



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

Regulatory Branch

SEP 16 2019

SUBJECT: Permit Application Number NAN-2019-00541-WNE
by Weber Projects III, LLC

Rodney Weber
Weber Projects III, LLC
11 Creek Drive
Beacon, NY 12508

Dear Mr. Weber:

On May 9, 2019, the New York District of the U.S. Army Corps of Engineers received a request for Department of the Army authorization for the discharge of fill material into waters of the United States associated with the installation of two (2) new stormwater outfall structures and the removal of three (3) existing stormwater outfall structures. The site is located in Fishkill Creek, in the City of Beacon, Dutchess County, New York.

Subsequent submittals entitled, "Prepared For: Weber Projects III, LLC, PO Box 688, Beacon, NY 12508," prepared by Hudson Land Design Professional Engineering, revised July 18, 2019, indicate that the proposed work would impact 76 square feet (0.0017 acres) below the ordinary high water line (OHW) in Fishkill Creek. Permanent impacts to waters of the United States, including, excavation of the stream bank and the placement of filter fabric and rip-rap, would result in the discharge of 45 square feet (0.0010 acres) of fill material below OHW. Removal of three existing outfall structures and the placement of temporary sandbag cofferdams would result in the temporary disturbance of 31 square feet (0.0007 acres) below OHW.

Based on the information submitted to this office, and accomplishment of notification in accordance with the applicable federal requirements, our review of the project indicates that an individual permit is not required. It appears that the activities within the jurisdiction of this office could be accomplished under Department of the Army Nationwide General Permit Numbers 7 and 33. The nationwide permits are prescribed as a Reissuance of Nationwide Permits in the Federal Register dated January 6, 2017 (82 FR 1860). The work may be performed without further authorization from this office provided the activity complies with the permit conditions listed in Section B, Nos. 7 and 33, Section C, any applicable New York District regional conditions, the following special condition, and any applicable regional conditions added by the State of New York, copies enclosed.

Special Condition

(A) In order to protect the Federally-listed endangered Indiana bat (*Myotis sodalis*) and the Federally-listed threatened northern long-eared bat (*Myotis septentrionalis*), the clearing of potential roosting trees shall occur only between November 1 and March 31. Orange construction fencing shall be used to separate areas to be graded from areas not to be disturbed. No artificial dyes, coloring, insecticide, or algacide such as copper sulfate shall be used in stormwater control structures.

This determination covers only the work described in the submitted material. Any major changes in the project may require additional authorizations from the New York District.

Care should be taken so that construction materials, including debris, do not enter any waterway to become drift or pollution hazards. You are to contact the appropriate state and local government officials to ensure that the subject work is performed in compliance with their requirements.

Please note that this nationwide permit (NWP) verification is based on a preliminary jurisdictional determination (JD). A preliminary JD is not appealable. If you wish, prior to commencement of the authorized work you may request an approved JD, which may be appealed, by contacting the New York District, U.S. Army Corps of Engineers for further instruction. To assist you in this decision and address any questions you may have on the differences between preliminary and approved jurisdictional determinations, please review U.S. Army Corps of Engineers Regulatory Guidance Letter No. 16-01, which can be found at: <https://usace.contentdm.oclc.org/utils/getfile/collection/p16021coll9/id/1256>

This verification is valid until March 18, 2022, unless the nationwide permit is modified, reissued, or revoked. This verification will remain valid until March 18, 2022, if the activity complies with the terms of any subsequent modifications of the nationwide permit authorization. If the nationwide permits are suspended, revoked, or modified in such a way that the activity would no longer comply with the terms and conditions of a nationwide permit, and the proposed activity has commenced, or is under contract to commence, the permittee shall have 12 months from the date of such action to complete the activity.

Within 30 days of the completion of the activity authorized by this permit and any mitigation required by this permit, you are to sign and submit the attached compliance certification form to this office.

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In order for us to better serve you, please complete our Customer Service Survey located at <http://www.nan.usace.army.mil/Missions/Regulatory/CustomerSurvey.aspx>.

If any questions should arise concerning this matter, please contact Brendan Newell, of my staff, at (917) 790-8417.

Sincerely,

A handwritten signature in black ink, appearing to read "Rosita Miranda". The signature is fluid and cursive, with a long horizontal stroke at the beginning.

Rosita Miranda
Chief, Western Section

Enclosures

Ecc: NYSDEC - Region 3
City of Beacon
Eric Rogge and Michael Bodendorf – Hudson Land Design