

**APPENDIX A**  
**NATURAL RESOURCES**



**UNITED STATES DEPARTMENT OF COMMERCE**  
**National Oceanic and Atmospheric Administration**  
NATIONAL MARINE FISHERIES SERVICE  
NORTHEAST REGION  
55 Great Republic Drive  
Gloucester, MA 01930-2276

JUL 21 2009

Lucinda Kalin  
AKRF  
440 Park Avenue South  
7<sup>th</sup> Floor  
New York, New York 10016

Re: The New York City Parks and Recreation East River Waterfront Access- Catherine, Rutgers, and Montgomery Slips in the Borough of Manhattan, New York.

Dear Ms. Kalin,

This is in response to your letter dated July 17, 2009 requesting information on the presence of species listed by NOAA's National Marine Fisheries Service (NMFS) in the vicinity of the New York City Parks and Recreation East River Waterfront Access Catherine, Rutgers, and Montgomery Slips in the Borough of Manhattan, New York. The proposed project will involve site improvements at each of the three slips.

A population of the federally endangered shortnose sturgeon (*Acipenser brevirostrum*) occurs in the Hudson River and has been documented from the Troy Dam to the waters near Staten Island in New York Harbor. Shortnose sturgeon have been captured near the confluence of the East River and New York Harbor and at least two shortnose sturgeon tagged in the Hudson River have been recaptured in the Connecticut River. It is unknown whether these fish traveled through the East River and through Long Island Sound (the most direct route) or exited New York Harbor into the Atlantic Ocean and swam around southern Long Island and back into Long Island Sound. The East River is not likely to be a high use area for shortnose sturgeon and there have been no documented captures of shortnose sturgeon in this waterbody. Shortnose sturgeon are typically found in the deepest areas of a river or channel with suitable dissolved oxygen levels; however, foraging shortnose sturgeon are often found in shallower waters over mudflats, shellfish beds and in areas of submerged aquatic vegetation (SAV). The habitat characteristics of the East River are generally suitable for shortnose sturgeon (i.e., deep channel habitat is available); however, salinity in the East River is above the level in which shortnose sturgeon typically occur. Although they have been documented in waters with salinities as high as 31 parts per thousand (ppt), shortnose sturgeon are typically concentrated in areas with salinity levels of less than 3 ppt (Dadswell et al. 1984). It is likely that the higher salinity levels (average 21-25ppt) in the East River influence and likely limit shortnose sturgeon use of these waters.



use of these waters. However, the best available information indicates that occasional transient shortnose sturgeon may be present in the East River.

Four species of federally threatened or endangered sea turtles under the jurisdiction of NMFS may be found seasonally in the coastal waters of New York. Sea turtles are expected to be in these waters in warmer months, typically from June 1 to mid November, with the highest numbers of sea turtles present from June - October. The sea turtles in these waters are typically small juveniles with the most abundant being the federally threatened loggerhead (*Caretta caretta*) followed by the federally endangered Kemp's ridley (*Lepidochelys kempi*). New York waters have also been found to be warm enough to support federally endangered green sea turtles (*Chelonia mydas*) from June through October. While federally endangered leatherback sea turtles (*Dermochelys coriacea*) may be found in the waters off Long Island during the warmer months as well, this species is less likely to occur in the action area for this project as it is typically found in more offshore waters. Like shortnose sturgeon, there have been no documented captures of sea turtles in the East River and it is not likely to be a high use area for these species. However, as sea turtles are known to occur in the waterbodies surrounding the East River, it is likely that occasional transient sea turtles occur in the East River.

The best available information indicates that listed species may occur in the project area. It is unclear from your letter whether in water work will occur in association with the site improvements at the Catherine, Rutgers, and Montgomery Slips. If no in-water work is proposed, no further coordination with NMFS Protected Resources Division (PRD) is necessary. However, if in-water work is proposed and the work has the potential to affect listed species and it is being approved, permitted or funded by a Federal agency, the lead Federal agency, or their designated non-Federal representative, is responsible for determining whether the proposed action is likely to affect listed species. The Federal agency would submit their determination along with justification for their determination and a request for concurrence, to the attention of the Endangered Species Coordinator, NMFS Northeast Regional Office, Protected Resources Division, 55 Great Republic Drive, Gloucester, MA 01930. After reviewing this information, NMFS would then be able to conduct a consultation under section 7 of the ESA. Should you have any questions about these comments or about the section 7 consultation process in general, please contact Danielle Palmer at (978)282-8468 or by e-mail ([Danielle.Palmer@noaa.gov](mailto:Danielle.Palmer@noaa.gov)).

Sincerely,

  
Mary A. Colligan  
Assistant Regional Administrator  
for Protected Resources