

## New York State Department of Environmental Conservation

**Division of Environmental Permits, Region 3** 21 South Putt Corners Road, New Paltz, NY 12561

21 South Putt Corners Road, New Paltz, NY 12561 Phone: (845) 256-3054 • FAX: (845) 255-3042

Website: www.dec.ny.gov



Department of Environmental Conservation

February 14, 2018

Brian Brooker, P.E. Brooker Engineering PLLC 74 Lafayette Avenue, Suite 501 Suffern, NY 10901

RE:

DEC ID No. 3-3340-00306/00001

Bridges at Lake Parc

Town of Monroe, Orange County

Notice of No Jurisdiction - Article 15 Protection of Water Dam Safety &

Article 15 Protection of Waters Stream Disturbance

Notice of Incomplete Application - 401 Water Quality Certification

Dear Mr. Brooker,

The New York State Department of Environmental Conservation (Department) has reviewed the resubmission materials pertaining to the above referenced application, which we received on November 20, 2017, submitted on behalf of W.C. Lincoln Corp. An application was submitted for Article 15 Protection of Waters permits, including Dam Safety and Stream Disturbance, as well as a Section 401 Water Quality Certification, for the lowering of "Smith Pond Dam", State ID 195-0432, to under 6 feet. This application is associated with a proposed 46 lot subdivision, and has received Nationwide Permit #29 for the discharge of fill materials into waters of the US to facilitate the construction of a new road for the stream crossing as well as the establishment of the residential lots. According to the information provided, mitigation work includes the establishment of 0.084 acres of wetlands.

**Dam Safety** – The Division of Dam Safety has determined from the information submitted, and from Department files for Smith Pond Dam (DEC ID#195-0432), <u>a dam safety permit is not required</u>. According to our records, the existing dam is under 15-feet tall and the impoundment storage is under 3 million gallons which puts it below the permit thresholds required for a dam safety permit, as detailed in 6 NYCRR Part 608.3, to complete the proposed work. However, the Division of Dam Safety has provided comments regarding the project and on the Hazard classification. Please see the enclosed memo from Warren Shaw, dated November 30, 2017.

**Stream Disturbance** – The proposed work is on the Ramapo River, Waters Index No. NJ-12 including P1020a, Class C. This is a "non-protected" waterbody. A Stream Disturbance permit is not required to disturb the bed or banks of "non-protected" streams. An Article 15 Stream Disturbance is not required.

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However, please note, the project sponsor is still responsible for ensuring that work shall not pollute any stream or waterbody. Care shall be taken to stabilize any disturbed areas promptly after construction, and all necessary precautions shall be taken to prevent contamination of the stream of waterbody by silt, sediment, fuels, solvents, lubricants, or any other pollutant associated with the project.

**Water Quality Certification** – Additional information is required pertaining to the Section 401 Water Quality Certification. Please submit the following:

- According to the information submitted, the Army Corps of Engineers issued a
  Jurisdictional Determination on November 29, 2013, and Nationwide Permit #29
  (Permit Application Number NAN-2013-01145-WOR) on April 13, 2016. Please
  provide a copy of the Jurisdictional Determination and Nationwide Permit issued
  by the Army Corps.
- The submitted plan drawings titled "The Bridges at Lake Parc", sheets 1 through 4 dated 11/16/2017, prepared and sealed by Brian Brooker of Brooker Engineering, PLLC, contains a table with Jurisdictional Water Calculations (Drawing No. 1). These calculations are not consistent with the calculations provided in the written narrative provided for Question 9. Project Description and Purpose. The numbers that are referenced in the written description cite calculations from the issued Nationwide Permit, and these do not appear consistent with the calculations provided on the table. Please clarify the acreage of disturbance and mitigation.
- The submitted plans reference the Wetland Mitigation Plan prepared by Robert G. Torgersen, dated 9/14/2015. Please submit the referenced plan.
- Sediment and Erosion Controls are not shown on the plans. Please provide
  plans that show the proposed sediment and erosion controls. In addition, if the
  work area is to be isolated, please shown these measures as well.
- The Joint Application Form submitted for this project is outdated. Please submit
  the newest version of the Joint Application Form, located at the following link:
  <a href="http://www.dec.ny.gov/permits/6333.html">http://www.dec.ny.gov/permits/6333.html</a>. Please be sure to submit the form with
  the original signature.
- It appears that the proposed work is near or within the FEMA mapped floodplain. Please provide information showing that the construction of the new residential development is not in the riparian wetlands located within the FEMA designated 100-year floodplain.

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Threatened and Endangered Species - DEC has reviewed the State's Master Natural Heritage records. We have determined that the site is located within or near record(s) of the following state-listed species: Northern Long-eared bat (Myotis septentrionalis), a New York State Threatened species. A permit is required for the incidental taking of any species identified as "endangered" or "threatened", which can include the removal of habitat. In order to mitigate potential impacts to these species, the Department recommends a time of year restriction on the removal of trees over 4 inches diameter at breast height. The acceptable time of year for tree removal is between October 31st to March 31st. Please add this Time of Year restriction to the project plans.

State Environmental Quality Review (SEQR) - We received a lead agency circulation on February 29, 2016, from the Village of Monroe Planning Board, indicating its intent to assume lead agency for review of the proposal. As a coordinated review is being performed, SEQR regulations 6 NYCRR 617.7 (a) and (b) require that the Village of Monroe Planning Board as lead agency, determine the significance of this action in writing. The written determination must thoroughly analyze identified areas of environmental concern contained in the circulated Full Environmental Assessment form (EAF). By copy of this letter, we are advising the [agency] of the need for a written determination of significance that fulfills the requirements of SEQR Part 617. Your application will remain as incomplete until SEQR provisions are satisfied.

SPDES Stormwater Construction – It appears that this overall project may involve the disturbance of 1 acre or more of land, therefore, the project must obtain coverage under the current SPDES Construction General Permit [GP-0-15-002]. The applicant must prepare a Stormwater Pollution Prevention Plan (SWPPP) in accordance with the current SPDES General Permit. The preliminary SWPPP must be submitted to the Department for review. If this site is within an MS4 area (Municipal Separate Storm Sewer System), the stormwater plan must be reviewed and accepted by the municipality and the MS-4 Acceptance Form must be submitted to the Department.

Uniform Procedures - Please also be advised that pursuant to 6 NYCRR §621, each permit type has designations for minor actions, and all other actions are major. Form Water Quality Certification's, minor actions include projects that will not exceed the minor project thresholds established for protection of waters and freshwater wetlands. The additional information requested above will allow the Department to determine if this project is considered major under UPA, a 15 day of public notice period is required. Once the department considers the application complete the applicant will be responsible for publishing (for one day) the Notice of Complete Application in the official newspaper of the town in which the project will occur. Any comments received must be addressed before a final permit decision is made.

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If you have any questions do not hesitate to contact me at 845-256-3059, or via e-mail at <u>Tracey.Omalley@dec.ny.gov</u>.

Sincerely,

Tracey O'Malley

Division of Environmental Permits

Encl. Memo from Warren Shaw, dated November 30, 2017

Cc. W.C. Lincoln Corp.
1 Jackson Avenue
Spring Valley, NY 10977

Village of Monroe 7 State Road Monroe, NY 10590

Ecc. Warren Shaw, NYSDEC DDS

Brian Orzel, Army Corps of Engineers - NY District

### NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

Division of Water, Bureau of Flood Protection and Dam Safety 625 Broadway, Albany, New York 12233-3504 P: (518) 402-8185 | F: (518) 402-9029 www.dec.ny.gov

#### MEMORANDUM

TO:

Tracey O'Malley, Region 3, Environmental Permits

FROM:

Warren Shaw, P.E., Dam Safety Section

EC:

Alon Dominitz, P.E., NYSDEC Dam Section Chief

Shohreh Karimipour, P.E., NYSDEC Region 3 Water Engineer Berhanu Gonfa, P.E., NYSDEC Region 3 Dam Safety Rep.

SUBJECT:

Smith Pond Dam

**Bridges at Lake Parc Project** 

DEC Application ID#: 3-3340-00306/00001

DEC Dam ID#: 195-0432

Town of Monroe, Orange County

DATE:

November 30, 2017

I have completed my review of the dam permit application package for the above referenced dam, which included the following materials:

- 1. A completed Joint Application Form, prepared by Brian Brooker (N.Y.P.E. #060229) of Brooker Engineering, PLLC;
- 2. A project location map and site photographs of the project site;
- A completed "Permission to Inspect Property" form sign by the Yehuda Frank, the owner of the property located at 45 Lakes Road, Monroe, New York, dated November 17, 2017;
- 4. One (1) set of 24"x36" drawings titled "The Bridges at Lake Parc", sheets 1 through 4 dated 11/16/2017, prepared and sealed by Brian Brooker (N.Y.P.E. #060229) of Brooker Engineering, PLLC.

Based on my review of the information provided and our files for the Smith Pond Dam (DEC ID#: 195-0432), a <u>dam safety permit is not required</u>. According to our records, the existing dam is under 15-feet tall and the impoundment storage is under 3 million gallons which puts it below the permit thresholds required for a dam safety permit, as detailed in 6 NYCRR Part 608.3, to complete the proposed work.



However, please provide the applicant with the following comments/observations. In creating a "larger" opening by lowering a portion of the dam embankment and lowering the spillway crest elevation, it appears that the work being proposed potentially can be considered a breaching of the dam. If appropriate, this would make the dam a Class D Negligible or No hazard dam. However, please be advised that the Smith Pond Dam <u>will remain a Class A-Low Hazard</u> dam until such time a request is made to and approved by the Department for a reduction in the Hazard Class. This request by the dam owner along with the recommended back-up information should be submitted to the Dam Safety Section as per the guidelines in 6 NYCRR Part 673.5.e and in the Draft DOW TOGS 3.1.5.

Generally, the Department considers the following guidelines when determining a dam to be breached or removed (Class D):

- Dam breaching and/or removal work must be performed in a safe manner. Ponds and impoundments must be drained and inflows must be properly diverted around the work area. "Wet breaching" is not considered to be good practice.
- Any portion of the dam to remain in place must be stable. The side slopes of a
  breach through an embankment dam should be adequately sloped (minimum
  1.5H:1V, typically 3H:1V), and the normal flow channel should be adequately
  armored. Upper portions of the cut slope should, at a minimum, be stabilized with
  appropriate seed and mulch. The sides of breaches through concrete and laid-up
  stone dams should have sufficient structural stability to resist anticipated flows.
- For a dam to be considered decommissioned (i.e. assigned a hazard class of Class D Negligible or No Hazard), the dam must either be fully removed, or that because of the breach, it is shown that the dam is no longer a hydraulic control along the stream. By Dam Safety recommendations, this mean the partial breach must be sized to pass the 100-year event while resulting in no more than a one-foot increase in water surface elevation upstream of the dam. Dams with partial breaches that result in a backwater greater than 1 foot during the 100-year event are still considered to be a dam. In the event a hydrologic model is not available, the applicant can obtain an estimate of the 100-year flood event through the use of the USGS StreamStats tool.

Please contact me at 518-402-8252, if you have any further questions on the information provided.



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

February 24, 2022

Regulatory Branch

SUBJECT: Permit Application Number NAN-2019-01188-WOR

by WC Lincoln Corp

Joseph Nyitray Brooker Engineering PLLC 74 Lafayette Avenue, Suite 501 Suffern, New York 10901

Dear Mr. Nyitray:

On September 19, 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 in association with the construction of a residential subdivision to be known as The Bridges at Lake Parc. The site is in the Passaic River watershed, located on Lakes Street in the Village of Monroe, Orange County, New York.

The submitted information indicates that the total impacts to waters of the United States would involve the discharge of fill material into a maximum of 0.123 acres of waters, including wetlands, with 0.153 acres of mitigation. The work would be accomplished as shown on the following enclosed drawings:

- "The Bridges at Lake Parc Village of Monroe Orange County, New York Join Application For Permit Set", Drawing No. 1 of 4, prepared by Brooker Engineering PLLC, dated July 24, 2020, and last revised February 16, 2022;
- "The Bridges at Lake Parc Village of Monroe Orange County, New York Landscape Plan", Drawing No. 2 of 4, prepared by Brooker Engineering PLLC, dated July 24, 2020;
- "The Bridges at Lake Parc Village of Monroe Orange County, New York Cross Section Plan", Drawing No. 3 of 4, prepared by Brooker Engineering PLLC, dated July 24, 2020; and
- "The Bridges at Lake Parc Village of Monroe Orange County, New York Cross Section", Drawing No. 4 of 4, prepared by Brooker Engineering PLLC, dated July 24, 2020.

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 Number 29. The nationwide permits are prescribed as a Reissuance of Nationwide Permits in the Federal Register dated January 13, 2021 (86 FR 2744). The work may be performed without further authorization from this office provided the activity complies with the permit conditions listed in Section B, No. 29, Section C, any applicable New York

District regional conditions, the following special conditions, and any applicable regional conditions added by the State of New York, copies enclosed.

### Special Conditions

- (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 to be left undisturbed. Artificial dyes, coloring, insecticide or algaecide, such as copper sulfate, shall not be used in stormwater control structures.
- (B) The Roscoe Smith House shall be retained in its current location and shall be mothballed for future rehabilitation, in accordance with the terms and conditions of the enclosed letter from the New York State Office of Parks, Recreation and Historic Preservation dated January 14, 2022, and all amendments thereto.
- (C) The permittee shall accomplish compensatory mitigation through the successful establishment of approximately 0.069 acres of open water and 0.084 acres of wetlands, as described in the above referenced drawings.
- (D) All grading and planting in conjunction with the wetlands mitigation work shall be completed prior to the completion of the discharge of fill authorized herein.
- (E) The permittee shall ensure that all proposed mitigation plantings have an eighty-five (85) percent survival rate and all established wetland areas in conjunction with the compensatory mitigation shall have an eighty-five (85) percent coverage rate of hydrophytic plants (those with a regional indicator status of FAC, FACW or OBL on the USACE National Wetland Plant List). The permittee shall also ensure that the vegetation in the newly established wetland does not consist of more than a total of 5% areal coverage of common reed (<u>Phragmites australis</u>), purple loosestrife (<u>Lythrum salicaria</u>), reed canary grass (<u>Phalaris arundinacea</u>), Japanese knotweed (<u>Polygonum cuspidatum</u>), Tartarian honeysuckle (<u>Lonicera tartarica</u>), Eurasian milfoil (<u>Myriophyllum spicata</u>), and/or other invasive species.
- (F) The permittee shall provide to this office annual reports on the status of the compensatory mitigation activities, in each of the following five (5) years after initiation of the activities authorized by this permit. These reports shall be submitted no later than October 15 in each of these years. All data for the reports must be collected between the dates of April 15 and October 15 in the same year it is submitted. If this office determines that the success criteria outlined in Special Condition (E) above has not been met for at least three consecutive years, this period will be extended and the permittee shall continue to submit monitoring reports every year until this office determines that the success criteria has been met for three consecutive years. These reports shall include the following at a minimum:

- 1. A list of dominant plant species, along with their estimated frequency and percent areal cover in each vegetative strata (i.e. tree, shrub and herbaceous) for each cover type within the mitigation site;
- 2. Color photographs showing all representative areas of each cover type within the mitigation site, taken at least once each year during the period between June 1 and August 15:
- 3. A Corps of Engineers approved wetland delineation data sheet for each cover type within the mitigation site:
- 4. Vegetation cover maps, at a scale of one inch equals 100 feet, or larger scale, outlining the extent (in acres) of each cover type within the mitigation site shall be prepared for each growing season;
- 5. Well and gauge data showing water elevations within the mitigation site recorded twice a month during April through September of each year. The location of the monitoring well or gauge shall be shown on the plan view engineering drawing; and
- 6. A remedial plan, if necessary, outlining all practicable steps taken or proposed to be taken to ensure the success criteria outlined in Special Condition (E) above are met by the specified due date of the next monitoring report.
  - (G) The permittee shall ensure that no mowing of the mitigation area shall occur.
- (H) The permittee shall undertake the authorized filling activities in a manner aimed at reducing impacts upon the general environment. In addition, the permittee shall not stockpile fill or other materials in a manner conducive to erosion, or in areas likely to cause high turbidity runoff during storm events. All exposed soils shall be re-vegetated in a timely manner to further reduce potential effects. The permittee shall also fence off all wetlands and other sensitive ecological areas during construction periods to prevent equipment and personnel from entering these areas.
- (I) The permittee shall secure a conservation easement or deed restriction on the wetland mitigation sites to guarantee their preservation for wetland and wildlife resources. Copies of the instrument(s) effecting such easement shall be submitted to the New York District Corps of Engineers for approval prior to execution, and the instrument(s) shall be executed and recorded with the Orange County Registrar of Deeds within one year following the initial plantings/seedings of the mitigation sites.
- (J) The permittee shall assume all liability for accomplishing the corrective work should the New York District determine that the compensatory mitigation has not been fully satisfactory. If the New York District does not find the mitigation satisfactory, an extension of monitoring time may be required to cover any necessary remedial work.

(K) The permittee shall place in its deed conveying each individual lot within the subdivision which contains waters of the United States, including wetlands, a clause requiring that the grantee contact the Corps of Engineers to determine if any additional authorization is required prior to the grantee's undertaking of any further jurisdictional activities. A copy of this letter and the above referenced drawings shall be provided to each lot owner.

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.

This verification is valid until March 14, 2026, unless the nationwide permit is modified, reissued, or revoked. This verification will remain valid until March 14, 2026, 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.

In order for us to better serve you, please complete our Customer Service Survey located at https://www.nan.usace.army.mil/Missions/Regulatory/Customer-Survey/.

If any questions should arise concerning this matter, please contact Brian A. Orzel, of my staff, at Brian.A.Orzel@usace.army.mil.

Sincerely,

Date:

Rosita Miranda 2022.02.24

15:33:01 -05'00'

Rosita Miranda

Chief, Western Section

**Enclosures** 



# Parks, Recreation, and Historic Preservation

KATHY HOCHUL Governor ERIK KULLESEID Commissioner

January 14, 2022

Brian Orzel NY District US Army Corps of Engineers 26 Federal Plaza, Room 16-406 New York, NY 10278

Re: USACE

Bridges at Lake Parc Residential Subdivision (20.9 acres)

47 Lakes Road, Monroe, NY

16PR01672

Dear Brian Orzel:

Thank you for your ongoing consultation with the New York State Historic Preservation Office (SHPO). We have reviewed the provided documentation in accordance with Section 106 of the National Historic Preservation Act of 1966. These comments are those of the SHPO and relate only to Historic/Cultural resources.

We note that the municipality will not be taking ownership of the State and National Register eligible Roscoe Smith House. Further, based on January 13, 2022 email and phone communications with project manager Simon Jacobs, we understand that the project now proposes to retain the Roscoe Smith House. Based upon our review, it is the SHPO's opinion that this project will have No Adverse Effect on historic or archaeological resources, provided the following condition is met:

- The Roscoe Smith House will be retained in its current location. The house will be mothballed for future rehabilitation, following guidance found in National Parks Service Preservation Brief 31, which can be accessed here: <a href="https://www.nps.gov/tps/how-to-preserve/briefs.htm">https://www.nps.gov/tps/how-to-preserve/briefs.htm</a>
- If this condition cannot be met or if there are substantive changes to the project, consultation with our office should resume.

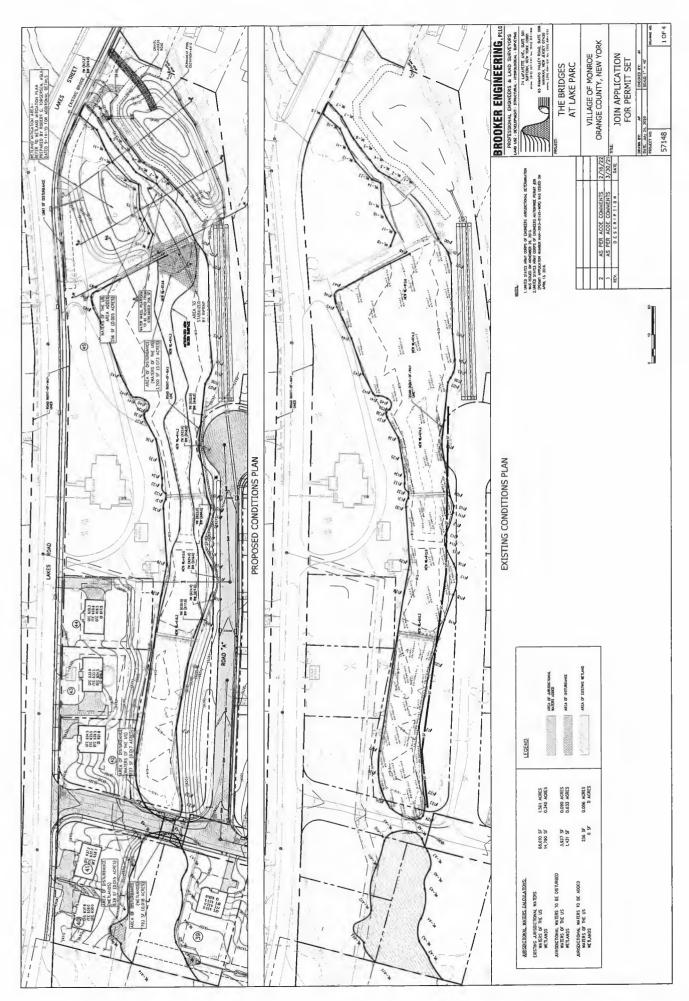
If you have any questions, I am best reached by email.

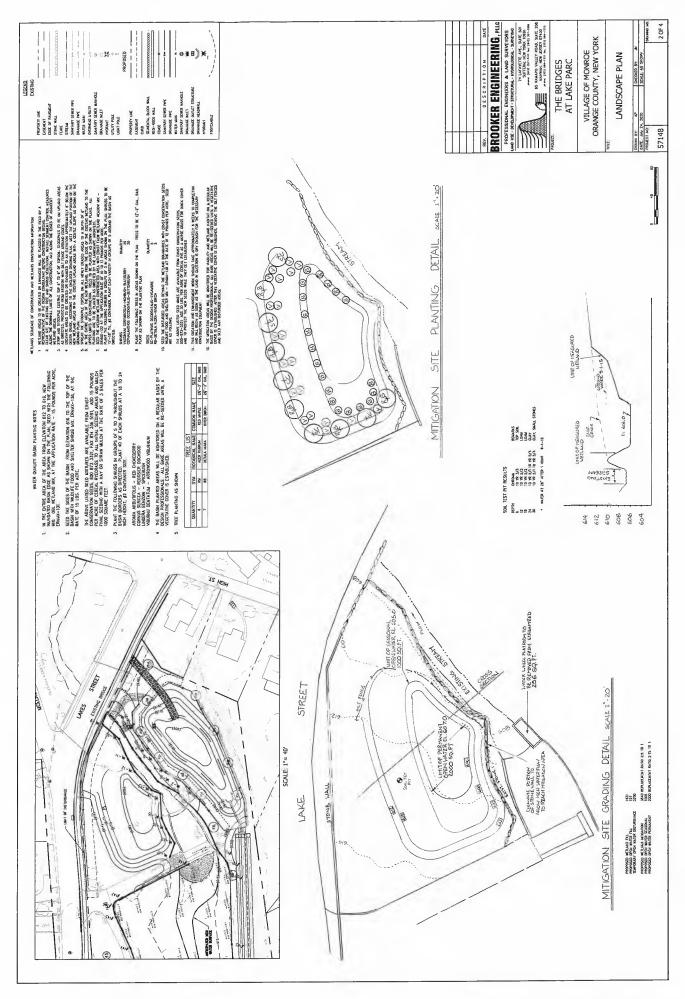
Sincerely,

Derek Rohde

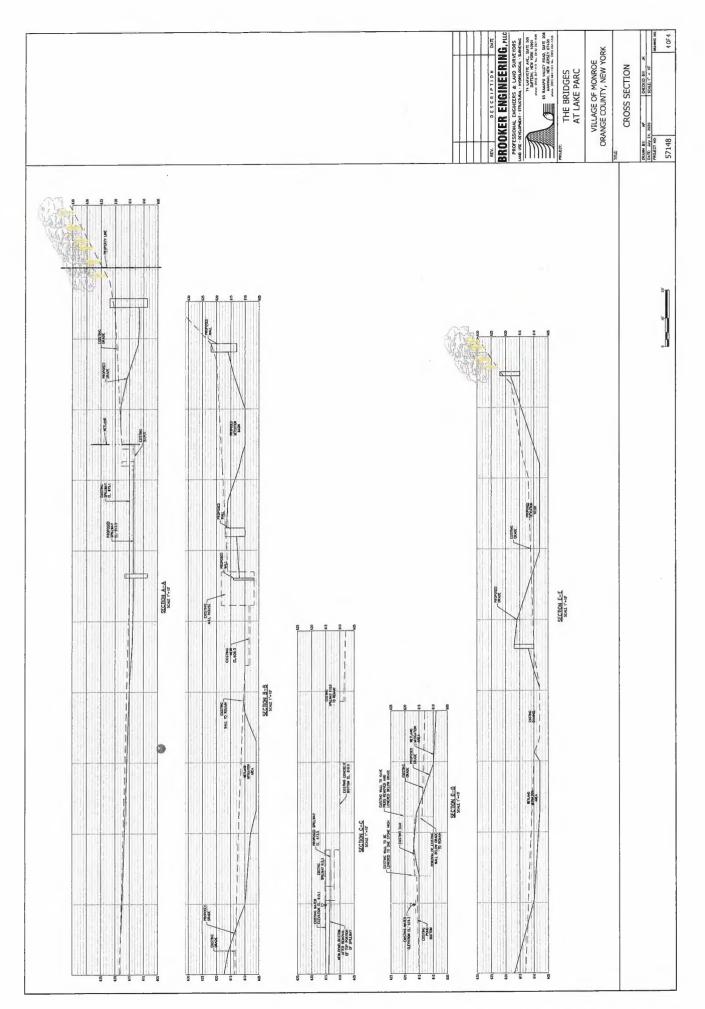
Historic Site Restoration Coordinator e-mail: derek.rohde@parks.ny.gov

via e-mail only





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### **DEPARTMENT OF THE ARMY** U.S. ARMY CORPS OF ENGINEERS, NEW YORK DISTRICT JACOB K. JAVITS FEDERAL BUILDING 26 FEDERAL PLAZA

**NEW YORK NY 10278-0090** 

### NATIONWIDE PERMIT COMPLIANCE CERTIFICATION AND REPORT FORM

	WC Lincoln Corp	
Permit No.:	NAN-2019-01188	
Date Permit Iss	sued: February 24, 2022	
Location:	Village of Monroe, Orange County, New York	
	of the <u>COMPLETION</u> of the activity authorized by this permit and any mitigation required sign this certification and return it to the address at the bottom of this form.	
	at your permitted activity is subject to a compliance inspection by a U.S. Army Corps of essentative. If you fail to comply with this permit you are subject to permit suspension, revocation.	
accordance wit	that the work authorized by the above referenced permit has been completed in the terms and conditions of said permit, and required mitigation was completed in the permit conditions.	
Signature of Pe	ermittee Date	
	Date  nto thirds, with the bottom third facing outward. Tape it together and mail to the address to (212) 264-4260. Or email to CENAN-R-Permit-App@usace.army.mil	
Fold this form in	nto thirds, with the bottom third facing outward. Tape it together and mail to the address	

Department of the Army New York District Corps of Engineers Jacob K. Javits Federal Building 26 Federal Plaza, Room 16-406 ATTN: CENAN-OP-RW New York, New York 10278-0090