



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

November 24, 2020

Regulatory Branch

SUBJECT: Department of the Army No. LRB-2020-00226, Nationwide Permit No. 38 as Published in the Federal Register, Volume 82, No. 4, on Friday, January 6, 2017

Ms. Lisa Gorton
Project Manager, Division of Environmental Remediation
New York State Department of Environmental Conservation
625 Broadway
Albany, New York 12233

Dear Ms. Gorton:

This pertains to your application for a Department of the Army permit to dredge 2.9 acres within the Genesee River and dredge 2.2 acres in adjacent wetland with the placement of new clean soil within the wetland area for the remediation project located in the Genesee River between Turning Point Park and King's Landing, in the City of Rochester, Monroe County, New York.

Specifically, I refer to the pre-construction notification (PCN) you submitted requesting Department of the Army (DA) authorization. As of September 28, 2020, more than 45 calendar days have passed since your complete PCN was received. In accordance with 2017 Nationwide Permit General Condition 32 (a) (2), since you did not receive written notice from the district or division engineer prior to this date **you were authorized to begin your activity under Nationwide Permit (NWP) 38.**

However, to comply with NWP general condition #18 specific to endangered species and general condition #20 specific to historic properties an evaluation of these resources was performed. As a result, this office has determined that consultation is not required under Section 7 of the Endangered Species Act (see 33 CFR 330.4(f)) or under Section 106 of the National Historic Preservation Act (see 33 CFR 330.4(g)).

Again, you were authorized to begin your activity under Nationwide Permit (NWP) 38. However, it is incumbent upon you to construct your activity in compliance with the terms and conditions of the NWP (see attached). The NWPs expire on March 18, 2022. It is your responsibility to remain informed of changes to the NWP program. A public notice announcing any changes will be issued when they occur and will be available for viewing at our website: <http://www.lrb.usace.army.mil/Missions/Regulatory.aspx>. Note, that if your activity is not undertaken within the defined period or the project specifications have changed, you must immediately notify this office to determine the need for further approval. Your initiation of work as authorized by the enclosed NWP acknowledges your acceptance of the general and regional

conditions contained therein. This does not obviate the need to obtain any other project specific Federal, state, or local authorization.

Questions pertaining to this matter should be directed to me at 716-879-4308, by writing to the following address: U.S. Army Corps of Engineers, 1776 Niagara Street, Buffalo, New York 14207, or by e-mail at: Heather.L.Adams@usace.army.mil

Sincerely,

A handwritten signature in black ink, appearing to read "Heather Adams", with a horizontal line extending to the right.

Heather Adams
Biologist