTS WILL HAVE ONE YEAR FROM DATE OF ACTIVATION TO COMPLETE WORK. UPON ACTIVATION, A NOTICE WILL BE PLACED ON THE BUFFALO DISTRICT WEB SITE AT: www.lrb.usace.army.mil**

AUTHORITIES: You have been authorized to undertake the activity described below pursuant to:

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

and

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

AUTHORIZED ACTIVITIES: This general permit authorizes dredging in navigable waters and the discharge of dredged or fill material, including those discharges associated with excavation activities, into waters of the United States to facilitate the remediation of sites that

were damaged as a result of a major storm. This permit may be used in conjunction with the Nationwide Permit Program.

The specific activities that this general permit authorizes include:

- a. The excavation or dredging of sediments and debris, including storm deposited material, and the discharge of fill associated with the excavation, from waters of the United States where such an activity uses land clearing equipment, such as bulldozer, gradall, etc. and would prevent loss of property or reduce flooding and/or erosion. The general permit **DOES NOT** authorize any channelization, channel widening, deepening, or straightening.
- b. The discharge of fill material into waters of the United States to facilitate the construction of temporary access roads and/or staging areas at work sites, provided no practicable available upland areas exist.
- c. The installation of structures and/or the discharge of fill material into waters of the United States to be used as cofferdams to temporarily dewater a work site.
- d. The discharge of fill material into waters of the United States to facilitate the repair or replacement of collapsed roads or other structures or fills which failed as a result of the storm event, (i.e. rip-rap, rock veins/weirs, etc.).
- e. The discharge of dredged or fill material into waters of the United States for the restoration and protection of stream bed and banks damaged as a result of the storm event, (i.e. rip-rap, rock veins/weirs, etc.).

LOCATION OF AUTHORIZED ACTIVITY: Waters of the United States located within New York State under the regulatory jurisdiction of the U.S. Army Corps of Engineers, Buffalo District.

The general public is hereby authorized by the Secretary of the Army to perform the work authorized by this permit provided there is full compliance with the following general and special conditions.

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

Also, see General Permit Notification Requirements.

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 division 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.

Navigable waters - Those waters that are subject to the ebb and flow of the tide and/or are presently used, or have been used in the past, or may be susceptible for use to transport interstate or foreign commerce. A determination of navigability, once made, applies laterally over the entire surface of the waterbody, and is not extinguished by later actions or events which impede or destroy navigable capacity. A list of navigable waters in the Buffalo District can be found on the Buffalo District web site, 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.

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

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

GENERAL CONDITIONS:

1. The work authorized under this regional permit must be completed within one year of the activation date. If you find that you need more time to begin and/or complete the authorized activity, submit your written request for a time extension to this office at least three months before the respective date(s).
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, unless you make a good faith transfer to a third party in accordance with General Condition No. 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 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. 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. 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.

6. 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.

7. 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.

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 activity **DOES NOT** require prior confirmation from the Buffalo District, and you meet all the terms and conditions of this permit, you may proceed with your work. Within 30 days of the completion of the work authorized by this permit, you are required to complete and submit the attached compliance certification form to the 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 New York State Department of Environmental Conservation / U.S. Army Corps of Engineers joint application for permit (available on the Buffalo District web site):

1. Name, address and telephone number of the applicant.
2. Location map identifying project site, and disposal area (if applicable).
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. Include the length of proposed roads in feet, the square footage of staging areas, the cubic yardage of sediment to be excavated, the dimensions of

the area to be excavated, the type of cofferdam, the dimensions of the area to be de-watered, and any other appropriate project specifications.

Please note 'EMERGENCY' on the joint application for permit, to ensure immediate response. Any questions can be directed to 716-879-4330.

Upon receipt of the required information, and if necessary, a site inspection may be scheduled by the Buffalo District. A Buffalo District Project Manager will have the ability to verify the applicability of the general permit on-site.

SPECIAL CONDITIONS:

Conditions Applicable to All Activities:

1. For activities requiring notification, please complete and submit the attached commencement form prior to commencing work authorized by this permit. In addition, within 30 days of the completion of the work authorized by this permit, the permittee is required to complete and submit the attached compliance certification form to the Buffalo District Office.
2. **Notification** is required to this office for activities located within sensitive areas, as identified on the attached list, due to the need for site specific reviews for the protection of Federally threatened or endangered species or species of concern. The Buffalo District will give the U.S. Fish and Wildlife Service a five day review period related to this matter. **Applicants shall not commence work in waterways** located in the Towns referenced on the attached table, under this permit until the notification process is completed and the applicant receives written verification that the work may proceed.
3. Construction Best Management Practices (BMP's): Unless specifically approved otherwise, the following BMP's must be implemented to the maximum degree practicable, to minimize erosion, migration of sediments, and adverse environmental impacts:
 - i.) Mulch, hay bales, silt fences, or other means must be properly employed to minimize erosion and migration of sediments during construction. Temporary measures must be removed upon completion.
 - ii.) Construction access shall be by means that avoid or minimize impacts to aquatic sites (e.g. upland access, floating barges, mats, etc.).
 - iii.) All excess excavated material remaining on site must be properly contained and permanently stabilized to prevent erosion.
 - iv.) Upon project completion, impacted land surfaces must be permanently stabilized to prevent erosion.
 - v.) Upon project completion, impacted aquatic sites must be restored to their original contours and conditions.

vi.) All return flow shall not result in an increase in turbidity in the receiving water body that will cause a substantial visible contrast to natural conditions.

vii.) No in-stream work shall occur during predicted periods of high flow.

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

4. Disturbance of vegetation on streambanks shall be kept to the minimum necessary to perform the permitted work.

5. All stream banks disturbed as a result of any activity authorized by this General permit shall be seeded and mulched immediately upon completion of bank work, unless otherwise protected from erosion.

6. All authorized work shall proceed to completion without interruption between operations.

7. Timber treated with pentachlorophenol should not be used where it will come in contact with waters of the United States. Use of pentachlorophenol treated wood can be used for structures that will remain above the ordinary high water level. Treated wood proposed below the ordinary high water level must be treated in accordance with the standards and methods of the American Wood Preserver's Association (AWPA) and in accordance with AWPA standards. CCA and Creosote treated wood can be used below the ordinary high water level and must be pressure treated (not cold soaked). For CCA, use only CCA Type C. Creosote treated wood must be aged a minimum of six (6) months prior to placement in water.

8. Siltation fencing or haybales shall be installed at the toe of the temporary fill area or excavations to minimize damage to the undisturbed wetland or waterway. The siltation devices shall be inspected periodically to ensure that they are not damaged, repairs shall be completed promptly, and shall remain in place until the site is stabilized by the regrowth of suitable vegetation.

9. 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.

Special Conditions Applicable ONLY to Excavation or Dredging Activities (10 - 19):

10. Debris and sediment excavation in waters of the United States shall be limited to the amount that was deposited as a direct result of the discrete storm event.

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

12. Projects involving the excavation of debris and sediment beyond 100 feet upstream and downstream of a structure, may be authorized by this permit on a case by case basis provided the permittee **notifies** this office and receives written verification prior to commencing the work.
13. Excavation of storm deposited material (i.e., gravel, silts, etc.) for a maximum length of 200 linear feet or .10 acres at a single location may proceed without prior confirmation from this office provided no other excavation or dredging beyond that range would occur as part of a single and complete project.
14. Projects involving the excavation of storm deposited material in excess of 200 linear feet or .10 acres at a single location may be authorized by this permit on a case by case basis provided the permittee **notifies** this office and receives written verification prior to commencing the work.
15. Gravel may only be removed by "skimming" the surface of the gravel bar to a depth no lower than six inches above the typical low (summer) water level. The final configuration of the stream channel shall provide for a low flow channel at least six to twelve inches deeper than the toe of the channel banks. Altered channels shall not be wider than the natural channel upstream and downstream of the work site and the bottom elevation shall not be lower than the adjoining upstream and downstream sections.
16. This permit does not authorize the removal of stream gravel for the express purpose of sale as part of a gravel mining operation.
17. All debris and sediment excavated from waters of the United States and not used as bank stabilization shall be deposited at a suitable upland location, and be contained from re-entering any waters of the United States, including wetlands. Under no circumstances shall excavated or dredged materials be sidecast or temporarily stored within waters of the United States, including wetlands.
18. This permit does not authorize excavation or dredging within wetlands.
19. Whenever feasible, bank grading and in-water removal of material shall be carried out by landbased equipment rather than from the streambed or flowing water. Work shall proceed from the downstream end to the upstream end of the project reach.

Special Conditions Applicable ONLY to Repair and Replacement Activities and to the Restoration and Protection of Stream Bed and Banks (20-27):

20. For repair and replacement activities, minor deviations in the structure's configuration or filled area including those due to changes in materials, construction techniques, or current construction codes or safety standards which are necessary to make repair, rehabilitation or replacement are permitted, provide the adverse environmental effects resulting from the work are minimal.
21. The stream restoration activities include but are not limited to: bank stabilization, minor realignment, the installation of current deflectors; the enhancement, restoration or creation of

riffle and pool stream structures; the placement of in-stream habitat structures; and modifications of the stream bed and/or banks to restore or create stream meanders.

22. The restoration and/or enhancement of stream bed and banks shall be conducted in accordance with the following:

- a. No material is placed in excess of the minimum needed for erosion protection;
- b. **Notification** is required for bank stabilization activities in excess of 500 feet in length;
- c. **Notification** is required for activities resulting in more than an average of one cubic yard per running foot placed along the bank below the plane of the ordinary high water mark or the high tide line;
- d. No material is placed in any special aquatic site, including wetlands;
- e. No material is of the type, or is placed in any location, or in any manner, to impair surface water flow into or out of any wetland area;
- f. No material is placed in a manner that will be eroded by normal or expected high flows (properly anchored trees and treetops may be used in low energy areas); and,
- g. The activity is part of a single and complete project.

23. On-site material may be used as fill material for bank stabilization provided that the material is placed in such a manner that it is not eroded by high flows.

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

25. Minor realignment of up to 200 feet of the stream channel when associated with culvert and bridge repair/replacement is authorized by this permit.

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

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

Special Conditions Applicable ONLY to Temporary Access or Dewatering Activities (28 - 38):

28. This general permit only authorizes the temporary access to, or dewatering of, those areas where sediment and debris removal would occur, or where the in-kind and in-place repair or replacement of structures or fills would occur.

29. All temporary fills or structures placed in waters of the United States, including wetlands shall be removed in their entirety immediately upon completion of the work and the

affected areas shall be restored to preconstruction contours. All material removed shall be disposed of at an upland site well removed from any waters of the United States, including wetlands and shall be adequately contained to preclude re-entry into these waters.

30. All discharges of fill material into wetlands shall be limited to the minimum length and width necessary to construct the access road and the access fill is only authorized if no practicable available upland area exists for access to the waterway. The permittee shall **notify** the Buffalo District Corps of Engineers prior to starting work on projects involving greater than 1/10th of an acre of disturbance to wetlands and shall not commence the work until notified in writing that the work is authorized.

31. Staging areas shall not be located within wetlands.

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

33. Forested wetlands cleared to facilitate access road construction shall be re-planted with native species immediately upon completion of the work.

34. Temporary fill material shall be of the type and placed in such a manner so that it does not wash downstream by normal or unexpected high flows.

35. The water control structure and ancillary features shall be placed in such a manner that minimizes adverse impacts to fish and other aquatic wildlife, water quality, to stream flow and flooding, to navigation, and to access and use of navigable waters by the public.

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

37. The staging areas in waterways shall be constructed within the confines of the water control structure and shall consist of clean non-erodible material such as broken concrete, stone, timber, steel or other inert materials. The staging area shall not be installed until the water control structure is in place and the area has been completely dewatered, and shall be removed prior to removal of the water control structure. The waterway bottom shall be restored to its preconstruction contours, and all material disposed of at an upland site well removed from any water of the United States, including wetlands.

38. In navigable and/or perennial waters, the water control structures shall extend no further than one-half the width of the channel at any one crossing site. Variations may be authorized with **notification**.

EXCLUSIONS:

This permit does not apply to:

1. Activities that have an effect on historic, cultural or archaeological sites identified in the latest published version of the National Register of Historic Places, or sites eligible for

inclusion in this register, unless the State Historic Preservation Officer makes a determination that the effect will not be adverse.

2. 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 general permit.

3. Activities which may jeopardize the continued existence of species listed as endangered or threatened under the Endangered Species Act of 1973, as amended, or result in the likelihood of the destruction or adverse modification of a habitat which is determined by the Secretary of the Interior or Commerce, as appropriate, to be a critical habitat under the Endangered Species Act of 1973, as amended.

4. Areas where the excavated or dredged material is known to be heavily contaminated with toxic organic compounds or heavy metals.

LIMITS OF THIS AUTHORIZATION:

1. The granting of this permit does not obviate the need to obtain 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 injury to the property 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.

Concerns under the Endangered Species Act currently exist for the following Townships/Counties within the Buffalo Corps District and that the applicant must consult with the Corps and U.S. Fish and Wildlife Service pursuant to Section 7 of the Endangered Species Act prior to initiating any work.

<u>County(ies)</u>	<u>Township(s)</u>
Cattaraugus	Cattaraugus Indian Reservation
Chautauqua	Chautauqua, Ripley, Westfield
Chenango	Greene, Oxford
Genesee	Alabama, Bergen, Byron, Tonawanda Indian Reservation
Herkimer	Webb
Jefferson	Alexandria, Orleans, Theresa, Watertown
Jefferson/St. Lawrence	Alexandria, Cape Vincent, Clayton, Hammond
Livingston/Ontario	Canadice, Conesus, Springwater
Madison	Cazenovia, Fenner, Stockbridge, Sullivan
Onondaga	Dewitt, Febius, Onondaga, Pompey, Van Buren
Oswego	Amboy, New Haven, Oswego, Richland, Sandy Creek
Schuyler	Dix
Seneca	Junius, Savannah, Tyre
St. Lawrence	Parishville
Tompkins	Ithaca
Wayne	Arcadia
Yates	Starkey
Yates/Ontario	Italy, Middlesex, South Bristol

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. 99-000-1(1)

Date: _____

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

Dear Sir:

You are hereby notified that the work authorized under Department of the Army Regional General Permit No. 99-000-1(1), was completed on or about _____ (Month/Day/Year)

The work undertaken was as follows (detailed project drawings may be submitted to supplement written description): _____

I certify that I have complied with the terms and conditions of the Regional Permit 99-000-1.

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: _____

File Closed: June 7, 2004

