



United States Department of  
the Interior



FISH AND WILDLIFE SERVICE  
300 Westgate Center Drive  
Hadley, MA 01035-9589

September 29, 2023

In Response, Refer To:  
FWS/Region 5/NWRS

Mr. Mark Masse  
Senior Vice President of Operations  
Genesee County Economic Development Center  
99 MedTech Drive, Suite 106  
Batavia, New York 14020

Dear Mr. Masse:

This notice is issued to you pursuant to the terms of U.S. Fish and Wildlife Service (Service) Right-of-Way (ROW) Permit IRQ (P-1) (the Permit), issued by the Service to STAMP Sewer Works, Inc., on August 25, 2021.

On September 7, 2023, drilling operations for the STAMP Sewer Force Main suffered an accident on Iroquois National Wildlife Refuge (the refuge), which included: (1) an inadvertent return (IR) consisting of approximately 100 gallons of Wyoming sodium bentonite clay slurry was deposited on the surface of the ground. The surface area covered approximately 1/3 of an acre in size and extended up to 50 feet onto refuge lands beyond the limits of the ROW permit. The surface area impacted by the IR is classified as a Class 1 State-regulated wetland; (2) The borehole collapsed in multiple areas causing sink holes to appear within the area of the ROW permit; and (3) There are several locations within the perimeter of the ROW where the road shoulder was slumping and pulling away from the asphalt road.

In response to the above referenced activities that comprise the accident, the permit contains authority for the Service to manage any potential damage to the refuge. Specifically, Ordering paragraph 11 of the Permit states that:

*RESOURCE CONSERVATION: Permittee shall take such soil and resource conservation and protection measures, including weed control on the land covered by the Permitted Area as the Project Leader in charge may request.*

Additionally, Ordering Paragraph 18 of the Permit states that:

*ACCIDENTS: The Permittee shall notify the Project Leader as soon as possible and no later than twelve (12) hours after learning of any accident or other event in the Permitted Area that could result in damage to the resources, values, or purposes of the refuge. In the event of such accidents or other events, the Permittee shall take all reasonable steps to prevent or mitigate damage to the resources, values, or purposes of the refuge both independently and at the direction of the Project Leader.*

Accordingly, on behalf of the Service, under these two paragraphs of the Permit, for the conservation of soil resources within the refuge, and to prevent and mitigate damages to the resources of the refuge, I am directing the permittee to take the following steps:

1. Cease all drilling within the permit area until authorized by the Service.
2. Present, for Service's approval, a plan to remediate the IR within and outside the ROW. This must include a full assessment and remediation of any subsurface impacts. This will include working with the appropriate response agency on the required steps for remediation.
3. Present a consolidated report on what went wrong and why, including plans to reduce the potential for an IR on other boring areas and how unstable soil conditions will be handled if encountered again.
4. Conduct a thorough geotechnical engineering review to assess likelihood of an IR along the entirety of the drilling route through the refuge.
5. Develop and present for Service approval, a monitoring plan of the IR area to determine if there are negative impacts to refuge resources. Monitoring will need to be conducted for minimum of 1 year.
6. Develop and present for Service approval, an updated contingency plan to clean up any future IR within 24 hours.
7. Present documentation from the New York State Department of Transportation (NYS DOT) that the road shoulder has been repaired of all safety issues to NYS DOT's standards.
8. Present documentation from NYS DEC that IR has been remediated to their requirements.
9. Present documentation from NYS DEC that drilling activities can resume under State permits and any recommendations they require to reduce potential of IR.

Please be advised that authorization to resume drilling will not be forthcoming until items 2 through 9 have been presented to and approved by the Service. The Service may require additional information and/or actions to ensure compliance with the ROW permit, and for inclusion in the supplemental environmental assessment currently being drafted. The Service will need time to review all items identified above, which may include a review by independent geotechnical engineering firm selected by the Service.

Once we have received the information required above, the Service will determine if compensation for damages to refuge resources or independent review costs are warranted. Please refer to item #41 of the ROW permit.

Mr. Mark Masse

3

Should you have any questions, you can reach me at 585.948.7030 or [tom\\_roster@fws.gov](mailto:tom_roster@fws.gov) to coordinate the required information.

Sincerely,

A handwritten signature in black ink, appearing to read "Thomas P. Roster". The signature is written in a cursive style with a large, sweeping initial 'T'.

Thomas P. Roster  
Refuge Manager