

APPENDIX D.1


ESSENTIAL FISH HABITAT AND ENDANGERED SPECIES CONSULTATION LETTERS

**National Marine Fisheries Service
Habitat Conservation Division
Milford Field Office, 212 Rogers Avenue
Milford, Connecticut 06460**

TO: Shawn Shotzberger
Senior Environmental Scientist
AKRF, Inc.
100 Centre Boulevard, Suite 106J
Marlton, New Jersey 08053

DATE: 26 May 2006

SUBJECT: **East River Waterfront Esplanade and Piers; Manhattan, New York County, New York**


Diane Rusanowsky
(Reviewing Biologist)

We have completed our review of the subject information request and offer the following preliminary comments pursuant to the Endangered Species Act [ESA], the Fish and Wildlife Coordination Act [FWCA] and the Magnuson-Stevens Fishery Conservation and Management Act [MSFCMA]:

Endangered and Threatened Species

XX Federally endangered or threatened species under the jurisdiction of this agency may be present in all or a portion of the study area. Based upon the limited information provided, we cannot determine whether project construction and use would adversely affect these species and/or their habitat. Consequently, all federal actions associated with this application including, but not limited to, project funding, permitting and conduct will require coordination pursuant to the ESA. Staff from our Protected Resources Division will conduct the necessary consultation with the involved federal action agencies. For details regarding the ESA consultation process, please contact:

Ms. Mary Colligan
ARA for Protected Resources
One Blackburn Drive
Gloucester, MA 01930

Fish and Wildlife Coordination Act Species

XX The following may be present in the general project area: Diadromous and resident fish, forage and benthic species, seals

Please contact the appropriate Regional Office of the New York State Department of Environmental Conservation to confirm the presence of specific diadromous or resident aquatic populations. Habitat use by some species or life stages may be seasonal (e.g., over-wintering).

Essential Fish Habitat

XX Aquatic habitats throughout the project vicinity have been designated as Essential Fish Habitat (EFH) for one or more species/life stages of federally managed fishery resources. Based on the information provided to date, it appears that an expanded EFH assessment will be necessary for all federal actions regarding this proposal. When final details of the project are made available and permit applications have been made, conservation recommendations may be given. For a listing of EFH and further information, please consult the MSFCMA information on our website: <http://www.nero.nmfs.gov/ro/doc/webintro.html>.

 No EFH presently designated in the immediate project area.



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
NORTHEAST REGION
One Blackburn Drive
Gloucester, MA 01930-2298

MAY 22 2006

Shawn Shotzberger
AKRF, Inc.
100 Centre Boulevard
Suite 106J
Marlton, New Jersey 08053

Dear Mr. Shotzberger,

This responds to your letter dated May 8, 2006 requesting information on the presence of any federally threatened or endangered species in the vicinity of the Whitehall Ferry Terminal and Peter Minuit Plaza along the East River Waterfront in Manhattan, New York. The proposed project would involve improving a two-mile long, City-owned public open space.

While several species of listed sea turtles are known to be seasonally present in Long Island Sound and a population of the federally endangered shortnose sturgeon (*Acipenser brevirostrum*) is known to exist in the Hudson River, no listed species are known to occur in the East River where the project is located. While it is possible that the occasional transient sea turtle or shortnose sturgeon may occur in the East River, this would be a rare occurrence. As such, no further coordination with the Protected Resources Division of NOAA's National Marine Fisheries Service (NMFS) is necessary. If you have any questions regarding this correspondence, please contact Julie Crocker of my staff at (978)281-9328 x6530.

Sincerely,

Mary A. Colligan
Assistant Regional Administrator
for Protected Resources

Cc: Rusanowsky, F/NER4

File Code: Sec 7 - NSP New York





FAX TRANSMITTAL RE: LISTED SPECIES REQUEST

U.S. FISH AND WILDLIFE SERVICE

Long Island Field Office

500 St. Marks Lane, Islip, NY 11751

Phone: (631) 581.2941 Fax: (631) 581.2972

November 1, 2006



To: Mr. Shawn Sholtzberger
AKRF
100 Centre Boulevard, Suite 106J
Marlton, NJ 08053

This responds to your May 8, 2006 (received via fax on August 1, 2006), request for information of Federally listed species in the vicinity of the proposed East River Waterfront Esplanade and Piers, Manhattan, NY.

Except for occasional transient individuals, no Federally-listed or proposed endangered or threatened species under the jurisdiction of the U.S. Fish and Wildlife Service (Service) are known to exist within the project impact area. In addition, no habitat in the above described project impact area is currently designated or proposed "critical habitat" in accordance with provisions of the Endangered Species Act (ESA) (87 Stat. 884, as amended; 16 U.S.C. 1531 et seq.). Therefore, no further ESA coordination or consultation with the Service is required. Should project plans change, or if additional information on listed or proposed species or critical habitat becomes available, this determination may be reconsidered. The most recent compilation of Federally-listed and proposed endangered and threatened species in New York* is available for your information. If the proposed project is not completed within one year from the date of this FAX, we recommend that you contact us to ensure that the listed species presence/absence information for the proposed project is current. Should our determination change and any part of the proposed project be authorized, funded, or carried out, in whole or in part, by a Federal agency, further consultation between the Service and that Federal agency pursuant to the ESA may be necessary.

The above comments pertaining to endangered species under our jurisdiction are provided pursuant to the ESA. This response does not preclude additional Service comments under other legislation.

For additional information on fish and wildlife resources or State-listed species, we suggest you contact the appropriate State regional office(s),* and:

New York State Department of Environmental Conservation
New York Natural Heritage Program Information Services
625 Broadway
Albany, NY 12233-4757
(518) 402-8935

If you require additional information please contact me at (631) 581 - 2941.

Sincerely,

Steven Sinkevich
Senior Fish and Wildlife Biologist

*Additional information referred to above may be found on our website at:
<http://nyfo.fws.gov/es/section7.htm>

**New York State Department of Environmental Conservation
Division of Fish, Wildlife & Marine Resources**

New York Natural Heritage Program

625 Broadway, Albany, New York 12233-4757

Phone: (518) 402-8935 • **FAX:** (518) 402-8925

Website: www.dec.state.ny.us



Denise M. Sheehan
Commissioner

May 18, 2006

Shawn Shotzberger
A K R F Environmental Consultants
100 Centre Blvd, Suite 106 J
Marlton, NJ 08053

Dear Mr. Shotzberger:

In response to your recent request, we have reviewed the New York Natural Heritage Program databases with respect to an Environmental Assessment for the proposed East River Waterfront Esplanade and Piers project, area as indicated on the map you provided, located in Manhattan.

Enclosed is a report of rare or state-listed animals and plants, significant natural communities, and other significant habitats, which our databases indicate occur, or may occur, on your site or in the immediate vicinity of your site. The information contained in this report is considered sensitive and may not be released to the public without permission from the New York Natural Heritage Program.

This project location is adjacent to a designated Significant Coastal Fish and Wildlife Habitat. This habitat is part of New York State's Coastal Management Program (CMP), which is administered by the NYS Department of State (DOS). Projects which may impact the habitat are reviewed by DOS for consistency with the CMP. For more information regarding this designated habitat and applicable consistency review requirements, please contact:

Jeff Zappieri or Vance Barr - (518) 474-6000
NYS Department of State
Division of Coastal Resources and Waterfront Revitalization
41 State Street, Albany, NY 12231

The presence of rare species may result in your project requiring additional permits, permit conditions, or review. For further guidance, and for information regarding other permits that may be required under state law for regulated areas or activities (e.g., regulated wetlands), please contact the appropriate NYS DEC Regional Office, Division of Environmental Permits, at the enclosed address.

For most sites, comprehensive field surveys have not been conducted; the enclosed report only includes records from our databases. We cannot provide a definitive statement on the presence or absence of all rare or state-listed species or significant natural communities. This information should NOT be substituted for on-site surveys that may be required for environmental impact assessment.

Our databases are continually growing as records are added and updated. If this proposed project is still under development one year from now, we recommend that you contact us again so that we may update this response with the most current information.

Sincerely,

A handwritten signature in black ink that reads "Tara Seoane" followed by a stylized "jp" monogram.

Tara Seoane
Information Services
NY Natural Heritage Program

Encs.

cc: Reg. 2, Wildlife Mgr.
Reg. 2, Fisheries Mgr.
Peter Nye, Endangered Species Unit, Albany
Shaun Keeler, Bureau of Fisheries, Albany