

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

Division of Fish and Wildlife, Region 9
270 Michigan Avenue, Buffalo, NY 14203-2915
P: (716) 851-7010 | F: (716) 851-7005
www.dec.ny.gov

July 30, 2020

CERTIFIED MAIL RECEIPT REQUESTED

Ms. Victoria Liberty
National Fuel Gas Corporation
6363 Main Street
Williamsville, NY 14221

Dear Ms. Liberty:

Wetland WO-22 & WO-35 Boundary Verification Town of Clarence, Erie County

This letter serves as notification that I completed a field review of your project area of your project along Rapids Road, Greenbush Road, and Swift Mills Road, on June 30, 2020, and a follow-up office review, to determine whether wetlands present within and adjacent to the parcel meet New York State Department of Environmental Conservation (NYSDEC) criteria for state wetlands jurisdiction.

Please note that the DEC had some boundary discrepancies with what Haley & Aldrich had flagged. However, for the purpose of the proposed project, the DEC will accept the wetland boundaries listed below. Please note that any future projects in this area may require additional field investigation to determine the limits of DEC jurisdiction.

Based on my review, I verified the boundary, delineated by Haley & Aldrich, of Wetland WO-22, denoted as "KLD" by Haley & Aldrich. The wetland boundary is identified with blue flagging consecutively numbered from KLD-1 through KLD-6 and extends generally west to east along the north side of Swift Mills Road, as depicted in Figure 4, Sheets 12, of Haley & Aldrich's April 2020 Wetland and Stream Delineation Report.

I also verified the boundary, delineated by Haley & Aldrich, of Wetland WO-35, denoted as "KLE" and "KLF" by Haley & Aldrich. The wetland boundary KLE is identified with blue flagging consecutively numbered from KLE-1 through KLE-6 and extends generally east to west along the south side of Rapids Road, as depicted in Figure 4, Sheets 15, of Haley & Aldrich's April 2020 Wetland and Stream Delineation Report.

Please note that the boundary of KLE appears to extend further north than what is flagged between flags KLE-3 and KLE-5. The wetland boundary KLF consists of two pieces, and is identified with blue flagging consecutively numbered from KLE-1 through KLF-7 and KLF-8 through KLF-15, and extends generally west to east, and east to west respectively, along the

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north side of Rapids Road, as depicted in Figure 4, Sheets 15 & 16, of Haley & Aldrich's April 2020 Wetland and Stream Delineation Report.

Based on my review, we determined that there is no state-regulated freshwater wetlands jurisdiction of Haley & Aldrich's "KLA," "KLB," "KLC," or "KLG." Specifically, our review of map resources on the Department's geographic information system (GIS) determined that "KLA," "KLB," and "KLC," are separated from WO-22 by more than 50 meters, and therefore cannot be considered for inclusion in NYSDEC Wetland WO-22. Similarly, "KLG," is separated from WO-35 by more than 50 meters, and therefore cannot be considered for inclusion in NYSDEC Wetland WO-35. In addition, the total contiguous areas of "KLA," "KLB," "KLC," or "KLG" do not meet the 12.4-acre size threshold for state wetlands jurisdiction. Finally, we determined that the wetland lacks significant features (e.g., resident habitat for endangered or threatened species) and therefore would not qualify for state wetlands jurisdiction under the NYSDEC's "unusual local importance" designation.

In 1975, the New York State Legislature passed the Freshwater Wetlands Act to preserve and protect wetlands and their functions, such as flood protection and fish and wildlife habitat. The New York State Department of Environmental Conservation is required to map all wetlands protected by this law, and to make those maps available for inspection in all local government clerks' offices.

Please note that this Department plans to amend the Freshwater Wetlands Map for Erie County to better illustrate the boundary of WO-22 & WO-35 based on this wetland delineation. We will publish notice of the proposed amendment in the Department's Environmental Notice Bulletin and in two local newspapers on a later date. In addition, all affected landowners will be notified by certified mail. Affected landowners, local government officials, and other interested parties may comment to this Department on the proposed map amendment now or at the time of the published notices.

Certain activities within the wetland or its regulated 100-foot adjacent area require a permit from this Department, including but not limited to filling, clearing vegetation, draining, and construction. Contact our Division of Environmental Permits Office for information regarding permit requirements at:

New York State Department of Environmental Conservation
Division of Environmental Permits
270 Michigan Avenue
Buffalo, New York 14303-2915
Telephone: (716) 851-7165

Please note that, for the purpose of your Article 24 application, this Department will not require a surveyed wetland boundary map. Instead, the plans included in the April 2020 Joint Permit Application are acceptable.

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Be advised that the U.S. Army Corps of Engineers may also have wetland jurisdiction irrespective of the Department of Environmental Conservation. For more information, you may contact the Corps at:

United States Army Corps of Engineers Regulatory Branch
1776 Niagara Street
Buffalo, New York 14207
Telephone: (716) 879-4330

If you have any questions about this wetland delineation, please feel free to call me in the Buffalo office at (716) 851-7010.

Sincerely,



Angela Driscoll
Wetland & Waters Ecologist
Region 9 – Buffalo

AGD:jl
Enclosure

cc: Mr. Chuck Rosenburg, NYSDEC, Regional Habitat Protection Manager
Lieutenant Lohr, NYSDEC Division of Law Enforcement
Ms. Michelle Woznick, NYSDEC Division of Environmental Permits
Mr. Tom Robataille, Haley & Aldrich
Mr. David Cummings, Newstead Town Supervisor
Ms. Dawn Izydorczak, Newstead Town Clerk
Mr. Michael Kearns, Erie County Clerk
Mr. Mark Poloncarz, Erie County Executive
Wetland WO-22 & WO-35 file