



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

March 24, 2020

Regulatory Branch

SUBJECT: Transmittal of **PROVISIONAL** Department of the Army Permit No. LRB-2007-000146, Nationwide Permit No. 3 as Published in the Federal Register, Volume 82, No. 4, on Friday, January 6, 2017.

Cleveland-Cuyahoga County Port Authority
Attn: Mr. William Friedman
1100 W. 9th Street, Suite 300
Cleveland, OH 44113

Dear Mr. Friedman:

I am writing to you in regard to your proposal to place fill within 1,110 linear feet of Lake Erie shoreline in association with the rehabilitation of an existing bulkhead at Dock 26W located at 600 Erieside Avenue, City of Cleveland, Cuyahoga County, Ohio (41.505897, -81.703589).

I have determined that your project satisfies the terms and conditions of the attached Nationwide Permit (NWP). However, your project does not conform to all of the conditions contained in the Section 401 Water Quality Certification (WQC) and Coastal Zone Certification (CZM) associated with this NWP.

Before you may commence work under this NWP you first need to obtain an activity specific WQC from Ohio Environmental Protection Agency (OEPA):

Mr. Jeffrey Boyles, 401 WQC Supervisor
Ohio EPA, Division of Surface Water
Lazarus Government Center
50 West Town Street, Suite 700
Columbus, Ohio 43215

Before you can commence work under this NWP you must obtain an activity specific Coastal Zone Certification (CZM) from the Ohio Department of Natural Resources (ODNR) at the following address:

Steve Holland, M.P.A.
Federal Consistency Coordinator
Ohio Coastal Management Program
ODNR Office of Coastal Management
105 West Shoreline Drive
Sandusky, Ohio 44870
419-626-7980

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SUBJECT: Transmittal of PROVISIONAL Department of the Army Permit No. LRB-2007-00146, Nationwide Permit No. 3 as Published in the Federal Register, Volume 82, No. 4, on Friday, January 6, 2017.

Once you have successfully completed the state process, you must forward a copy of the project specific WQC and CZM to this office. The conditions of the project specific WQC and CZM will supersede the WQC and CZM conditions included with the NWP attached to this transmittal. If the project remains unchanged you may commence work under the attached NWP without any further coordination with this office. However, if your project is modified during the OEPA and/or ODNR review you will need to contact this office to determine if the modified project is still authorized by the attached NWP. If this situation arises, you may need to furnish a revised permit application, and you may not commence work until you receive Department of the Army authorization.

Verification of the applicability of this NWP is valid until March 18, 2022 unless the NWP is modified, suspended, revoked, or the activity complies with any subsequent permit modification. Please note in accordance with 33 CFR part 330.6(b), that if you commence or are under contract to commence an activity in reliance of the permit prior to the date this Nationwide permit expires, is suspended or revoked, or is modified such that the activity no longer complies with the terms and conditions, you have twelve months from the date of permit modification, expiration, or revocation to complete the activity under the present terms and conditions of the permit, unless the permit has been subject to the provisions of discretionary authority.

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>. Finally, 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 or reverification.

In addition to the general conditions attached to the NWP, your attention is directed to the following Special Conditions which are also appended at the end of the NWP General Conditions:

1. The permittee must obtain, or a waiver of, an Individual Section 401 Water Quality Certification (WQC) from the State of Ohio prior to the use of this Nationwide Permit. Once issued, the WQC is part of this permit pursuant to Section 401(d) of the Clean Water Act. Noncompliance with any limitation or requirements stated in the WQC may be the basis for suspension, revocation or modification of this permit. To obtain the WQC you must contact the Ohio Environmental Protection Agency, Section 401 Certification Unit, PO Box 1049, Columbus, Ohio 43216-1049, or by phone at (614) 644-2494.

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2. The permittee must obtain a certification from the State of Ohio that your project is consistent with their Coastal Zone Management Plan (CZMP) prior to using this Nationwide Permit. To obtain this certification the permittee must contact Mr. Steve Holland, Federal Consistency Administrator, Ohio Department of Natural Resources, Office of Coastal Management, 105 West Shoreline Drive, Sandusky, Ohio 44870, or by phone at (419) 626-7980.
3. The permittee is prohibited from performing in-water work between April 15 and June 30 to preclude adverse impacts on the spawning, nursery, and feeding activities of indigenous fish species.
4. You are responsible for ensuring that the contractor and/or workers executing the activity(s) authorized by this permit have knowledge of the terms and conditions of the authorization and that a copy of the permit document is at the project site throughout the period the work is underway.
5. That any discharge of dredged or fill material shall consist of suitable material free from toxic pollutants in toxic amounts.
6. That the fill material shall be free of oil and grease, debris, wood, general refuse, plaster, and other pollutants, and shall contain no broken asphalt.
7. That the mechanical equipment used to execute the work authorized herein shall be operated in such a way as to minimize turbidity that could degrade water quality and adversely affect aquatic plant and animal life.
8. All lake work shall be started and completed in one continuous operation.
9. At the request of an authorized representative of the Buffalo District, U.S. Army Corps of Engineers, the permittee must allow access to the project site to determine compliance with the conditions of this permit.

A copy of this letter has been sent to the OEPA, ODNR, and Robert Smith (Johnson, Mirmiran, & Thompson, Inc.).

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Questions pertaining to this matter should be directed to me at (716) 879-4363, by writing to the following address: U.S. Army Corps of Engineers, 1776 Niagara Street, Buffalo, NY 14207, or by e-mail at: Peter.J.Krakowiak@usace.army.mil

Sincerely,

A handwritten signature in black ink that reads "Peter J. Krakowiak". The signature is written in a cursive style with a large, stylized initial "P".

Peter J. Krakowiak
Biologist

Enclosures

COMPLETION FORM / COMPLIANCE CERTIFICATION

Each permittee who receives a Nationwide Permit (NWP) verification letter from the Corps must provide a signed certification documenting completion of the authorized activity and any compensatory mitigation.

APPLICANT:
Cleveland-Cuyahoga County
Port Authority
Attn: Mr. William Friedman
1100 W. 9th Street, Suite 300
Cleveland, OH 44113

POINT OF CONTACT:
Same as applicant

File No.: LRB-2007-00146
File Closed: March 24, 2020
NWP No.: 3

Upon completion of the activity authorized by this permit and any required compensatory mitigation sign this certification and return it to the address listed below within 30 days of project completion.

Please note that your permitted activity is subject to a compliance inspection by a U.S. Army Corps of Engineers representative. If you fail to comply with this permit you are subject to permit suspension, modification, revocation, and/or assessment of administrative penalties.

The permittee shall certify the completion of the authorized work and mitigation:

- a. The authorized work was done in accordance with the NWP authorization, including any general, regional, or activity specific conditions.
- b. The implementation of any required compensatory mitigation was completed in accordance with the permit conditions. If credits from a mitigation bank or in-lieu fee program are used to satisfy the compensatory mitigation requirements, this certification must include the documentation required by 33 CFR 332.3(1)(3) to confirm that the permittee secured the appropriate number and resource type of credits.

William Friedman

Date

Permittee Telephone Number: _____

Project location: 600 Erieside Avenue, City of Cleveland, Cuyahoga County, Ohio (41.505897, -81.703589)

Project Description: place fill within 1,110 linear feet of Lake Erie shoreline in association with the rehabilitation of an existing bulkhead at Dock 26W

Return completed form to:
Mr. David Leput
Regulatory Branch
U.S. Army Corps of Engineers
1776 Niagara Street
Buffalo, NY 14207