



REPLY TO  
ATTENTION OF

## DEPARTMENT OF THE ARMY

PHILADELPHIA DISTRICT CORPS OF ENGINEERS  
WANAMAKER BUILDING, 100 PENN SQUARE EAST  
PHILADELPHIA, PENNSYLVANIA 19107-3390

JUN 06 2014

Regulatory Branch  
Application Section II

SUBJECT: CENAP-OP-R-2014-241-35 (NWP23)  
Route 130 Brooklawn Circle Project Improvement  
Lat: 39.875372°, Long: -75.123323°

Ms. Amber Cheney  
Division of Capital Program Support  
Bureau of Landscape Architecture and Environmental Solutions  
New Jersey Department of Transportation  
P.O. Box 600  
Trenton, New Jersey 08106

Dear Ms. Cheney:

This is in regard to your proposal, on behalf of NJDOT, to construct a new stormwater sewer outfall and to reconstruct two existing storm water outfalls within Route 130 Brooklawn Circle improvement project located in the Borough of Brooklawn, Camden County, New Jersey.

Under current Federal regulations, a Department of the Army permit is required for work or structures in navigable waters of the United States and/or the discharge of dredged or fill material into waters of the United States including adjacent and isolated wetlands. **Based upon our review of the information you have provided, it has been determined that the proposed outfall structure work is approved by the existing Department of the Army Nationwide Permit (NWP) described below, provided the work is conducted in compliance with the special conditions below and the attached general conditions.**

**Nationwide Permit 23. *Approved Categorical Exclusions.***

*Activities undertaken, assisted, authorized, regulated, funded, or financed, in whole or in part, by another Federal agency or department where:*

*(a) That agency or department has determined, pursuant to the Council on Environmental Quality's implementing regulations for the National Environmental Policy Act (40 CFR part 1500 et seq.), that the activity is categorically excluded from environmental documentation, because it is included within a category of actions which neither individually nor cumulatively have a significant effect on the human environment; and*

*(b) The Office of the Chief of Engineers (Attn: CECW-CO) has concurred with that agency's or department's determination that the activity is categorically excluded and approved the activity for authorization under NWP 23.*

*The Office of the Chief of Engineers may require additional conditions, including pre-construction notification, for authorization of an agency's categorical exclusions under this NWP.*

*Notification: Certain categorical exclusions approved for authorization under this NWP require the permittee to submit a pre-construction notification to the district engineer prior to commencing the activity (see general condition 27). The activities that require pre-construction notification are listed in the appropriate Regulatory Guidance Letters. (Sections 10 and 404)*

*Note: The agency or department may submit an application for an activity believed to be categorically excluded to the Office of the Chief of Engineers (Attn: CECW-CO). Prior to approval for authorization under this NWP of any agency's activity, the Office of the Chief of Engineers will solicit public comment. As of the date of issuance of this NWP, agencies with approved categorical exclusions are the: Bureau of Reclamation, Federal Highway Administration, and U.S. Coast Guard. Activities approved for authorization under this NWP as of the date of this notice are found in Corps Regulatory Guidance Letter 05-07, which is available at: <http://www.usace.army.mil/inet/functions/cw/cecwo/reg/rglsindx.htm>. Any future approved categorical exclusions will be announced in Regulatory Guidance Letters and posted on this same web site.*

You are advised that this verification of NWP authorization is valid until the nationwide permits expire on March 18, 2017, unless the NWP authorization is modified, suspended, or revoked prior to this date. In the event that the NWP authorization is modified during that time period, this expiration date will remain valid, provided the activity complies with any subsequent modification of the NWP authorization.

The enclosed table (Enclosure 1) identifies those NWPs which require a preconstruction notification (PCN) to the Corps of Engineers, those which have been regionally conditioned by the Division Engineer, and those which have been denied 401 Water Quality Certification (WQC) and/or Coastal Zone Management (CZM) consistency by the State. It is noted that CZM consistency from the State is only required for those activities in or affecting a State's coastal zone. Additionally, some of the NWPs do not involve a discharge of dredged or fill material, and as such, do not require a 401 WQC. For those NWPs not requiring a 401 WQC, the appropriate rows and columns have been identified with the term "NA". If the State has denied the required WQC and/or not concurred with the Corps' CZM consistency determination, the NWP authorization is considered denied without prejudice until an individual project specific WQC and/or CZM approval is obtained. This approval must be obtained in order for the activity to be authorized under the NWP and a copy provided to this office before work begins. Any project specific conditions required by the State for the WQC and/or CZM approval will automatically become part of the NWP authorization.

You should carefully note that this NWP authorization is based upon your agreement to comply with the terms and conditions of this NWP (Enclosure 2), including any and all attached project specific special conditions listed below. Initiation of any authorized work shall constitute your agreement to comply with all of the NWP's conditions. You should also note that the authorized work may be subject to periodic inspections by a representative of this office.

PROJECT SPECIFIC SPECIAL CONDITIONS:

1. All work performed in association with the above noted project shall be conducted in accordance with the project plans identified as "USACE Permit Plans, Route 130 Brooklawn Circle, Contract No. 025993120", sheets PP1 to PP11, prepared by McCormick Taylor, dated April 14, 2014. The project plans provide for the construction of one new outfall and the reconstruction of 2 existing outfall structures. The stated purpose of the project is to provide for safe operation of an existing drainage system and roadway.
2. Construction activities shall not result in the disturbance or alteration of greater than 0.022 acres of waters of the United States.
3. Any deviation in construction methodology or project design from that shown on the above noted drawings or repair plan must be approved by this office, in writing, prior to performance of the work. All modifications to the above noted project plans shall be approved, in writing, by this office. No work shall be performed prior to written approval of this office.
4. This office shall be notified prior to the commencement of authorized work by completing and signing the enclosed Notification/ Certification of Work Commencement Form (Enclosure 3). This office shall also be notified within 10 days of the completion of the authorized work by completing and signing the enclosed Notification/Certification of Work Completion/Compliance Form (Enclosure 4). All notifications required by this condition shall be in writing. The Notification of Commencement of work may be sent to this office by facsimile or other electronic means; all other notification shall be transmitted to this office by registered mail. Oral notifications are not acceptable. Similar notification is required each time maintenance work is to be done under the terms of this Corps of Engineers 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. All waters of the U.S., including wetlands, temporarily disturbed during the project, shall be restored to their previous condition within 30 days of completion of the regulated work. Restoration work shall include removal of coffer dams and the regrading of areas excavated or filled temporarily to their pre-disturbance conditions. Photographic evidence shall be submitted to this office within 60 days of completion of regulated work documenting restoration of temporary impacts.

In addition, the approved plans depict the extent of Federal jurisdiction on the project site. The basis for our decision is included as Enclosure 5. This verification of Federal jurisdiction is valid for a period of 5 years from the date of this letter and is based upon site conditions and information provided by you in your application. This office reserves the right to modify and re-evaluate this jurisdictional determination at any time if existing site conditions change or if Federal regulations change, or should the information provided by you prove to be false, incomplete, or inaccurate.

The verification of a Nationwide Permit including all general and special conditions is not subject to appeal. However, as this letter also contains an approved jurisdictional determination for your subject site, if you object to this decision, you may request an administrative appeal under Corps regulations at 33 CFR 331. Enclosed you will find a combined Notification of Appeal Process (NAP) fact sheet and Request for Appeal (RFA) form (Enclosure 6). If you request to appeal jurisdiction, you must submit a completed RFA form to the North Atlantic Division Office at the following address:

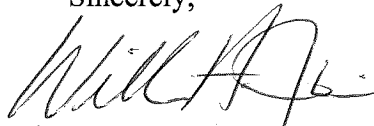
Michael G. Vissichelli  
Regulatory Appeals Review Officer  
North Atlantic Division, U.S. Army Corps of Engineers  
Fort Hamilton Military Community  
General Lee Avenue, Building 301  
Brooklyn, NY 11252-6700

In order for an RFA to be accepted by the Corps, the Corps must determine that it is complete, that it meets the criteria for appeal under 33 CFR Part 331.5, and that it has been received by the Division Office within 60 days of the date of the NAP. Should you decide to submit an RFA form, it must be received at the above address by \_\_\_\_\_.

It is not necessary to submit an RFA form to the Division Office if you do not object to the jurisdictional determination in this letter.

Also enclosed is a pre-addressed postal card (Enclosure 7) soliciting your comments on the processing of your application. Any comments, positive or otherwise, on the procedures, timeliness, fairness, etc., may be made on this card. If you should have any questions regarding this matter, please contact Michael Hayduk at (215) 656-5822 or write to the above address.

Sincerely,



Frank J. Cianfrani  
Chief, Regulatory Branch

Enclosures

Copies Furnished:

NJDEP LURP – Charlie Welsch