



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

REPLY TO

August 10, 2012

Regulatory Branch

SUBJECT: Application No. 2011-01181, Nationwide Permit No. 39, as Published in the Federal Register, Volume 77, No. 34, on Tuesday, February 21, 2012

Mr. Vincent Marotta  
Marotta-Glazer Realty Company  
29325 Chagrin Boulevard, Suite 100  
Beachwood, Ohio 44122

Dear Mr. Marotta:

This pertains to Marotta Glazer Realty Company's application for a Department of the Army permit to permanently place fill material into approximately 0.452 acres of federally jurisdictional wetlands to construct a commercial development on an approximately 16.5-acre parcel located south of Miles Road, in the City of Bedford Heights, Cuyahoga County, Ohio (Sheets 1 and 2 of 2). As mitigation for unavoidable impacts to waters of the United States, Marotta Glazer Realty Company shall purchase 1.2 acres of mitigation credit from the Trumbull Creek wetlands mitigation bank.

Specifically, your project will entail the discharge of fill into approximately 0.452 acres of Wetland N and 0.036 acres of Wetland Y. I have evaluated the impacts associated with your proposal, and have concluded that they are authorized by the enclosed Nationwide Permit 39 (Commercial and Institutional Developments) provided that the attached conditions are satisfied.

Verification of the applicability of this Nationwide Permit is valid for two years from the date of this correspondence unless the Nationwide Permit is modified, suspended or revoked, or your activity complies with any subsequent permit modification. Absent any changes to the current Nationwide Permits, reverification of the applicability of your project under the Nationwide Permit is not required if work is completed prior to March 19, 2017.

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>. 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.

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This affirmation is limited to the attached Nationwide Permit and associated Water Quality Certification, and does not obviate the need to obtain any other project specific Federal, state, or local authorization.

In addition to the general conditions attached to the Nationwide Permit, your attention is directed to the following Special Conditions:

- 1 That 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.
- 2 That as mitigation for the permanent loss of 0.488 acres of Federal jurisdictional wetlands you shall purchase 1.2 credits from the Trumbull Creek mitigation bank. Prior to commencing the authorized work, you must supply Harold Keppner at this office with a copy of the Trumbull Creek mitigation bank executed mitigation agreements and verification of the transfer of funds to the Trumbull Creek mitigation bank.
- 3 To maintain hydrology and avoid further impacts to Wetland N you shall install an appropriately sized culvert in the location identified on Sheet 2 of 2.
- 4 The disposal of trees, brush, construction debris, and other debris in any stream corridor, wetland or surface water is prohibited.
- 5 Best Management Practices (BMPs) must be employed throughout the course of the project to avoid the creation of unnecessary turbidity which may degrade water quality or adversely affect aquatic life outside of the project area. BMPs shall also be taken upon completion of the project to ensure bank stability. This may include, but is not limited to, bank seeding. Siltation fencing or hay bales shall be installed at the toe of the construction areas adjacent to undisturbed wetlands and streams in order to minimize damage to these waters of the U.S. All erosion and sediment control practices shall be in place prior to any grading or filling operations. The siltation fence shall be checked periodically to ensure that it is not damaged, repairs shall be completed promptly, and shall remain in place until the site is stabilized by the regrowth of vegetation. Immediately following construction all exposed banks and slopes shall be seeded and mulched to prevent erosion.
- 6 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.

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- 7 Should human remains be encountered during any phase of the proposed project, such person or persons encountering the human remains must immediately cease work and must not disturb or remove the remains, must protect the exposed portions of the remains from inclement weather and vandalism, and immediately notify the permittee. The permittee must immediately notify (within 24 hours) (Keith Sendziak, 1776 Niagara Street, Buffalo, New York 14207, (716) 879-4339) and the Ohio State Historic Preservation Office (OHPO), 1982 Velma Avenue, Columbus, Ohio 43211-2497, (614) 298-2000. If the human remains are not subject to a criminal investigation by local, state, or Federal authorities, the OHPO's Policy Statement on Treatment of Human Remains (1977) will be used as guidance.

This affirmation is limited to the attached Nationwide Permit and associated Water Quality Certification, and does not obviate the need to obtain any other project specific Federal, state, or local authorization.

A copy of this letter has been sent to the Ohio Environmental Protection Agency and to Mr. Erik Flickinger (Flickinger Wetland Services Group).

Questions pertaining to this matter should be directed to me at (716) 879-4339, by writing to the following address: U.S. Army Corps of Engineers, 1776 Niagara Street, Buffalo, New York 14207, or by e-mail at: keith.c.sendziak@usace.army.mil

Sincerely,



Keith C. Sendziak  
Biologist

Enclosures

SECTION No. 18

Marotta-Glazer Realty Company  
D/A Processing No. 2011-01181  
Cuyahoga County, Ohio  
Quad: Shaker Heights  
Sheet 1 of 2



