DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS, BUFFALO DISTRICT
478 MAIN STREET
BUFFALO, NEW YORK 14202-3278

REPLY TO
ATTENTION OF:

July 21, 2026

Regulatory Division

SUBJECT: Proposed Reissuance of Department of the Army General Regional Permit Nos. 81-000-1, 86-000-1 and 87-000-1

Ms. Jennifer Street
NYS Department of State
Office of Planning, Development & Community Infrastructure
99 Washington Avenue, Suite 1010
Albany, NY 12231-0001

Dear Ms. Street:

Enclosed is a public notice for reissuance of Regional Permit (RP) Nos. 81-000-1 for minor recreational dredging activities, 86-000-1 for the construction of stone filled timber crib docks and 87-000-1 for the construction of open pile docks in waters of the United States within the State of New York and subject to regulation by the U.S. Army Engineer District, Buffalo.

The establishment of these General Permits has reduced paperwork burdens for the regulated public and government alike. The improved efficiency has been accomplished without compromising the environmental values or the needs and welfare of the general public.

Accordingly, the Corps is proposing to reauthorize RP Nos. 81-000-1, 86-000-1 and 87-000-1. Proposed changes to the Regional Permit are noted in the attached Public Notice.

I certify that the reissuance of these general permits and the subsequent authorization of work under the terms and conditions of the permits will comply with coastal zone management policies. Enclosed for your review is a copy of our public notice which describes the proposed Regional Permits. We are also requesting a determination on whether or not you would waive the need for individual project determinations for any of these activities. The Regional Permits will be updated to contain special conditions which require an individual coastal zone management consistency concurrence, or waiver, from your office prior to the commencement of work. It is requested that you review the enclosed information and provide any comments or suggested modifications that you might consider appropriate.

Questions pertaining to this matter should be directed to Margaret Crawford at (315) 835-0058, 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: margaret.a.crawford@usace.army.mil

Sincerely,

Michael P. Uitvlugt
Chief, New York Permit Evaluation Branch

Enclosures

US Army Corps of Engineers®

PUBLIC NOTICE

Applicant:
USACE Buffalo District Regional Permits (RP): 81-000-1, 86-000-1 and 87-000-1

Published: July 21, 2026
Expires: August 20, 2026

Buffalo District
Permit Application Nos.: LRB-1987-00001 for RP 87-000-1, and LRB-0-09604 for RPs 81-000-1 and 86-000-1

The District Commander, U.S. Army Corps of Engineers (USACE) District, Buffalo, New York, is considering, on behalf of the general public, reissuance and modification of Regional Permits 81-000-1 for minor dredging, 86-000-1 for timber crib docks, and 87-000-1 for open pile or floating dock structures in the State of New York and subject to regulation by the U.S. Army Engineer District, Buffalo. This action is being taken in accordance with Title 33 of the Code of Federal Regulations (33 CFR) Parts 320 through 330 as published in the November 13, 1986 Federal Register, Volume 51, No. 219.

Since these Regional Permits were reissued on December 23, 2021, approximately 55 permits have been verified under Regional Permit 81-000-1, 19 permits were verified under RP 86-000-1 and 376 permits were verified under Regional Permit 87-000-1.

Proposed changes to all three of the RPs include the following:

1. Add a Special Condition (SC) to notify permittees of their responsibility for ensuring that an action authorized by the RP complies with the Migratory Bird Treaty Act and the Bald and Golden Eagle Protection Act.
2. Modify RPs 86-000-1 and 87-000-1 to clarify residential docks do not require Pre-construction Notification (PCN) for the purposes of Section 106 of the National Historic Preservation Act as residential docks result in no effect or no adverse effect to historic resources per the 2021 Programmatic Agreement Among U.S. Army Corps of Engineers Buffalo District Regulatory Branch and New York State Office of Parks, Recreation and Historic Preservation State Historic Preservation Office Regarding Implementation of the Corps of Engineers Regulatory Program within the State of New York
3. Add the requirement for Individual Water Quality Certification for discharges on Tribal Lands.
4. Add a requirement for a PCN for any project that requires review by USACE pursuant to 33 U.S.C. 408: Activities Affecting Structures or Works Built by the United States.
5. Add a section in the RPs regarding timing similar to other Buffalo District Regional Permits and the Nationwide Permit General Condition No. 32(a), allowing work to proceed if 45 days has passed from the District Engineer's

receipt of a complete application, provided a variance or Section 408 review isn't necessary, and endangered species act and historic resource consultations have been completed.
6. Added reference to the USACE on-line Regulatory Request System (RRS).
7. Minor miscellaneous updates were made in the RPs to add clarity and to make them consistent with previously issued Buffalo District Regional Permits.

Proposed changes to RP 81-000-1 include the following:

1. USACE proposes to allow dredging, with a PCN, within wetland but only within recently accumulated sediments within areas previously used for recreational boating associated with an existing dock structure.
2. The USACE is considering adding authorization for 'return water' from a contained disposal area to the Regional Permit. This regulated discharge is generally authorized by Nationwide Permit No. 16.

Proposed changes to RP 87-000-1 include the following:

1. Add the exception to SC No. 5 allowing docks parallel to shore within the NYS Barge Canal.
2. Add clarification to SC No. 7 that a potential variance only applies to the location of the deck, not the size of the deck.
3. Add a variance to the size of kayak launches in SC 13 and docks in SC 16 if the applicant can demonstrate the added width is necessary to be ADA compliant.
4. Add authorization for anchors and chains/cables for floating docks / decks.

Complete details of the above-proposed Regional Permits can be found on our website at: https://www.lrd.usace.army.mil/News/Announcements/Article/3887699/new-york-regional-general-permits/. Hard copies of the above-proposed Regional Permits are available upon request.

The Corps of Engineers has certified that the proposed activity complies with New York's approved Coastal Zone Management Program and that activities authorized by the Regional Permits will be conducted in a manner consistent with that program. The Corps has submitted its consistency determination to the NYSDOS.

Water Quality Certification

Water Quality Certification (or waiver thereof) from the New York State Department of Environmental Conservation (NYSDEC), Seneca Nation of Indians, St. Regis Mohawk Nation and U.S. Environmental Protection Agency is required for Regional Permits 81-000-1 and 86-000-1.

Cultural Resources

Due to the scope of the Regional Permit, a determination of effect to registered historic properties or properties listed as being eligible for inclusion in the National Register of Historic Places has not been made with the exception of projects covered by the

USACE / State Historic Preservation Office (SHPO) Programmatic Agreement (PA). An effects determination for historic properties will be made on a project by project basis during the review process. Reference is made to Special Condition No. 17 of RP 81-000-1, Special Condition No. 22 of RP 86-000-1 and Special Condition No. 22 of RP 87-000-1.

Threatened and Endangered Species

In addition, due to the scope of the Regional Permit, a determination of effect upon species proposed or designated by the U.S. Department of the Interior as threatened or endangered has not been made. An effects determination for endangered species will be made on a project by project basis during the review process. Reference is made to Special Condition No. 16 of RP 81-000-1, Special Condition No. 21 of RP 86-000-1 and Special Condition No. 21 of RP 87-000-1. USACE requests technical assistance from the USFWS to update Table 1 of the RPs to ensure the most accurate listings and locations of listed species.

EVALUATION: The decision whether to issue a permit 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 cumulative impacts thereof; among these are conservation, economics, esthetics, general environmental concerns, wetlands, historical properties, fish and wildlife values, flood hazards, floodplain 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. Evaluation of the impact of the activity on the public interest will also include application of the guidelines promulgated by the Administrator, EPA, under authority of Section 404(b) of the Clean Water Act. A permit will be granted unless its issuance is found to be contrary to the public interest.

COMMENTS: The Corps 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 the proposed modification and reissuance of these RPs. Any comments received will be considered by the Corps to determine whether to issue, modify, or condition these RPs. To make this determination, comments are used to assess impacts to 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 addendum to the Environmental Assessment (EA) pursuant to the National Environmental Policy Act (NEPA). Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity. Please note that all comments received will become part of the administrative record and are subject to public release under the Freedom of Information Act including any personally identifiable information such as names, phone numbers, and addresses.

The Buffalo District will receive written comments on the proposed work, as outlined above, until **August 20, 2026**. Comments should be submitted electronically via the Regulatory Request System (RRS) at https://rrs.usace.army.mil/rrs (for RP 87-000-1 use file LRB-1987-00001, and for RPs 81-000-1 and 86-000-1, use file LRB-0-09604). Alternatively, you may submit comments via email to Margaret Crawford at Margaret.a.crawford@usace.army.mil or in writing to the Commander, U.S. Army Corps of Engineers, Buffalo District, Attention: Margaret Crawford, USACE Auburn Field Office, 7413 County House Road, Auburn, New York 13021. Please refer to the Regional Permit number in your comments.

Any person may request, in writing, within the comment period specified in this notice, that a public hearing be held to consider the application. Requests for public hearings shall state, with particularity, the reasons for holding a public hearing. Requests for a public hearing will be granted, unless the District Engineer determines that the issues raised are insubstantial or there is otherwise no valid interest to be served by a hearing.

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
U.S. ARMY CORPS OF ENGINEERS, BUFFALO DISTRICT
478 MAIN STREET
BUFFALO, NEW YORK 14202-3278

DEPARTMENT OF THE ARMY PERMIT

Permittee: Aaron F. Anderson
Lieutenant Colonel, Corps of Engineers
District Commander
On Behalf of the General Public

Regional Permit No.: 81-000-1
Effective Date:
Expiration Date:

Issuing Office: U.S. Army Corps of Engineers, Buffalo District
478 Main Street
Buffalo, New York, 14202-3278

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 of this permit may result in an order to remove the activity; 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)

and

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

AUTHORIZED ACTIVITY: Minor Dredging to Improve Recreational Use, including discharges of dredged material, other than incidental fallback, associated with in-water excavation activities. The dredging activity is limited to a maximum of 200 cubic yards below the Ordinary High Water (OHW) elevation.

LOCATION OF THE AUTHORIZED ACTIVITY: Waters of the United States that are located within that portion of the State of New York subject to regulation by the U.S. Army Engineer District, Buffalo.

DRAFT

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.

Discretionary Authority: 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 discharges of dredged material, structures and work authorized by this permit.

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: https://www.lrd.usace.army.mil/Missions/Regulatory/New-York/, 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.

GENERAL PERMIT NOTIFICATION REQUIREMENTS:

The special condition section identifies 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 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 and cross sectional diagrams) 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 Department of the Army application for permit (submission should be made via the online application system - Regulatory Request System (RRS) (https://rrs.usace.army.mil):

a. Location map identifying project site.

b. Project plan view and cross-sectional drawings depicting existing conditions including existing structures and fills, proposed work, and the water level at Ordinary High Water (OHW) mark in relation to the proposed work.

c. Photographs of the proposed work area.

d. Location map and description of temporary and permanent upland disposal sites. The limits of the disposal area shall be clearly identified. Photos documenting the proposed disposal area.

Pre-construction notification and written affirmation from this office of the applicability of this permit is required for the following:

a. Projects where blasting is proposed as noted in Special Condition No. 4.

b. Projects not meeting the requirements identified in Special Condition No. 12.

c. Projects where dredging is proposed within wetlands as noted in Special Condition No. 13.

d. Projects requiring coastal zone consistency as required in Special Condition No. 15.

e. Projects located in areas identified on Table 1, as noted in Special Condition No. 16.

f. Projects that may have the potential to affect historic resources, as described in Special Condition No. 17.

g. Projects located within a component of the National Wild and Scenic Rivers (NWSR) System as noted in Special Condition No. 18.

h. Projects located within the Lake Ontario National Marine Sanctuary as noted in Special Condition No. 19.

i. Projects that require review by the Corps pursuant to 33 U.S.C. 408 as noted in Special Condition No. 20.

GENERAL CONDITIONS:

1. The work 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. Permittees that discover any previously unknown historic, cultural or archeological remains and artifacts while accomplishing the activities authorized by this permit, must immediately notify the district engineer of what they 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.

3. 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.

4. 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.

5. This office reserves the right to use this regional permit in combination with any existing or future nationwide, regional, or individual standard permit or any letter of permission.

6. 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. Dredging must be for one or a combination of any of the following purposes:

a. Removal of obstructions such as debris, boulders, shoals, concrete slabs, cribs, or unserviceable structures to the extent necessary in order to allow reasonable access between the docking facility and the waterbody.

b. To provide sufficient depths for ingress or egress of a recreational craft to the applicant's mooring facility including floating plant which may be necessary to accomplish the dredging.

c. To provide mooring for recreational craft or other vessels, which will promote recreational usage of a waterbody.

d. To accommodate launching a private residential property owner's boat.

e. To construct a boat slip provided no individual Department of the Army permit is required for attendant structures or work.

f. To maintain safe navigation within or adjacent to commercial marinas or boat storage areas.

2. The dredging activity is limited to a maximum of 200 cubic yards below the Ordinary High Water (OHW) elevation.

3. That at a particular site, only two separate dredging operations may be performed within one year from the date authorization is received from the Corps of Engineers. Total removal from all dredging operations shall not exceed 200 cubic yards. Future maintenance dredging, if needed, must be in conformance with the Nationwide Permit No. 35 contained in Title 33 of the Code of Federal Regulations Part 330.

4. The use of explosives, if necessary, can be utilized to accomplish the dredging. **Pre-construction notification** and written affirmation from this office of the applicability of this permit is required for all activities involving blasting.

a. The blaster shall plan blasting to keep the total weight of explosive charge per shot and the number of shots to the minimum needed to accomplish the work.

b. Angular stemming material of sufficient length shall be placed in drill holes to reduce energy dispersal to the aquatic environment. Angular stemming material should be specifically limited to the use of gravel or stone chips.

c. If feasible, cofferdams should be used to isolate the work area and minimize impacts to fish and other aquatic organisms. If cofferdams can't be utilized, the applicant should provide details regarding the proposed work (i.e. boring placement, charge weights, stem packing, depth, materials, and fuse delays).

d. Additional fish exclusion methods (i.e. turbidity curtains, bubble fencing) shall be placed at a minimum of 30-feet from the blast location.

e. It is highly recommended that a licensed contractor with experience in blasting operations be utilized.

5. This permit does not authorize the re-routing of natural streams or rivers or the creation of an inlet between two bodies of water separated by a barrier beach where one does not currently exist or some other land mass above the water surface.

6. All dredged material shall be deposited on upland property well removed from waters of the United States, including wetlands, and shall be properly stabilized to prevent re-entry into these waters. If the dredged material is temporarily stored on upland property, adjacent to the dredge site, it shall be contained by a filter fabric or hay bale fence to prevent erosion. In certain areas the District Engineer may require dredged clean sand, gravel, or cobble to be returned to the waterway or adjacent beach area.

7. The return water from a contained disposal area is administratively defined as a discharge of dredged material by 33 CFR 323.2(d), even though the disposal itself occurs on the upland and does not require a section 404 permit. The terms and conditions of this Regional Permit satisfies the technical requirement for a Section 404 permit for the return water where the quality of the return water is controlled by the state through the Section 401 certification procedures.

8. Dredged material shall not be sidecast or temporarily stockpiled in waters of the United States, including wetlands.

9. This permit does not authorize the placement of structures or the discharge of dredged or fill material below the Ordinary High-Water elevation of a waterway for the purpose of creating temporary cofferdams, work pads or access roads.

10. 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 NYSDEC regional office and the NYS Department of State if applicable. (www.dec.ny.gov).

11. This permit does not authorize work on barrier beaches or when it is determined by the District Engineer that the work would adversely impact a barrier beach.

12. **Pre-construction notification** and written affirmation from this office of the applicability of this permit is required for all activities not meeting the conditions below.

a. In order to maintain water quality conditions, any dredging must include provisions for isolating the work area. This permit is conditioned to require work in the dry, the use of silt curtains or similar protective measures to avoid or contain turbidity and to reduce adverse impacts to fish and other aquatic organisms in the project area. To contain sediment and turbidity within the area to be dredged and maintain water quality beyond the dredge area, one or more of the following precautions shall be undertaken:

1. For waterbodies and waterways that undergo annual drawdowns so as to dewater the dredge area, dredging shall be performed during the draw down period.

2. Where in-water dredging is required, the dredging area shall be isolated from the remainder of the waterbody or waterway using temporary isolation methods. When utilizing weighted silt curtains they shall extend the total depth of the water column (from surface to bottom).

3. If weather or water conditions, e.g. wave action or flow volume, or other circumstance result in a visible increase in turbidity or sedimentation outside the confined work area, dredging shall cease until favorable conditions return or additional effective control measures are implemented.

4. Removed sediments shall be conveyed from the dredge area to an upland disposal site in a watertight conveyance.

13. **Pre-construction notification** and written affirmation from this office of the applicability of this permit is required for all dredging proposed within wetland or vegetated shallows. Dredging within these areas are only permitted if located within recently accumulated sediments within areas previously used for recreational boating associated with an existing dock structure.

14. The New York State Department of Environmental Conservation has denied Section 401 Water Quality Certification for the activities authorized by this permit under Section 404 of the Clean Water Act. You must obtain an individual Water Quality Certification from the NYS Department of Environmental Conservation for any activities regulated under Section 404 of the Clean Water Act. (i.e. discharges of dredged or fill material, return water, etc.)

15. You must obtain a consistency concurrence from the New York State Department of State (NYS DOS) for all activities located within a New York State Significant Coastal Fish & Wildlife Habitat (SCFWH) and/or within an area with a federally approved Local Waterfront Revitalization Program (LWRP). For assistance with identifying as to whether the activity is located within one of these special management areas, please visit http://opdgig.dos.ny.gov/#/map or contact NYS DOS. **Pre-construction notification** and written affirmation from this office of the applicability of this permit is

required for any project requiring consistency review by the NYS DOS. No work shall be started under this permit until the concurrence has been secured or the State has failed to act on the submitted consistency certification within six months, beginning from the date the submission is determined by NYS DOS to be complete. You must comply with all conditions of your individual consistency concurrence. In the event that the NYS DOS objects to your consistency certification, no work shall be performed under this permit. See below under AGENCY COORDINATION REQUIREMENTS for additional information.

16. Endangered Species: **Pre-construction notification** and written affirmation from this office of the applicability of this permit is required for activities located within areas with the potential for threatened and endangered species as identified through the USFWS's Information, Planning, and Consultation (IPaC) program found here: https://ipac.ecosphere.fws.gov/. For applicants unable to access online resources, Table 1 can be used. Table 1 is generally an overestimate of areas with federally listed species, and as such, IPaC should be used as the primary resource to determine if there may be federally listed Threatened or Endangered species under the authority of the USFWS as much as possible. For activities that are proposed to occur within areas where there is a potential for federally listed species, the applicant must follow the USFWS's 7-Step process and includes a discussion of potential threatened and endangered species (T&E) habitat within the project site. Refer to the USFWS Project Review website at: https://www.fws.gov/office/new-york-ecological-services-field/new-york-project-reviews. If there is documentation of or potential habitat present for any federally listed species within the project site, you must include in the application the following information:

a. The results of any habitat surveys and presence/absence surveys. Note: all surveys must 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). Additionally, please include a description of surrounding land use (residential, agricultural, or commercial).

d. A description of the area to be disturbed by the proposed project, including the species 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 or minimize impacts to listed species.

Work in the townships, watersheds, or locations identified on Table 1 shall not commence 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 from this office. Note that as a result of consultation with the USFWS, the District Engineer may add species-specific conditions to the permit.

17. 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. A PCN is not required for maintenance dredging of recently accumulated sediments (this does not apply to areas of new dredging or to deepening of previously dredged areas beyond previously authorized depths), as the USACE and State Historic Preservation Office (SHPO) have determined these will result in no effects or no adverse effects to historic properties per the 2021 Programmatic Agreement Among U.S. Army Corps of Engineers Buffalo District Regulatory Branch and New York State Office of Parks, Recreation and Historic Preservation State Historic Preservation Office Regarding Implementation of the Corps of Engineers Regulatory Program within the State of New York.

If a survey has not been performed, then the statement shall include a list of resources checked in the determination, including the results from the NYS Cultural Resource Information System (CRIS) https://cris.parks.ny.gov. 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.

18. **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.

19. **Pre-construction notification** and written affirmation from this office of the applicability of this permit is required for all activities located within the Lake Ontario National Marine Sanctuary (https://sanctuaries.noaa.gov/lake-ontario/). The sanctuary is located within Lake Ontario, and extends waterward from the low water datum of Lake Ontario (243.3 feet IGLD) bordering Wayne, Cayuga, Oswego and Jefferson Counties.

20. **Pre-construction notification** and written affirmation from this office required for activities affecting structures or works built by the United States. If the RP activity also requires review by, or 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 PCN. The PCN must include a statement confirming that the project proponent has submitted a written request for section 408 permission from, or review by, the Corps office having jurisdiction over that USACE project. An activity that

requires section 408 permission and/or review is not authorized by an RP until the appropriate Corps office issues the section 408 permission or completes its review to alter, occupy, or use the USACE project, and the district engineer issues a written RP verification.

21. **Timing.** The prospective permittee must notify the district engineer by submitting an application as early as possible. The district engineer must determine if the application is complete within 30 calendar days of the date of receipt and, if the application is determined to be incomplete, notify the prospective permittee within that 30 day period to request the additional information necessary to make the application complete. The request must specify the information needed to make the application complete. As a general rule, district engineers will request additional information necessary to make the application 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 application is still incomplete and the application 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 RP 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 application and the prospective permittee has not received written notice from the district or division engineer. However, if under the Endangered Species Act, a listed species or critical habitat might be affected or are in the vicinity of the activity, or if 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 and/or section 106 of the National Historic Preservation Act has been completed.
If the proposed activity requires a variance to this RP or review by the Corps pursuant to 33 U.S.C. 408, the permittee may not begin the activity until the district engineer issues the variance and/or completes the 408 review.

NOTE: work shall not proceed until all required state authorizations are received (i.e., Coastal Zone Consistency and Water Quality Certification).
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 application, the permittee cannot begin the activity until an individual permit has been obtained. Subsequently, the permittee's right to proceed under the RP may be modified, suspended, or revoked only in accordance with the procedure set forth in 33 CFR 325.2(e)(2).

AGENCY COORDINATION REQUIREMENTS:

1. You must furnish the New York State Department of State (NYS DOS) with a copy of the preconstruction notification, a signed copy of the Federal Consistency Assessment Form (FCAF) and policy analysis (available at: https://dos.ny.gov/federal-consistency-review-projects-requiring-federal-permits-or-authorizations), project drawings, recent

color photographs and all supporting information as described in D. 2 of the FCAF for the following activities:

a. For all activities located within New York State Significant Coastal Fish & Wildlife Habitat Areas.

b. For all activities located within a federally approved Local Waterfront Revitalization Program.

Electronic submissions can be made by e-mailing all of the above-mentioned information to NYS DOS at: CR@dos.state.ny.us. Hard copies of submissions should be forwarded to:

NYS Department of State
Office of Planning and Development
Division of Coastal Resources
Consistency Review Unit
One Commerce Plaza
99 Washington Ave.
Albany, NY 12231-0001
Telephone (518) 474-6000

In addition, you must furnish the District Engineer, Buffalo District, with a copy of the consistency concurrence letter or a dated copy of the Federal Consistency Assessment Form that you provided to the NYS DOS.

2. Water Quality Certification (WQC):

a. Individual WQC is required from the New York State Department of Environmental Conservation (NYSDEC) for the discharges regulated under Section 404 of the CWA authorized by this permit within NYS lands

b. Individual WQC is required from U.S. Environmental Protection Agency (USEPA) as the certifying authority for discharges within six New York Indian Nations (Cayuga Nation, Onondaga Nation, Oneida Nation of Indians, Shinnecock Indian Nation, Tonawanda Seneca Nation and Tuscarora Nation).

c. Individual WQC is required from the Saint Regis Mohawk Nation for discharges occurring on Saint Regis Mohawk Tribal lands.

d. Individual WQC is required from the Seneca Nation for discharges occurring on Seneca National Tribal lands.

3. The permittee is responsible for ensuring that an action authorized by this RP complies with the Migratory Bird Treaty Act and the Bald and Golden Eagle Protection Act. The permittee is responsible for contacting the appropriate local office of the U.S.

Fish and Wildlife Service to determine what measures, if any, are necessary or appropriate to reduce adverse effects 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.

EXCLUSIONS:

This permit does not apply to:

a. Areas where the dredged material is known or suspected to be heavily contaminated with toxic organic compounds and/or heavy metals.

b. Dredging activities identified by the District Engineer that may significantly impair the movement of littoral material or alter the bed loading characteristics of streams or rivers.

c. 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.

d. 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 (see Special Condition No. 18 for application procedures for projects located within the Lake Ontario National Marine Sanctuary).

e. Activities 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 or Commerce, 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.

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 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:

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. 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:

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

b. The information provided by you in support of your application proves to have been false, incomplete, or inaccurate.

c. Significant information surfaces which this office did not 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:

_____ _____

Date

AARON F. ANDERSON
LTC, EN
Commanding

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 at:

LRB.Regulatory.NewYork_Actions@usace.army.mil **(preferred)** OR mailed to the following address:

U.S. Army Corps of Engineers
Regulatory Division
478 Main St
Buffalo, NY 14202

_____

Transferee

_____

Date

Table 1. Known and potential locations of federally listed threatened and endangered species that may be affected by Regional Permits within the U.S. Army Corps of Engineers, Buffalo District.

County	Projects that will require agency submittal	Species
Allegany	Projects that impact streams or stream banks within Allegheny River or its tributaries (e.g., Olean, Oil, Ischua, Conewango, Cassadaga Creek basins) and in the French Creek (Ohio River basin). Projects with proposed tree removal.	Rayed bean (Endangered), Clubshell (Endangered), Northern Riffleshell (Endangered) Northern long-eared bat (Endangered)
Broome	Projects with proposed tree removal. West Branch Delaware River	Northern long-eared bat (Endangered) Dwarf wedgemussel (Endangered)
Cattaraugus	Projects that impact streams or stream banks within Allegheny River or its tributaries (e.g., Olean, Oil, Ischua, Conewango, Cassadaga Creek basins), and in the French Creek (Ohio River basin). Projects with proposed tree removal.	Clubshell (Endangered), Rayed bean (Endangered), Northern riffleshell (Endangered) Northern long-eared bat (Endangered)
Cayuga	Projects with elevations <1,000 feet and within 300 feet of emergent and scrub/shrub wetlands with shallow spring-fed fens, sphagnum bogs, swamps, marshy meadows, and wet pastures. Projects that impact streams or stream banks in the Town of Victory. Projects with proposed tree removal.	Bog turtle (Threatened) Indiana bat (Endangered), Northern long-eared bat (Endangered)
Chautauqua	Projects that impact streams or stream banks within Allegheny River or its tributaries (e.g. Cassadaga, Conewango, French Creek basins). Projects with proposed tree removal.	Clubshell (Endangered), Rayed bean (Endangered), Northern Riffleshell (Endangered) Northern long-eared bat (Endangered)
Chemung	Projects with proposed tree removal.	Northern long-eared bat (Endangered)
Chenango	No species listed	
Cortland	Projects with proposed tree removal.	Northern long-eared bat (Endangered)

Erie	Projects with proposed tree removal.	Northern long-eared bat(Endangered)
Genesee	Projects with elevations <1,000 feet and within 300 feet of emergent and scrub/shrub wetlands with shallow spring-fed fens, sphagnum bogs, swamps, marshy meadows, and wet pastures. Projects with proposed tree removal.	Eastern massasauga (Threatened), Houghton'sgoldenrod (Threatened) Northern long-eared bat(Endangered)
Herkimer	Projects with proposed tree removal.	Northern long-eared bat(Endangered)
Jefferson	Projects within 1,640 feet of Lake Ontario in the Towns of Henderson and Ellisburg. Projects with proposed tree removal.	Great Lakes piping plover (Endangered) and piping plovercritical habitat Indiana bat (Endangered),Northern long-eared bat (Endangered)
Lewis	Projects with proposed tree removal.	Indiana bat (Endangered),Northern long-eared bat (Endangered)
Livingston	Projects with proposed tree removal.	Northern long-eared bat(Endangered)
Madison	Projects that may impact Chittenango Creek or Chittenango Falls State Park. Projects that propose tree removal. Projects within outcrops of dolomitic limestone, gorges, and in cool limestone sinkholes in mature hardwood forests.	Chittenango ovate amber snail(Threatened) Indiana bats (Endangered) American hart's tongue fern(Threatened)
Monroe	No species listed	
Niagara	Projects with proposed tree removal. Projects within outcrops of dolomitic limestone, gorges, and in cool limestone sinkholes in mature hardwood forests.	Northern long-eared bat(Endangered) American hart's-tongue fern(Threatened)

Oneida	Projects with elevations <1,000 feet and within 300 feet of emergent and scrub/shrub wetlands with shallow spring-fed fens, sphagnum bogs, swamps, marshy meadows, and wet pastures. Projects that impact streams or stream banks in Towns of Camden and Florence. Projects within outcrops of dolomitic limestone, gorges, and in cool limestone sinkholes in mature hardwood forests.	Bog turtle (Threatened) American hart's-tongue fern(Threatened)
Onondaga	Projects with elevations <1,000 feet and within 300 feet of emergent and scrub/shrub wetlands with shallow spring-fed fens, sphagnum bogs, swamps, marshy meadows, and wet pastures. Projects with proposed tree removal. Projects within outcrops of dolomitic limestone, gorges, and in cool limestone sinkholes in mature hardwood forests.	Eastern massasauga (Threatened) Indiana bat (Endangered), Northern Long-eared bat (Endangered) American hart's-tongue fern (Threatened)
Ontario	Projects with elevations <1,000 feet and within 300 feet of emergent and scrub/shrub wetlands with shallow spring-fed fens, sphagnum bogs, swamps, marshy meadows, and wet pastures. Projects with proposed tree removal.	Bog turtle (Threatened) Northern long-eared bat (Endangered)
Orleans	No species listed	
Oswego	Projects with elevations <1,000 feet and within 300 feet of emergent and scrub/shrub wetlands with shallow spring-fed fens, sphagnum bogs, swamps, marshy meadows, and wet pastures. Projects located within 1,640 feet of Lake Ontario in the Towns of Sandy Creek and Richland. Projects with proposed tree removal.	Bog turtle (Threatened) Great Lakes piping plover and piping plover critical habitat Indiana bat (Endangered), Northern long-eared bat (Endangered)
Schuyler	Projects with proposed tree removal.	Northern long-eared bat (Endangered)

Seneca	Projects with elevations <1,000 feet and within 300 feet of emergent and scrub/shrub wetlands with shallow spring-fed fens, sphagnum bogs, swamps, marshy meadows, and wet pastures. Projects in the Town of Junius. Projects with proposed tree removal.	Bog turtle (Threatened) Indiana bat (Endangered), Northern long-eared bat (Endangered)
Steuben	Projects that will impact small wetlands, sinkhole ponds, or wet depressions with seasonally fluctuating water levels. Projects with proposed tree removal.	Northeastern bulrush (Endangered) Northern long-eared bat (Endangered)
St. Lawrence	Projects with proposed tree removal.	Northern long-eared bat (Endangered)
Tioga	Projects with proposed tree removal.	Northern long-eared bat (Endangered)
Tompkins	Projects with proposed tree removal.	Northern long-eared bat (Endangered)
Wayne	Projects with elevations <1,000 feet and within 300 feet of emergent and scrub/shrub wetlands with shallow spring-fed fens, sphagnum bogs, swamps, marshy meadows, and wet pastures. Projects with proposed tree removal.	Bog turtle (Threatened) Indiana bat (Endangered)
Wyoming	Projects with proposed tree removal.	Northern long-eared bat (Endangered)
Yates	Projects located on the west side of Seneca Lake, Town of Starkey. Projects with proposed tree removal.	Leedy's roseroot (Threatened) Northern long-eared bat (Endangered)

*As this table is generally an overestimate of areas with listed species, an applicant should use the USFWS Information for Planning and Consultation (IPAC) website (https://ecos.fws.gov/ipac) as the primary resource to determine if there may be listed Threatened or Endangered species.

IMPORTANT

This form shall be submitted **upon completion** of any work authorized by Department of the Army Permit No. 81-000-1

Date:

Return completed form to: lrb.regulatory.permitcompliance@usace.army.mil **(preferred)** or mail to:

Compliance Coordinator
Regulatory Division
U.S. Army Corps of Engineers
478 Main Street
Buffalo, New York 14202-3278

To whom it may concern:

You are hereby notified that the work authorized under Department of the Army Regional General Permit No. 81-000-1, 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 81-000-1.

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)

DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS, BUFFALO DISTRICT
478 MAIN STREET
BUFFALO, NEW YORK 14202-3278

DEPARTMENT OF THE ARMY PERMIT

Permittee: Aaron F. Anderson
Lieutenant Colonel, Corps of Engineers
District Commander
On Behalf of the General Public

Regional Permit No.: 86-000-1
Effective Date:
Expiration Date:

Issuing Office: U.S. Army Corps of Engineers, Buffalo District
478 Main Street
Buffalo, New York 14202-3278

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 pages 2 and 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.

Non-compliance with any of the terms or conditions may result in an order to remove the activity; 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)

and

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

AUTHORIZED ACTIVITY: Stone filled timber crib dock(s), deck, stairway(s), electrical line(s) along dock, boat/jet ski hoist(s), and covered (not enclosed) boat slip(s) and hoist(s).

DRAFT

LOCATION OF THE AUTHORIZED ACTIVITY: Waters of the United States that are located within that portion of the State of New York subject to regulation by the U.S. Army Engineer District, Buffalo.

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.

Discretionary Authority: 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 fills, structures and work authorized by this permit.

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: https://www.lrd.usace.army.mil/Missions/Regulatory/New-York/, 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.

GENERAL PERMIT NOTIFICATION REQUIREMENTS:

The special condition section identifies 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 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 and cross-sectional diagrams) 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 Department of the Army application for permit (submission should be made via the online application system - Regulatory Request System (RRS) (https://rrs.usace.army.mil):

a. Location map identifying project site.

b. Project plan view and cross-sectional drawings depicting existing conditions including existing structures and fills, proposed work, and the water level at Ordinary High Water (OHW) mark in relation to the proposed work.

c. Photographs of the proposed work area

Pre-construction notification and written affirmation from this office of the applicability of this permit is required for the following:

a. Any variances noted in the conditions below.

b. Work in wetlands and vegetated shallows.

c. Projects not meeting the requirements to isolate the work area identified in Special Condition No. 18

d. Projects requiring coastal zone consistency as required in Special Condition No. 20.

e. Projects located in areas identified on Table 1, as noted in Special Condition No. 21 due to potential endangered and threatened species concerns.

f. Projects that may have the potential to affect historic resources, as described in Special Condition No. 22.

g. Projects located within a component of the National Wild and Scenic Rivers (NWSR) System as noted in Special Condition No. 23.

h. Projects located within the Lake Ontario National Marine Sanctuary as noted in Special Condition No. 24.

i. Projects that require review by the Corps pursuant to 33 U.S.C. 408 as noted in Special Condition No. 25.

GENERAL CONDITIONS:

1. The installation of the permitted structure and fills 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 structures and fills 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 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 activity, or should you desire to abandon it without a good faith transfer, must obtain authorization from this office and you may be required to remove the structure(s) and restore the site to its original pre-project conditions.

3.Permittees that discover any previously unknown historic, cultural or archeological remains and artifacts while accomplishing the activities authorized by this permit, must immediately notify the district engineer of what they 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.

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 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.

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.

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 shoreline. 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 Ordinary High Water (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 conformity with existing structures would be practical, 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 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, interior docks under covered boat slips, etc. does not exceed 1,200 square feet.

5. 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. A variance may be granted in cases where exceptions would be reasonable due to the topography of the shoreline, or for navigational reasons. The dock(s) shall not exceed 8 feet in width.

6. Multiple docks, extensions to existing docks, and/or docks with a deck or platform are authorized by this permit provided that 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. 20 for additional requirements on multiple docks and/or docks with decks located in the Coastal Zone Management area

7. 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 200 square feet. A **variance** to the location and placement of the deck (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. 20 for additional requirements on decks located in the Coastal Zone Management area.

8. The total surface area of all boat and jet ski hoist(s) and covered boat slip(s) shall not exceed 900 square feet.

9. Crib supports must be timber filled with stone. Crib supports constructed of steel or concrete caissons filled with concrete or culverts filled with concrete are not authorized by this permit. The sides of the cribs shall not be sealed and must have openings amounting to at least 40 percent of the peripheral area of the crib. Fill placed in the cribs must be clean stone large enough so as not to pass through the crib openings. The shoreward support or footer for the dock shall be placed above the Ordinary High-Water shoreline. A **variance** in the location of the first crib may be granted in cases where the shoreline configuration or rock outcropping prevents placement of the dock support or footer above the Ordinary High-Water shoreline. A variance may also be granted when the shoreward crib is part of an existing structure and this permit is being used for a dock extension. Variance requests must state the particular reason(s) for the requests including site specific information (i.e., site photos) in support of the request.

10. The total length of all cribs must not exceed 50 percent of the total length of each dock. The length of individual cribs must not exceed 10 feet in Lakes Erie and Ontario or the Niagara and St. Lawrence Rivers; and 8 feet in all other water bodies. The dimensions of the individual cribs may vary but must not exceed 64 square feet.

11. Dock(s) may cross wetlands provided that cribs are not located in wetland areas. **Pre-construction notification** and written affirmation from this office of the applicability of this permit is required for all activities in wetlands. The dock segment crossing a wetland area must be pile supported and must not exceed 4 feet in width. The underside of the dock must also be a minimum of 4 feet above the ground surface. During the evaluation of applications for dock(s) in wetland areas consideration will be given to the size and type of the wetland area and the existence of other structures. 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.

12. To the maximum extent practicable, dock(s) shall cross wetlands so that dredging for access to the dock is not required. If dredging is required, separate authorization must be obtained. If separate authorization is requested, this permit can only be used to authorize the dock when the dredge area is limited to the minimum amount necessary

to provide access to the dock. The minimum amount necessary may vary from site to site but should generally not exceed a channel 15 feet in width.

13. Side staving, if used, shall not extend lower than one half of the distance between the Ordinary High and Low Water levels. In addition, the top of the dock must be a minimum of one foot above the Ordinary High-Water elevation.

14. 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.

15. Where necessary, dredging is limited to the minimum amount necessary for crib placement and shall not exceed a total of 20 cubic yards. Dredged stone that meets the criteria specified in Special Condition No. 9 may be used in the cribs. All other dredged material must be deposited on upland property and stabilized to prevent reentry into waters of the United States, including wetlands.

16. All in-water work shall be restricted to dates that will preclude 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. (www.dec.ny.gov)

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.

18. In order to maintain water quality conditions, any dock construction must include provisions for isolating the work area. This permit is conditioned to require work in the dry, the use of silt curtains or similar protective measures to avoid or contain turbidity. **Pre- construction notification** and written affirmation from this office of the applicability of this permit is required for all activities not meeting this condition.

19. The New York State Department of Environmental Conservation has denied Section 401 Water Quality Certification for the activities authorized by this permit. You must obtain an individual Water Quality Certification from the NYS Department of Environmental Conservation (www.dec.ny.gov).

20. You must obtain a consistency concurrence from the New York State Department of State (NYS DOS) for proposed private recreational docks not accessory to a private residential upland use, multiple docks and/or decks located within the entire Coastal Zone Management (CZM) area, for all activities requiring a variance and for all activities

located within a New York State Significant Coastal Fish & Wildlife Habitat (SCFWH) and/or within an area with a federally approved Local Waterfront Revitalization Program (LWRP). For assistance with identifying as to whether the activity is located within one of these special management areas, please visit: https://dos.ny.gov/federal-consistency-review-projects-requiring-federal-permits-or-authorizations or contact NYS DOS. **Pre-construction notification** and written affirmation from this office of the applicability of this permit is required for any project requiring consistency review by the NYS DOS. No work shall be started under this permit until the concurrence has been secured or the State has failed to act on the submitted consistency certification within six months, beginning from the date the submission is determined by NYS DOS to be complete. You must comply with all conditions of your individual consistency concurrence. In the event that the NYS DOS objects to your consistency certification, no work shall be performed under this permit. See below under AGENCY COORDINATION REQUIREMENTS for additional information.

21. Endangered Species: **Pre-construction notification** and written affirmation from this office of the applicability of this permit is required for activities located within areas with the potential for threatened and endangered species as identified through the USFWS's Information, Planning, and Consultation (IPaC) program found here: https://ipac.ecosphere.fws.gov/. For applicants unable to access online resources, Table 1 can be used. Table 1 is generally an overestimate of areas with federally listed species, and as such, IPaC should be used as the primary resource to determine if there may be federally listed Threatened or Endangered species under the authority of the USFWS as much as possible. For activities that are proposed to occur within areas where there is a potential for federally listed species, the applicant must follow the USFWS's 7-Step process and includes a discussion of potential threatened and endangered species (T&E) habitat within the project site. Refer to the USFWS Project Review website at: https://www.fws.gov/office/new-york-ecological-services-field/new-york-project-reviews.

If there is documentation of or potential habitat present for any federally listed species within the project site, you must include in the application the following information:

a. The results of any habitat surveys and presence/absence surveys. Note: all surveys must 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). Additionally, please include a description of surrounding land use (residential, agricultural, or commercial).

d. A description of the area to be disturbed by the proposed project, including the species 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 or minimize impacts to listed species.

Work in the townships, watersheds, or locations identified on Table 1 shall not commence 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 from this office. Note that as a result of consultation with the USFWS, the District Engineer may add species-specific conditions to the permit.

22. 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. A PCN is not required for residential use docks (floating, open pile or crib supported) as the USACE and State Historic Preservation Office (SHPO) have determined these will result in no effects or no adverse effects to historic properties per the 2021 Programmatic Agreement Among U.S. Army Corps of Engineers Buffalo District Regulatory Branch and New York State Office of Parks, Recreation and Historic Preservation State Historic Preservation Office Regarding Implementation of the Corps of Engineers Regulatory Program within the State of New York.

If a survey has not been performed, then the statement shall include a list of resources checked in the determination, including the results from the NYS Cultural Resource Information System (CRIS) https://cris.parks.ny.gov. 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.

23. **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.

24. **Pre-construction notification** and written affirmation from this office of the applicability of this permit is required for all activities located within the Lake Ontario National Marine Sanctuary (https://sanctuaries.noaa.gov/lake-ontario/). The sanctuary is located within Lake Ontario, and extends waterward from the low water datum of Lake Ontario (243.3 feet IGLD) bordering Wayne, Cayuga, Oswego and Jefferson Counties.

25. **Pre-construction notification** and written affirmation from this office required for activities affecting structures or works built by the United States. If the RP activity also requires review by, or 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 PCN. The PCN must include a statement confirming that the project proponent has submitted a written request for section 408 permission from, or review by, the Corps office having jurisdiction over that USACE project. An activity that requires section 408 permission and/or review is not authorized by an RP until the appropriate Corps office issues the section 408 permission or completes its review to alter, occupy, or use the USACE project, and the district engineer issues a written RP verification.

26. **Timing.** The prospective permittee must notify the district engineer by submitting an application as early as possible. The district engineer must determine if the application is complete within 30 calendar days of the date of receipt and, if the application is determined to be incomplete, notify the prospective permittee within that 30 day period to request the additional information necessary to make the application complete. The request must specify the information needed to make the application complete. As a general rule, district engineers will request additional information necessary to make the application 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 application is still incomplete and the application 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 RP 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 application and the prospective permittee has not received written notice from the district or division engineer. However, if under the Endangered Species Act, a listed species or critical habitat might be affected or are in the vicinity of the activity, or if 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 and/or section 106 of the National Historic Preservation Act has been completed.
If the proposed activity requires a variance to this RP or review by the Corps pursuant to 33 U.S.C. 408, the permittee may not begin the activity until the district engineer issues the variance and/or completes the 408 review.

Note: work shall not proceed until all required state authorizations are received (i.e., Coastal Zone Consistency and Water Quality Certification).
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 application, the permittee cannot begin the activity until an individual permit has been obtained. Subsequently, the permittee’s right to proceed under the RP may be modified, suspended, or revoked only in accordance with the procedure set forth in 33 CFR 325.2(e)(2).

AGENCY COORDINATION REQUIREMENTS:

1. You must furnish the New York State Department of State (NYS DOS) with a copy of the preconstruction notification, a signed copy of the Federal Consistency Assessment Form (FCAF) and policy analysis (available at: https://dos.ny.gov/federal-consistency-review-projects-requiring-federal-permits-or-authorizations), 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 within the entire Coastal Zone Management area.

b. All activities located within New York State Significant Coastal Fish & Wildlife Habitat Areas.

c. For multiple docks located within the entire Coastal Zone Management area.

d. For all decks located within the entire Coastal Zone Management area.

e. For all activities requiring a variance.

f. And all activities located within a federally approved Local Waterfront Revitalization Program.

Electronic submissions can be made by e-mailing all of the above-mentioned information to NYS DOS at: CR@dos.state.ny.us. Hard copies of submissions 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

In addition, you must furnish the District Engineer, Buffalo District, with a copy of the consistency concurrence letter or a dated copy of the Federal Consistency Assessment Form that you provided to the NYS DOS.

2. Water Quality Certification (WQC):

a. The New York State Department of Environmental Conservation has denied Section 401 WQC for the activities authorized by this permit within NYS lands. You must obtain an individual WQC from the NYS Department of Environmental Conservation. (See attached map for NYSDEC contact information).

b. Individual WQC is required from U.S. Environmental Protection Agency (USEPA) as the certifying authority for discharges within six New York Indian Nations (Cayuga Nation, Onondaga Nation, Oneida Nation of Indians, Shinnecock Indian Nation, Tonawanda Seneca Nation and Tuscarora Nation).

c. Individual WQC is required from the Saint Regis Mohawk Nation for discharges occurring on Saint Regis Mohawk Tribal lands.

d. Individual WQC is required from the Seneca Nation for discharges occurring on Seneca National Tribal lands.

3. 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. The U.S. Coast Guard can be reached by calling (216) 902-6066 or by writing to:

Commander (OAN)
Ninth Coast Guard District
ATTN: Private Aids to Navigation
1240 East Ninth Street
Cleveland, Ohio 44199-2060
d09-smb-msucleveland-wm@uscg.mil

4. The permittee is responsible for ensuring that an action authorized by this RP complies with the Migratory Bird Treaty Act and the Bald and Golden Eagle Protection Act. The permittee is responsible for contacting the appropriate local office of the U.S. Fish and Wildlife Service to determine what measures, if any, are necessary or appropriate to reduce adverse effects 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.

EXCLUSIONS:

This permit **does not** apply to:

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. 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 (see Special Condition No. 24 for application procedures for projects located within the Lake Ontario National Marine Sanctuary).

c. Structures and/or fills 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 or Commerce, 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.

d. This permit does not authorize the placement of enclosed buildings, boathouses, fuel storage tanks, sinks, toilets, showers, fuel dispensing or sanitary pump-out facilities on any dock(s) waterward of the Ordinary High-Water shoreline.

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 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:

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. 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:

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

b. The information provided by you in support of your application proves to have been false, incomplete, or inaccurate.

c. Significant information surfaces which this office did not 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:

_____ _____

Date AARON F. ANDERSON
LTC, EN
Commanding

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 at:

LRB.Regulatory.NewYork_Actions@usace.army.mil (preferred) OR mailed to the following address:

U.S. Army Corps of Engineers
Regulatory Division
478 Main St
Buffalo, NY 14202

_____ _____

Transferee Date

DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS, BUFFALO DISTRICT
478 MAIN STREET
BUFFALO, NEW YORK 14202-3278

DEPARTMENT OF THE ARMY PERMIT

Permittee: Aaron F. Anderson
Lieutenant Colonel, Corps of Engineers
District Commander
On Behalf of the General Public

Regional Permit No.: 87-000-1
Effective Date:
Expiration Date:

Issuing Office: U.S. Army Corps of Engineers, Buffalo District
478 Main Street
Buffalo, New York 14202-3278

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 (PCN) 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, kayak/canoe launch structure, and anchor blocks and chains/cables for floating structures. 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. 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.

Discretionary Authority: The District Commander reserves the right to include any additional special conditions or require an individual permit as may be necessary to

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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: https://www.lrd.usace.army.mil/Missions/Regulatory/New-York/, 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.

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 and cross-sectional diagrams) 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 Department of the Army application for permit (submission should be made via the online application system - Regulatory Request System (RRS) (https://rrs.usace.army.mil):

a. Location map identifying project site.

b. Project plan view and cross-sectional drawings depicting existing conditions including existing structures and fills, proposed work, and the water level at Ordinary High Water (OHW) mark in relation to the proposed work.

c. Photographs of the proposed work area.

Pre-construction notification (PCN) and written affirmation from this office of the applicability of this permit is required for the following:

a. Any variances noted in the conditions below.

b. Activities in wetlands and vegetated shallows.

c. Projects requiring coastal zone consistency as required in Special Condition No. 20.

d. Projects located in areas identified on Table 1, as noted in Special Condition No. 21 due to potential endangered and threatened species concerns.

e. Projects which may have the potential to cause effects to historical resources, as noted in Special Condition No.22.

f. Projects located in wild and scenic rivers, as noted in Special Condition No. 23.

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 must obtain authorization from this office and you may be required to remove the structure(s) and restore the site to its original pre-project conditions.

3. Permittees that discover any previously unknown historic, cultural or archeological remains and artifacts while accomplishing the activities authorized by this permit, must immediately notify the district engineer of what they 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.

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, interior docks under covered boat slips, etc. does not exceed 1200 square feet from the Ordinary High-Water mark.

5. With the exception of docks within the NYS Barge Canal, 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.

6. 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. See Special Condition No.

20 for additional requirements on multiple docks and/or docks with deck located in the Coastal Zone Management area.

7. 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 the location of the 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 (Note the variance only applies to the location of the deck. No variance to the size of the deck is permitted under this RP). Only one deck per property is authorized by this permit. See Special Condition No. 20 for additional requirements on decks located in the Coastal Zone Management area. Note: For the purposes of this Regional Permit, a deck is any portion of the dock that exceeds 8 feet in width. The size of a deck and/or dock would include any step downs from the dock/deck.

8. The top of open pile docks must be a minimum of one foot above the Ordinary High-Water elevation.

9. Side staving, if used, shall not extend lower than one half of the distance between the Ordinary High and Low Water levels.

10. 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.

11. Only one marine railway per property owner is authorized by this permit.

12. The total surface area of all boat and jet ski hoist(s) and covered boat slips shall not exceed 900 square feet.

13. One kayak/canoe launch structure may be installed provided the dimensions are within the dock size limitations specified in this permit, for each property. The kayak/canoe launch shall not exceed 20 feet by 5 feet. A **variance** to the size of the kayak launch can be granted if the applicant can demonstrate the added width is necessary to be ADA compliant. The kayak/canoe launch may be constructed adjacent to an existing structure. The width of any dock or deck does not include an adjacent kayak/canoe launch. See Special Condition No. 20 for additional requirements on kayak/canoe launches located in the Coastal Zone Management area.

14. 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.

15. Anchor blocks must be no larger than 8 feet by 8 feet by 1 foot high.

16. Structures authorized by this permit may cross wetlands or other special aquatic sites, but the crossing must not exceed four (4) feet in width and shall be a minimum of four feet above the Ordinary High-Water elevation. A variance to the width of the dock can be granted if the applicant can demonstrate the added width is necessary to be ADA compliant. **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.

17. 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.

18. 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.

19. 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.

20. 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.

21. You must obtain an individual consistency concurrence from the New York State Department of State (NYSDOS) for proposed private recreational docks or any kayak/canoe launch 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, 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 https://dos.ny.gov/federal-consistency-review-projects-requiring-federal-permits-or-authorization. **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..

22. Endangered Species: **Pre-construction notification** and written affirmation from this office of the applicability of this permit is required for activities located within areas with the potential for threatened and endangered species as identified through the USFWS's Information, Planning, and Consultation (IPaC) program found here: https://ipac.ecosphere.fws.gov/. For applicants unable to access online resources, Table 1 can be used. Table 1 is generally an overestimate of areas with federally listed species, and as such, IPaC should be used as the primary resource to determine if there may be federally listed Threatened or Endangered species under the authority of the USFWS as much as possible. For activities that are proposed to occur within areas where there is a potential for federally listed species, the applicant must follow the USFWS's 7-Step process and includes a discussion of potential threatened and endangered species (T&E) habitat within the project site. Refer to the USFWS Project Review website at: https://www.fws.gov/office/new-york-ecological-services-field/new-york-project-reviews. If there is documentation of or potential habitat present for any federally listed species within the project site, you must include in the application the following information:

a. The results of any habitat surveys and presence/absence surveys. **Note:** all surveys must be coordinated with the USFWS 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. I 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).

d. A description of the area to be disturbed by the proposed project, including the species 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 or minimize impacts to listed species.

Work in the townships, watersheds, or locations identified on Table 1 shall not commence 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 from this office. Note that as a result of consultation with the USFWS, the District Engineer may add species-specific conditions to the permit.

23. 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. A PCN is not required for residential use docks (floating, open pile or crib supported) as the USACE and State Historic Preservation Office (SHPO) have determined these will result in no effects or no adverse effects to historic properties per the 2021 Programmatic Agreement Among U.S. Army Corps of Engineers Buffalo District Regulatory Branch and New York State Office of Parks, Recreation and Historic Preservation State Historic Preservation Office Regarding Implementation of the Corps of Engineers Regulatory Program within the State of New York.

If a survey has not been performed, then the statement shall include a list of resources checked in the determination, including the results from the NYS Cultural Resource Information System (CRIS) https://cris.parks.ny.gov. 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.

24. **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, 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.

25. **Pre-construction notification** and written affirmation from this office of the applicability of this permit is required for all activities located within the Lake Ontario National Marine Sanctuary (https://sanctuaries.noaa.gov/lake-ontario/). The sanctuary is located within Lake Ontario and extends waterward from the low water datum of Lake Ontario (243.3 feet IGLD) bordering Wayne, Cayuga, Oswego and Jefferson Counties.

26. **Pre-construction notification** and written affirmation from this office required for activities affecting structures or works built by the United States. If the RP activity also requires review by, or 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 PCN. The PCN must include a statement confirming that the

project proponent has submitted a written request for section 408 permission from, or review by, the Corps office having jurisdiction over that USACE project. An activity that requires section 408 permission and/or review is not authorized by an RP until the appropriate Corps office issues the section 408 permission or completes its review to alter, occupy, or use the USACE project, and the district engineer issues a written RP verification.

27. **Timing**: The prospective permittee must notify the district engineer by submitting an application as early as possible. The district engineer must determine if the application is complete within 30 calendar days of the date of receipt and, if the application is determined to be incomplete, notify the prospective permittee within that 30 day period to request the additional information necessary to make the application complete. The request must specify the information needed to make the application complete. As a general rule, district engineers will request additional information necessary to make the application 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 application is still incomplete, and the application 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 RP 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 application and the prospective permittee has not received written notice from the district or division engineer. However, if under the Endangered Species Act, a listed species or critical habitat might be affected or are in the vicinity of the activity, or if 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 and/or section 106 of the National Historic Preservation Act has been completed. If the proposed activity requires a variance to this RP or review by the Corps pursuant to 33 U.S.C. 408, the permittee may not begin the activity until the district engineer issues the variance and/or completes the 408 review.

Note: work shall not proceed until all required state authorizations are received (i.e., Coastal Zone Consistency and Water Quality Certification).
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 application, the permittee cannot begin the activity until an individual permit has been obtained. Subsequently, the permittee's right to proceed under the RP may be modified, suspended, or revoked only in accordance with the procedure set forth in 33 CFR 325.2(e)(2).

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: https://dos.ny.gov/federal-consistency-review-projects-requiring-federal-permits-or-authorization), 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 or any kayak/canoe launch 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.

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
d09 -smb-msucleveland-wm@uscg.mil

3. The permittee is responsible for ensuring that an action authorized by this RP complies with the Migratory Bird Treaty Act and the Bald and Golden Eagle Protection Act. The permittee is responsible for contacting the appropriate local office of the U.S. Fish and Wildlife Service to determine what measures, if any, are necessary or appropriate to reduce adverse effects 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.

EXCLUSIONS:

This permit does not apply to:

a. 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 16and 17 of this permit.

b. 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.

c. 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 (see Special Condition No. 24 for application procedures for projects located within the Lake Ontario National Marine Sanctuary).

d. 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

d. 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:

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. 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:

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

b. The information provided by you in support of your application proves to have been false, incomplete, or inaccurate.

c. 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:

_____ _____

Date

AARON F. ANDERSON
LTC, EN
COMMANDING

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 at:

LRB.Regulatory.NewYork_Actions@usace.army.mil **(preferred)** OR mailed to the following address:

U.S. Army Corps of Engineers
Regulatory Division
478 Main St.
Buffalo, NY 14202

_____
Transferee

_____
Date

Table 1. Known and potential locations of federally listed threatened and endangered species that may be affected by Regional Permits within the U.S. Army Corps of Engineers, Buffalo District.

County	Projects that will require agency submittal	Species
Allegany	Projects that impact streams or stream banks within Allegheny River or its tributaries (e.g., Olean, Oil, Ischua, Conewango, Cassadaga Creek basins) and in the French Creek (Ohio River basin). Projects with proposed tree removal.	Rayed bean (Endangered), Clubshell (Endangered), Northern Riffleshell (Endangered) Northern long-eared bat (Endangered)
Broome	Projects with proposed tree removal. West Branch Delaware River	Northern long-eared bat (Endangered) Dwarf wedgemussel (Endangered)
Cattaraugus	Projects that impact streams or stream banks within Allegheny River or its tributaries (e.g., Olean, Oil, Ischua, Conewango, Cassadaga Creek basins), and in the French Creek (Ohio River basin). Projects with proposed tree removal.	Clubshell (Endangered), Rayed bean (Endangered), Northern riffleshell (Endangered) Northern long-eared bat (Endangered)
Cayuga	Projects with elevations <1,000 feet and within 300 feet of emergent and scrub/shrub wetlands with shallow spring-fed fens, sphagnum bogs, swamps, marshy meadows, and wet pastures. Projects that impact streams or stream banks in the Town of Victory. Projects with proposed tree removal.	Bog turtle (Threatened) Indiana bat (Endangered), Northern long-eared bat (Endangered)
Chautauqua	Projects that impact streams or stream banks within Allegheny River or its tributaries (e.g. Cassadaga, Conewango, French Creek basins). Projects with proposed tree removal.	Clubshell (Endangered), Rayed bean (Endangered), Northern Riffleshell (Endangered) Northern long-eared bat (Endangered)
Chemung	Projects with proposed tree removal.	Northern long-eared bat (Endangered)
Chenango	No species listed	
Cortland	Projects with proposed tree removal.	Northern long-eared bat (Endangered)
Erie	Projects with proposed tree removal.	Northern long-eared bat (Endangered)

Genesee	Projects with elevations <1,000 feet and within 300 feet of emergent and scrub/shrub wetlands with shallow spring-fed fens, sphagnum bogs, swamps, marshy meadows, and wet pastures. Projects with proposed tree removal.	Eastern massasauga (Threatened), Houghton's goldenrod (Threatened) Northern long-eared bat (Endangered)
Herkimer	Projects with proposed tree removal.	Northern long-eared bat (Endangered)
Jefferson	Projects within 1,640 feet of Lake Ontario in the Towns of Henderson and Ellisburg. Projects with proposed tree removal.	Great Lakes piping plover (Endangered) and piping plover critical habitat Indiana bat (Endangered), Northern long-eared bat (Endangered)
Lewis	Projects with proposed tree removal.	Indiana bat (Endangered), Northern long-eared bat (Endangered)
Livingston	Projects with proposed tree removal.	Northern long-eared bat (Endangered)
Madison	Projects that may impact Chittenango Creek or Chittenango Falls State Park. Projects that propose tree removal. Projects within outcrops of dolomitic limestone, gorges, and in cool limestone sinkholes in mature hardwood forests.	Chittenango ovate amber snail (Threatened) Indiana bats (Endangered) American hart's tongue fern (Threatened)
Monroe	No species listed	
Niagara	Projects with proposed tree removal. Projects within outcrops of dolomitic limestone, gorges, and in cool limestone sinkholes in mature hardwood forests.	Northern long-eared bat (Endangered) American hart's-tongue fern (Threatened)
Oneida	Projects with elevations <1,000 feet and within 300 feet of emergent and scrub/shrub wetlands with shallow spring-fed fens, sphagnum bogs, swamps, marshy meadows, and wet pastures. Projects that impact streams or stream banks in Towns of Camden and Florence. Projects within outcrops of dolomitic limestone, gorges, and in cool limestone sinkholes in mature hardwood forests.	Bog turtle (Threatened) American hart's-tongue fern (Threatened)

Onondaga	Projects with elevations <1,000 feet and within 300 feet of emergent and scrub/shrub wetlands with shallow spring-fed fens, sphagnum bogs, swamps, marshy meadows, and wet pastures.	Eastern massasauga (Threatened)
	Projects with proposed tree removal. Projects within outcrops of dolomitic limestone, gorges, and in cool limestone sinkholes in mature hardwood forests.	Indiana bat (Endangered), Northern Long-eared bat (Endangered) American hart's-tongue fern (Threatened)
Ontario	Projects with elevations <1,000 feet and within 300 feet of emergent and scrub/shrub wetlands with shallow spring-fed fens, sphagnum bogs, swamps, marshy meadows, and wet pastures. Projects with proposed tree removal.	Bog turtle (Threatened) Northern long-eared bat (Endangered)
Orleans	No species listed	
Oswego	Projects with elevations <1,000 feet and within 300 feet of emergent and scrub/shrub wetlands with shallow spring-fed fens, sphagnum bogs, swamps, marshy meadows, and wet pastures. Projects located within 1,640 feet of Lake Ontario in the Towns of Sandy Creek and Richland. Projects with proposed tree removal.	Bog turtle (Threatened) Great Lakes piping plover and piping plover critical habitat Indiana bat (Endangered), Northern long-eared bat (Endangered)
Schuyler	Projects with proposed tree removal.	Northern long-eared bat (Endangered)
Seneca	Projects with elevations <1,000 feet and within 300 feet of emergent and scrub/shrub wetlands with shallow spring-fed fens, sphagnum bogs, swamps, marshy meadows, and wet pastures. Projects in the Town of Junius.	Bog turtle (Threatened) Indiana bat

	Projects with proposed tree removal.	(Endangered), Northern long-eared bat (Endangered)
Steuben	Projects that will impact small wetlands, sinkhole ponds, or wet depressions with seasonally fluctuating water levels. Projects with proposed tree removal.	Northeastern bulrush (Endangered) Northern long-eared bat (Endangered)
St. Lawrence	Projects with proposed tree removal.	Northern long-eared bat (Endangered)
Tioga	Projects with proposed tree removal.	Northern long-eared bat (Endangered)
Tompkins	Projects with proposed tree removal.	Northern long-eared bat (Endangered)
Wayne	Projects with elevations <1,000 feet and within 300 feet of emergent and scrub/shrub wetlands with shallow spring-fed fens, sphagnum bogs, swamps, marshy meadows, and wet pastures. Projects with proposed tree removal.	Bog turtle (Threatened) Indiana bat (Endangered)
Wyoming	Projects with proposed tree removal.	Northern long-eared bat (Endangered)
Yates	Projects located on the west side of Seneca Lake, Town of Starkey. Projects with proposed tree removal.	Leedy's roseroot (Threatened) Northern long-eared bat (Endangered)

*As this table is generally an overestimate of areas with listed species, an applicant should use the USFWS Information for Planning and Consultation (IPAC) website https://ecos.fws.gov/ipac) as the primary resource to determine if there may be listed Threatened or Endangered species.

IMPORTANT

This form shall be submitted **upon completion** of any work authorized by Department of the Army Permit No. 87-000-1

Date:

Return completed form to: lrb.regulatory.permitcompliance@usace.army.mil or mail to:

U.S. Army Corps of Engineers
Compliance Coordinator
Regulatory Division
478 Main Street
Buffalo, New York 14202-3278

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)