

Appendix E
Fish and Wildlife Coordination Report



In Reply Refer to:

FP-05/016

United States Department of the Interior

FISH AND WILDLIFE SERVICE

New Jersey Field Office
Ecological Services
927 North Main Street, Building D
Pleasantville, New Jersey 08232
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JUN 23 2005

Leonard Houston, Chief
Environmental Analysis Branch, CENAN-PL-E
New York District, U.S. Army Corps of Engineers
26 Federal Plaza
New York, New York 10278-0090

Dear Mr. Houston:

The U.S. Fish and Wildlife Service (Service) has reviewed project information for the U.S. Army Corps of Engineers, New York District's (Corps) Passaic River Floodway Buyout Study (U.S. Army Corps of Engineers, 2004) located in the Borough of Pompton Lakes and the Township of Wayne, Passaic County, New Jersey. The Service provides this final Fish and Wildlife Coordination Act (48 Stat. 401, as amended; 16 U.S.C. 661 *et seq.*) (FWCA) Section 2(b) report pursuant to an Interagency Agreement dated November 3, 2004.

As described in various project materials and communications from Corps staff, the proposed study entails government purchase of residential properties and removing up to 30 homes located within the floodplains of the Ramapo River in the Borough of Pompton Lakes (Enclosure 1) and the Pompton River in the Township of Wayne (Enclosure 2) as a non-structural flood-control alternative. Upon removal of the residential structures, the properties would be restored to provide habitats for wildlife.

The Service conducted a site visit on January 27, 2005 and noted dominant vegetation and other general conditions of the study sites and surrounding area. The Service has coordinated this review with the New Jersey Department of Environmental Protection (NJDEP), Division of Engineering and Flood Control, Bureau of Dam Safety; the NJDEP Division of Fish and Wildlife (NJDFW); and the NJDFW Endangered and Nongame Species Program. Further, we have searched our Geographic Information System (GIS) database for known locations of federally listed species, wetlands, and other important habitat types within or near the study area. We also searched for State-listed species and State priority species in the area using available GIS database information.

A draft FWCA report was provided to the Corps and the NJDFW on April 5, 2005. The NJDFW provided the Service with a letter of concurrence dated April 11, 2005 (Enclosure 3). The Corps

provided the Service with comments on the draft by letter dated May 18, 2005 (Enclosure 4). This final FWCA report is revised accordingly.

AUTHORITY

The following comments are provided pursuant to Section 2(b) of the Fish and Wildlife Coordination Act. Comments are also provided under the authority of the Endangered Species Act of 1973 (ESA) (87 Stat. 884, as amended; 16 U.S.C. 1531 *et seq.*) and the Migratory Bird Treaty Act of 1918 (40 Stat. 755, as amended; 16 U.S.C. 703-712), and are consistent with the intent of the Service's Mitigation Policy (Federal Register, Vol. 46, No. 15, Jan. 23, 1981).

NATURAL RESOURCES

Soils

Soils at both the Borough of Pompton Lakes and Wayne Township study sites are classified and mapped as Urban land-Riverhead complex (UrB) according to the Soil Conservation Service (SCS) (1975). The UrB soil units generally consist of areas with anthropogenically-altered soil, areas of Riverhead soils, and small inclusions of Otisville and Pompton soils. Urban land comprises 40 to 80 percent of each mapped area and Riverhead soils make up 20 to 60 percent. Riverhead soils consist of deep, well-drained, moderately coarse-textured soils.

Soil maps indicate that alluvial land (Ae) (comprised of somewhat-poorly-drained to poorly-drained soils on floodplains 3 to 8 feet above normal stream level) exists immediately upstream of the Wayne study site in an undeveloped area. Site conditions indicate the Wayne study site probably contains a significant amount of Ae soils. Preakness silt loam (Px) soils, which are deep, nearly level, poorly drained, loamy soils, abut the Pompton Lakes site. Site conditions indicate significant portions of the Pompton Lakes study site may be comprised of Px soils but are covered with fill.

Vegetative Cover Types

Observations made during the January 27, 2005 site visit, review of the above-mentioned SCS (1975) soil maps, and a review of the Service's GIS database indicate that the Wayne and Pompton Lakes study sites were originally part of a forested wetland floodplain. In fact, palustrine forested wetlands (PFO), as classified by Cowardin *et al.* (1979), still exist on and surround the Wayne study site. Areas immediately north, south, and along the opposite bank of the Ramapo River at the Pompton Lakes study site consist of PFO. The Wayne study site contains a shrub understory and many large, mature trees that form a significant forest canopy over the site. The Pompton Lakes study site also contains some mature trees, but the majority of the site is open to sunlight. Trees common to riparian corridors in suburban areas, such as red maple (*Acer rubrum*), silver maple (*A. pensylvanicum*), black locust (*Robinia pseudoacacia*), green ash (*Fraxinus pennsylvanica*), northern red oak (*Quercus rubra*), American sycamore (*Plantanus occidentalis*), and exotic Norway spruce (*Picea abies*), occur at both sites. Multiflora rose (*Rosa multiflora*), an exotic, invasive species, was also noted within both study sites. Multiflora rose and Japanese honeysuckle (*Lonicera japonica*), another invasive species, were

noted in a municipal park in the City of Lincoln Park, located directly across the Pompton River from the Wayne study site.

Federally Listed Species

The federally listed (endangered) Indiana bat (*Myotis sodalis*) is known to hibernate in Morris County within 11.3 miles of the Wayne study site and 11.5 miles of the Pompton Lakes study site. Indiana bats from this hibernaculum may summer or forage within the study sites, particularly at Wayne. During a site visit, a Service biologist identified potential roosting trees and foraging habitat for the Indiana bat at both study sites. The Service, therefore, recommends that trees 6 inches or greater in diameter at breast height (dbh) not be cleared between April 1 and September 30 if any tree-clearing activities are required for demolition purposes. If clearing trees in these areas cannot be avoided during this time period, further consultation pursuant to the ESA will be required to ensure protection of the Indiana bat.

Except for the above-mentioned species and an occasional transient bald eagle (*Haliaeetus leucocephalus*), no other federally listed or proposed endangered or threatened flora or fauna under Service jurisdiction are known to occur within the vicinity of the study areas. If any other federally listed species or their habitats are documented in the study area during project planning, the Corps must reinitiate consultation with the Service pursuant to Section 7 of the ESA. The Service then will make recommendations to avoid adverse effects through the informal Section 7 consultation process. Current information regarding federally listed species and candidate species occurring in New Jersey is enclosed (Enclosure 5).

State-listed Species

Wayne Study Site

Fowler's toad (*Bufo woodhousii fowleri*), a priority species for the NJDFW, occurs within the PFO cover type on and surrounding the Wayne study site. Other species on the State priority list occur in upland forest within 0.25 mile south of the Wayne study site. These priority species include spotted turtle (*Clemmys guttata*), carpenter frog (*Rana virgatipes*), fowler's toad, Baltimore oriole (*Icterus galbula*), eastern towhee (*Pipilo erythrophthalmus*), eastern wood-peewee (*Contopus virens*), gray catbird (*Dumetella carolinensis*), hairy woodpecker (*Picoides villosus*), red-eyed vireo (*Vireo olivaceus*), rose-breasted grosbeak (*Pheucticus ludovicianus*), scarlet tanager (*Piranga olivacea*), veery (*Catharus fuscescens*), and wood thrush (*Hylocichla mustelina*). Another stand of upland forest within 0.7 mile east of the Wayne study site contains the State priority species, eastern box turtle (*Terrapene carolina carolina*).

Pompton Lakes Study Site

The areas of PFO that border the Pompton Lakes study site contain known occurrences of Fowler's toad. The State-listed (endangered) butterfly Appalachian grizzled skipper (*Pyrgus Wyandor*) historically occurred within 0.26 mile upstream of the study site in Pompton Lakes. The NJDFW Endangered and Nongame Species Program has indicated that no other State-listed

species or species of concern are known to occur within the vicinity of the study areas. A list of State-listed wildlife species is enclosed (Enclosure 6).

Other Fish and Wildlife Resources

Fish and wildlife species that may be found on both study sites are those tolerant of urban-suburban areas. Bird species likely include American robin (*Turdus migratorius*), European starling (*Sturnus vulgaris*), northern cardinal (*Cardinalis cardinalis*), black-capped chickadee (*Poecile atricapillus*), gray catbird (*Dumetella carolinensis*), American crow (*Corvus brachyrhynchos*), and tufted titmouse (*Baeolophus bicolor*). A pair of common mergansers (*Mergus merganser*) was observed flying along the Ramapo River in Pompton Lakes during the January 27 site visit. White-tailed deer (*Odocoileus virginianus*), raccoon (*Procyon lotor*), and gray squirrel (*Sciurus carolinensis*) are also likely to occur at the study sites. Smallmouth bass (*Micropterus dolomieu*), white sucker (*Catostomus commersoni*), redbreast sunfish (*Lepomis auritus*), and tessellated darter (*Etheostoma olmstedii*) are known to use the rivers along both study sites.

SERVICE COMMENTS AND RECOMMENDATIONS

The Service and NJDFW (Didun, pers. comm., 2005) support Corps efforts to remove impervious surface and to restore wildlife habitats within the Passaic River watershed as a non-structural alternative to reduce flooding. A buyout of the properties located within the flood-prone areas of concern and restoration of the floodplain to its pre-disturbance condition will undoubtedly improve habitats for wildlife and flood storage capacity while potentially offering recreational opportunities (*e.g.*, fishing and bird watching) for local residents.

The Corps has reviewed the following recommendations in the Service's draft FWCA Section 2(b) report and provided comments in the enclosed letter dated May 18, 2005, as noted above. In *italics*, below the Service's original recommendations, are the Corps comments on each recommendation and the Service's response to those comments, as appropriate.

General Recommendations for Site Restoration

1. Consult the scientific literature and use the best available information regarding planting elevation, depth, soil type, existing soil nutrients, and seasonal timing to ensure best results when revegetating sites. Include subsurface conditions such as soil and sediment geochemistry and physics, groundwater quantity and quality, and infauna when designing riparian, wetland, grassland, and stream bank restoration.

The Corps (letter of May 18, 2005) indicates that the authority through which this project is funded only allows for the purchase and removal of homes located on the floodway of the Passaic River and its tributaries. Additionally, the Corps states that its operating authority does not include provisions to conduct any aquatic ecosystem restoration measures or land use management within the buy-out areas. The land will be owned, managed, and maintained by the State of New Jersey, the non-federal sponsor, after the structures are removed. The Service maintains the above recommendation and advises the Corps to coordinate with the NJDEP to

ensure that best efforts are made to implement the recommendation to restore the floodway areas, including forested wetlands and open, grass fields, to natural conditions that will provide wildlife habitat and reduce flooding.

2. Maintain mature trees during demolition of the structures on site. The Service is available to help mark trees that should be retained. Shade produced by mature trees along the stream is critical to maintaining summer water temperature regimes and dissolved oxygen favorable to fisheries. In addition, the vertical structure and canopy provided by mature trees is a critical component of habitat for migratory birds, providing food, cover, and nesting structure. If any trees must be removed, preferential protection should be afforded to large, native, mast or fruit producing species.

The Corps indicates that only vegetation located within the immediate vicinity and blocking access to the structures to be removed will be cleared.

3. Implement timing restrictions on demolition activities and use best management practices (e.g., hay bales, silt curtains) during demolition and habitat restoration work to avoid adverse impacts to terrestrial and aquatic species at proposed sites. The State's requirements regarding sediment management and erosion control for the project are supported by the Service.

The Corps concurs.

4. Incorporate site remediation for contamination. The Service has reviewed the Hazardous, Toxic, and Radiological Waste (HTRW) information for the Passaic River Buyout study. The Service has no objections or recommended modifications to the plans for identification, removal, and storage of contaminated sediment and debris found on buyout sites as currently stated in the HTRW. However, the Service would likely support any additional actions the State may require of the Corps or its contractors for identifying, removing, and storing contaminated sediment and debris.

The Corps indicates that if any HTRW is found, the NJDEP, as the non-federal sponsor, will be responsible for any required remediation as per the Project Cooperation Agreement between the Corps and NJDEP.

5. Remove impervious surfaces for restoration. Significant portions of the study sites are covered with impervious surface (e.g., homes, roads, driveways, and bulkheads along the river bank at the Wayne study site). Removing impervious surfaces will improve floodwater storage capacity and infiltration, reduce surface water runoff, and provide a suitable substrate to establish desired vegetation on the lots. All artificial structures should be removed from the lots, including garages, storage units, fencing, docks, retaining walls, bulkheads, impervious walkways, and utility poles that do not service occupied dwellings. Once all homes have been demolished along a road, the road should be removed as well. Any trash or other human-generated debris on a lot purchased by the Corps should be removed as part of the demolition process.

The Corps indicates that demolition is currently limited to homes and associated structures on individual properties per coordination with NJDEP and will not include roads or other features still in use. The Service recommends the Corps coordinate with the non-federal sponsor and/or other stakeholders to help ensure that all impervious surfaces within the restoration area that are not currently in use or become abandoned should be removed.

6. Till and/or work soils to reduce compaction in conjunction with removal of impervious surfaces. Tilling will further improve the hydrology, flood storage capacity, and growth of desirable vegetation on the study sites. Moist soils, which likely comprised the majority of the soil horizon at both study sites before development, are most susceptible to compaction. In cases of very shallow soil compaction (i.e., 5 inches below grade), a few cycles of freeze and thaw during winter may be sufficient to remove compaction. However, compaction that occurs deeper in the soil column requires excavating, tilling, or disking to be removed.

See discussion under General Recommendation No. 1 above.

7. Remove fill from the sites to reduce soil compaction and to return sites to more natural elevations and grades. Removal of fill would help restore the natural hydrology and promote re-establishment of wetlands on the sites.

See discussion under General Recommendation No. 1 above.

8. Evaluate basements and foundations for removal. The Service understands that the Corps intends to fill in basements and sub-grade foundations as part of the demolition process. The Service recommends removing foundation and basement walls and concrete slabs as part of the demolition to help restore natural hydrology and to further reduce impervious surface at the sites. If removing these structures is not economically feasible, we recommend perforating the structures to increase permeability and water percolation into the soil.

The Corps indicates that, per the NJDEP, basements and foundations will be demolished and removed to four feet below grade. The remaining foundation will be broken up, left in place, and filled to grade. Although the Service would prefer removal of all impervious material, we concur that breaking up the remaining materials would improve permeability and water percolation into the soil over present conditions.

9. Fill basement and sub-grade foundation sites just below pre-development elevation and grade. These depressions may then serve as isolated wetlands or vernal pools for wildlife species.

The Service maintains the recommendation to create depressions where appropriate. Based on the Corps' response to General Recommendation 8, creating these depressions is within the Corps' scope and authority. The Service recommends the Corps coordinate with the NJDFW to determine the most appropriate, if any, areas to create these depressions.

10. Eradicate or control exotic, invasive species, particularly multiflora rose and Japanese honeysuckle, to enhance wildlife habitats and improve stream bank stability and water storage capacity at the study sites. The January 27, 2005 site visit revealed that multiflora rose and Japanese honeysuckle occur within and near the study sites. Though not surveyed, other areas upstream and surrounding the study sites undoubtedly are infested with these and other undesirable species not identified due to prevailing winter conditions at the time of the January 27 site visit. Homeowners have planted many ornamental plants at both sites. Plant species marked for removal should include any ornamentals known to be invasive or undesirable to wildlife.

See discussion under General Recommendation No. 1 above.

11. Implement control measures in all phases of demolition and restoration to minimize reburial of undesirable plant species and the import / export of these undesirable species from project sites. Afterward, regular surveys should be conducted at each site to identify and remove any undesirable plants beginning to re-colonize. A variety of measures exist for removing undesirable species. For sites with few invasive plants, physical removal may be the least expensive method if the entire plant (including root system) can be extracted and if there is a sufficient number of personnel to carry out the task. In cases where undesirable species have gained a substantial foothold, a glyphosate-based herbicide engineered for wetland sites, such as *Rodeo* or *Gly-Pro*, is appropriate. Either of the above techniques would be effective at the study sites.

See discussion under General Recommendation No. 1 above.

Specific Recommendations for Forested Wetland and Floodplain Restoration

1. Incorporate restoration of forested wetland and floodplain cover types into the project plan. Soil and vegetative surveys suggest that both the Pompton Lakes and Wayne study sites contained PFO cover types and provided habitats for forested floodplain species prior to development. Consequently, the Service recommends restoration to forested floodplains when lots have been cleared of artificial structures and soil compaction reduced. Floodplain restoration would connect similar habitat types near the study sites and reduce habitat fragmentation along the Pompton and Ramapo Rivers.

See discussion under General Recommendation No. 1 above.

2. Plant species used by Indiana bat and State priority-list species on the restoration sites to enhance habitats for these species. The federally listed Indiana bat as well as several State priority species that use forested floodplains may benefit from restoration of both sites to pre-development conditions. Indiana bats could roost in existing and future mature trees and forage along the nearby rivers and in the forest understory following restoration. As mentioned previously, numerous State priority herptile and avian species use areas near the study sites (e.g., Fowler's toad, spotted turtle, eastern wood-peewee, rose-breasted grosbeak, and veery). Therefore, the Service recommends planting a variety of native tree and shrub species common to PFO and area floodplains. Such species should be shade-tolerant

(particularly for the Wayne study site) and tolerant of moist conditions. The Service encourages the Corps or its partners to plant tree species commonly used by Indiana bats, such as shagbark hickory (*Carya ovata*), northern red oak, white oak (*Quercus alba*), and post oak (*Q. stellata*) for the dry sites and bitternut hickory (*C. cordiformis*), silver maple, green ash, American elm (*Ulmus Americana*), and black locust for the moist sites. A typical planting density is about 300 trees and shrubs per acre if small, containerized plants are used.

See discussion under General Recommendation No. 1 above.

3. Re-establish the forest understory cover at both study sites to improve wildlife habitats. A healthy forest requires an understory to provide multiple canopy layers (thus increasing wildlife diversity), to provide replacement trees and shrubs as the forest matures and older trees die, and to reduce sunlight on the forest floor. Shading the forest floor decreases chances for certain invasive species to become established. Species common to a forest understory are typically shade-tolerant, such as sheep-laurel (*Kalmia angustifolia*), swamp azalea (*Rhododendron viscosum*), winterberry (*Ilex verticillata*), dogwood (*Cornus* spp.), willow (*Salix* spp.), alder (*Alnus* spp.), meadowsweet (*Spiraea* spp.), juneberry (*Amelanchier* spp.), and gooseberry (*Ribes* spp.).

See discussion under General Recommendation No. 1 above.

4. Incorporate grasslands into the restoration planning. If restoring the study sites or portions of the study sites to PFO or forested floodplain is not economically or otherwise feasible, the Service recommends seeding a mixture of native cool-season grasses and wildflowers for the restored sites. The Wayne study site in particular should also be seeded with grasses and wildflowers that are shade-tolerant. A mixture containing native wet meadow species may work best due to the wet conditions found on portions of the study sites.

See discussion under General Recommendation No. 1 above.

5. Employ bioengineering techniques and soft structures to stabilize and restore stream banks at the Wayne study site, as opposed to maintaining the hard structures currently installed along the river bank. Preferred techniques are described in Muhlenberg and Moore (1998). Bioengineering techniques include regrading banks, using erosion control fabrics and biologs, and planting native trees and shrubs along the banks.

The Corps indicates that the identification and removal of existing bulkheads is outside the current scope of the project. Additionally, the Corps indicates that removal of any bulkhead will be at the discretion of the NJDEP. The Service recommends that the Corps coordinate with NJDEP to ensure that the best efforts are made to stabilize and restore the natural stream banks at the Wayne study site and consideration is given to the feasibility of removing hard structures along the stream banks.

Recommendations for Long-term Management and Planning

1. Coordinate with the local municipalities, Passaic County, and the State to ensure achievement of common goals and to prevent any duplication of effort. The Service understands that the Township of Wayne has received funds from the State to perform its own buyout activities (Gillman, pers. comm., 2005).

The Corps indicates that coordination with the appropriate local municipalities and the State has been ongoing and will continue throughout the duration of the project.

2. Appoint a land-use manager to oversee the study sites after project completion. The Service understands that such an appointment has not been made (Gillman, pers. comm., 2005).

See discussion under General Recommendation No. 1 above.

3. Do not allow further development of these restored sites once purchased by the Corps. For instance, the Service noted a basketball court on land previously purchased by the State for flood control at the Pompton Lakes site. Such land use is counter-productive to restoring wildlife habitat, reducing impervious surface, and improving flood control. However, the Service has no objection to structures that involve little or no impervious surfaces and promote passive recreation or do not significantly degrade wildlife habitat (e.g., educational signs, construction of boardwalks, or foot/bike paths delineated with wood chips).

See discussion under General Recommendation No. 1 above.

4. Develop and implement a long-term management and monitoring plan for the project. The plan should provide criteria to adequately evaluate the success of habitat restoration at the sites. The plan should also provide for any necessary corrective actions, as part of an adaptive management strategy, to be implemented in coordination between the Corps and project sponsors. Such contingencies may include re-grading, re-planting, or other actions to correct for post-restoration deficiencies, including deposition, erosion, failure of vegetation to establish, and / or invasion of undesirable species such as multiflora rose or Japanese honeysuckle.

See discussion under General Recommendation No. 1 above.

5. Include measures in the long-term management plan to reduce potential illegal dumping on the buyout sites. The Service noted a significant amount of trash at the Wayne study site. Measures that might be implemented with the local sponsor include restricting public access and emphasizing law enforcement efforts.

See discussion under General Recommendation No. 1 above.

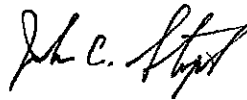
Concluding Remarks

The Service supports the Corps' proposed floodplain restoration as an alternative to structural flood control measures. The Service understands that the scope and authority through which the Corps is pursuing this project only allows for the purchase and removal of homes located on the floodway of the Passaic River and its tributaries, and does not include provisions to implement measures for additional ecosystem restoration or land use management within the buy-out areas. The Service and the NJDFW have developed the recommendations listed above to assist the Corps in avoiding adverse impacts and maximizing potential benefits to fish and wildlife resources. The Service advises the Corps to coordinate with all non-federal sponsors and interested stakeholders to ensure that best efforts are made to implement the recommendations provided above to restore the floodway areas, including forested wetlands and open grass fields, to a natural state that would both provide wildlife habitat and reduce flooding.

To summarize, fish and wildlife will undoubtedly benefit at both the Pompton Lakes and Wayne study sites from retaining mature trees and restoring the floodplain to a forested wetland cover type. Note that any unavoidable removal of trees greater than 6 inches dbh between April 1 and September 30 will require further consultation pursuant to the ESA with the Service to ensure protection of the Indiana bat. To benefit native wildlife, the Service recommends that the Corps encourage the non-federal sponsor to remove exotic invasive plants and revegetate using native canopy and understory species that provide food and cover. For example, shagbark hickory, when mature, will provide potential roosting sites for the Indiana bat. If forested wetland restoration is not economically or otherwise feasible in a specific area, the Service concurs with the Corps' proposal to plant native grassland species as an alternative. Removal of impervious surfaces and fill material and tilling the soil to reduce soil compaction will enhance floodwater storage and to support revegetation. Fish and wildlife will benefit further from the use of bioengineering for any necessary erosion control and from follow-up monitoring and long-term management by the non-federal sponsor and/or other interested stakeholders to ensure stream bank stabilization and successful establishment of a native plant community.

The Service appreciates the opportunity to comment on the proposed plan and is pleased to submit this final FWCA Section 2(b) report as technical input into the Passaic River Buyout Study. Should you have any questions, please contact John Staples of my staff at (609) 646-9310, extension 12, or Darren Harris at extension 44.

Sincerely,



 Clifford G. Day
Supervisor

Enclosures

REFERENCES

Literature Cited

- Cowardin, L.M., V. Carter, F.C. Golet, and E.T. Laroe. 1979. Classification of wetlands and deepwater habitats of the United States. FWS/OBS 79/31. U.S. Department of the Interior, Fish and Wildlife Service, Washington, D.C. 103 pp.
- Muhlenberg and Moore. 1998. Streambank Revegetation and Protection, *a guide for Alaska*. Alaska Department of Fish and Game. Technical Letter No. 98-3. 57 pp.
- Soil Conservation Service. 1975. United States Department of Agriculture, Soil Conservation Service, *in cooperation with* New Jersey Agricultural Experiment Station and Cook College, Rutgers University. National Cooperative Soil Survey. 69 pp. + ill.
- U.S. Army Corps of Engineers. 2004. Passaic River Basin Flood Management (Floodway Buy-out) New Jersey. Fact Sheet. U.S. Army Corps of Engineers, New York District. New York, New York.

Personal Communications

- Didun, A. 2005. Biologist. New Jersey Department of Environmental Protection, Division of Fish and Wildlife, Office of Environmental Review. Trenton, New Jersey.
- Gillman, C. 2005. Chief Engineer. New Jersey Department of Environmental Protection, Division of Engineering and Flood Control, Bureau of Dam Safety. Trenton, New Jersey.

Borough of Pompton Lakes Study Site



Wayne Township Study Site



Legend

- Towns
- Newark Roads
- DECIDUOUS WOODED WETLANDS
- HERBACEOUS WETLANDS
- FORESTED

0 0.125 0.25 0.5 0.75 1 Miles



Enclosure 3

State of New Jersey

Department of Environmental Protection

I. Codey
Governor

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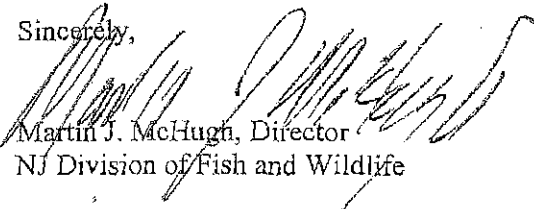
April 11, 2005

Clifford G. Day, Administrator
U.S. Fish and Wildlife Service
New Jersey Field Office
927 North Main Street, Bldg. D
Pleasantville, NJ 08232

Dear Mr. Day:

This serves to inform you that the NJ Division of Fish and Wildlife [DFW] concurs with the *Draft Fish and Wildlife 2 (b) Coordination Act Report* for the U.S. Army Corps of Engineers, New York District's, proposed *Passaic River Floodway Buy-out Study*, Borough of Pompton Lakes and Township of Wayne, Passaic County, New Jersey. This document constitutes the USFWS' draft report regarding effects on fish and wildlife that can be expected to result from the Army Corps of Engineers [ACOE] proposed plan.

Sincerely,


Martin J. McHugh, Director
NJ Division of Fish and Wildlife

c. A. Didun, OER



DEPARTMENT OF THE ARMY
NEW YORK DISTRICT, CORPS OF ENGINEERS
JACOB K. JAVITS FEDERAL BUILDING
NEW YORK, N.Y. 10278-0090

REPLY TO
ATTENTION OF

Environmental Analysis Branch

May 18, 2005

Mr. John Staples
Field Supervisor
U.S. Fish and Wildlife Service
New Jersey Field Office
927 N. Main St.
Building D
Pleasantville, NJ 08232

Dear Mr. Staples:

This letter serves as a response to your 5 April 2005 Fish and Wildlife Coordination Act Report (FWCAR). We would like to make two important clarifications regarding the buy-out process and project scope. First, we are cost sharing the purchase of the properties with the non-federal sponsor, New Jersey Department of Environmental Protection (NJDEP). Once the structures are removed, the land will be owned, managed and maintained by the State of New Jersey. Second, the authority through which this project is funded only allows for the purchase and removal of homes located from the floodway of the Passaic River and tributaries. The authority does not include provisions to conduct any aquatic ecosystem restoration measures or land use management within the buy-out areas.

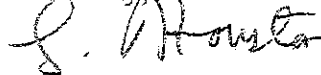
To that extent, as a general response to your recommendations for site restoration, we cannot conduct any studies or activities related to aquatic ecosystem restoration, invasive species control or land use management subsequent of house demolition. Following structure removal, the area will be brought to existing grade and seeded with a mix of native grass species. The following are specific responses to your recommendations:

- 1) Indiana Bat: As construction activities will be restricted to the immediate area of the structures, driveways and storage tanks that are identified to be removed, only vegetation that may impede access to the structure and associated infrastructure will be removed. Although we do not believe Indiana bat habitat will be adversely impacted as a result of project implementation, we will assess site conditions as the homes to be demolished are identified and will coordinate with your staff as necessary.
- 2) General Recommendation 2, *Maintain mature trees during demolition of structures*: As stated above, only vegetation located within the immediate vicinity of the structures to be removed will be cleared should it block access to the structures.

- 3) General Recommendation 3, *Implement timing restrictions and use best management practices*: Concur.
- 4) General Recommendation 4, *Incorporate site remediation for contamination*:
Currently no Hazardous, Toxic, and Radioactive Waste (HTRW) is known to exist within the study area. If HTRW is found, then the NJDEP, as the non-federal sponsor will be responsible for any required remediation as per the Project Cooperation Agreement between the Corps and NJDEP.
- 5) General Recommendation 5, *Remove impervious surfaces*: As per our coordination with NJDEP, demolition is currently limited to homes and associated structures on individual properties and will not include roads or other features.
- 6) General Recommendation 8, *Evaluate basements and foundations for removal*: As per the NJDEP basements and foundations will be demolished and removed to four feet below grade. The remaining foundation will be broken up, left in place and filled to grade.
- 7) Recommendations for Long-Term Management and Planning 1, *Coordination with local municipalities, Passaic County and the State*. Coordination with the appropriate local municipalities and the State has been ongoing and will continue throughout the duration of the project.
- 8) Specific Recommendation 5, *Employ bioengineering techniques and soft structures to stabilize and restore stream banks*. The identification and removal of existing bulkheads is currently outside the purview of the project scope and may have to be dealt with on a case by case basis. We will take our direction from the NJDEP, the non-Federal sponsor.

We look forward to continued coordination your office on this project. Should any questions arise, or additional information is needed, please contact Ms. Kimberly Rightler at (917) 790-8722.

Sincerely,



Leonard Houston,
Chief, Environmental Analysis Branch



FEDERALLY LISTED ENDANGERED AND THREATENED SPECIES IN NEW JERSEY



An **ENDANGERED** species is any species that is in danger of extinction throughout all or a significant portion of its range.

A **THREATENED** species is any species that is likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range.

	COMMON NAME	SCIENTIFIC NAME	STATUS
FISHES	Shortnose sturgeon*	<i>Acipenser brevirostrum</i>	E
REPTILES	Bog turtle	<i>Clemmys muhlenbergii</i>	T
	Atlantic Ridley turtle*	<i>Lepidochelys kempii</i>	E
	Green turtle*	<i>Chelonia mydas</i>	T
	Hawksbill turtle*	<i>Eretmochelys imbricata</i>	E
	Leatherback turtle*	<i>Dermochelys coriacea</i>	E
	Loggerhead turtle*	<i>Caretta caretta</i>	T
BIRDS	Bald eagle	<i>Haliaeetus leucocephalus</i>	T
	Piping plover	<i>Charadrius melodus</i>	T
	Roseate tern	<i>Sterna dougallii dougallii</i>	E
MAMMALS	Eastern cougar	<i>Felis concolor cougar</i>	E+
	Indiana bat	<i>Myotis sodalis</i>	E
	Gray wolf	<i>Canis lupus</i>	E+
	Delmarva fox squirrel	<i>Sciurus niger cinereus</i>	E+
	Blue whale*	<i>Balaenoptera musculus</i>	E
	Finback whale*	<i>Balaenoptera physalus</i>	E
	Humpback whale*	<i>Megaptera novaeangliae</i>	E
	Right whale*	<i>Balaena glacialis</i>	E
	Sei whale*	<i>Balaenoptera borealis</i>	E
	Sperm whale*	<i>Physeter macrocephalus</i>	E

	COMMON NAME	SCIENTIFIC NAME	STATUS
INVERTEBRATES	Dwarf wedgemussel	<i>Alasmidonta heterodon</i>	E
	Northeastern beach tiger beetle	<i>Cicindela dorsalis dorsalis</i>	T
	Mitchell's satyr butterfly	<i>Neonympha m. mitchellii</i>	E+
	American burying beetle	<i>Nicrophorus americanus</i>	E+
PLANTS	Small whorled pogonia	<i>Isotria medeoloides</i>	T
	Swamp pink	<i>Helonias bullata</i>	T
	Knieskern's beaked-rush	<i>Rhynchospora knieskernii</i>	T
	American chaffseed	<i>Schwalbea americana</i>	E
	Sensitive joint-vetch	<i>Aeschynomene virginica</i>	T
	Seabeach amaranth	<i>Amaranthus pumilus</i>	T

STATUS:			
E	endangered species	PE	proposed endangered
T	threatened species	PT	proposed threatened
+	presumed extirpated**		

* Except for sea turtle nesting habitat, principal responsibility for these species is vested with the National Marine Fisheries Service.

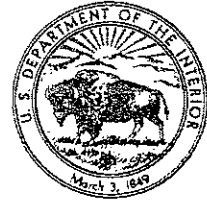
** Current records indicate the species does not presently occur in New Jersey, although the species did occur in the State historically.

Note: for a complete listing of Endangered and Threatened Wildlife and Plants, refer to 50 CFR 17.11 and 17.12.

For further information, please contact:

U.S. Fish and Wildlife Service
New Jersey Field Office
927 N. Main Street, Building D
Pleasantville, New Jersey 08232
Phone: (609) 646-9310
Fax: (609) 646-0352

Revised 12/15/04



FEDERAL CANDIDATE SPECIES IN NEW JERSEY

CANDIDATE SPECIES are species that appear to warrant consideration for addition to the federal List of Endangered and Threatened Wildlife and Plants. Although these species receive no substantive or procedural protection under the Endangered Species Act, the U.S. Fish and Wildlife Service encourages federal agencies and other planners to give consideration to these species in the environmental planning process.

SPECIES	SCIENTIFIC NAME
Bog asphodel	<i>Narthecium americanum</i>
Hirsts' panic grass	<i>Dichanthelium hirstii</i>

Note: For complete listings of taxa under review as candidate species, refer to Federal Register Vol. 69, No. 86, May 4, 2004 (Endangered and Threatened Wildlife and Plants; Review of Species that are Candidates or Proposed for Listing as Endangered or Threatened).

Revised June 2004

FEDERAL CANDIDATE AND STATE-LISTED SPECIES

Candidate species are species under consideration by the U.S. Fish and Wildlife Service (Service) for possible inclusion on the List of Endangered and Threatened Wildlife and Plants. Although these species receive no substantive or procedural protection under the Endangered Species Act, the Service encourages federal agencies and other planners to consider federal candidate species in project planning.

The New Jersey Natural Heritage Program maintains the most up-to-date information on federal candidate species and State-listed species in New Jersey and may be contacted at the following address:

Coordinator
Natural Heritage Program
Division of Parks and Forestry
P.O. Box 404
Trenton, New Jersey 08625
(609) 984-0097

Additionally, information on New Jersey's State-listed wildlife species may be obtained from the following office:

Dr. Larry Niles
Endangered and Nongame Species Program
Division of Fish and Wildlife
P.O. Box 400
Trenton, New Jersey 08625
(609) 292-9400

If information from either of the aforementioned sources reveals the presence of any federal candidate species within a project area, the Service should be contacted to ensure that these species are not adversely affected by project activities.



Division of Fish & Wildlife

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Conserve Wildlife



New Jersey's Endangered and Threatened Wildlife

New Jersey Department of Environmental Protection
Division of Fish & Wildlife
Endangered & Threatened Species Registry

Endangered Species are those whose prospects for survival in New Jersey are in immediate danger because of a loss or change in habitat, over-exploitation, predation, competition, disease, disturbance or contamination. Assistance is needed to prevent future extinction in New Jersey.

Threatened Species are those who may become endangered if conditions surrounding them begin to or continue to deteriorate.

There are other classifications for wildlife as well, including Stable, Species of Special Concern Special Concern and Undertermined.

Species names in the below tables link to [PDF documents](#) containing identification, habitat and status and conservation information. Additionally, in 2003 twelve species were highlighted as part of the celebration of the 30th anniversary of the NJ Endangered Species Conservation Act. See the "[2003 Species of the Month](#)" page for more information.

BIRDS			
Endangered		Threatened	
Bittern, American	<i>Botaurus lentiginosus</i> BR	Bobolink	<i>Dolichonyx oryzivorus</i> BR
Eagle, bald	<i>Haliaeetus leucocephalus</i> BR **	Eagle, bald	<i>Haliaeetus leucocephalus</i> NB **
Falcon, peregrine	<i>Falco peregrinus</i>	Hawk, Cooper's	<i>Accipiter cooperii</i>
Goshawk, northern	<i>Accipiter gentilis</i> BR	Hawk, red-shouldered	<i>Buteo lineatus</i> NB
Grebe, pied-billed	<i>Podilymbus podiceps</i> *	Night-heron, black-crowned	<i>Nycticorax nycticorax</i> BR
Harrier, northern	<i>Circus cyaneus</i> BR	Night-heron, yellow-crowned	<i>Nyctanassa violaceus</i>
Hawk, red-shouldered	<i>Buteo lineatus</i> BR	Knot, red	<i>Calidris canutus</i> BR
Owl, short-eared	<i>Asio flammeus</i> BR	Osprey	<i>Pandion haliaetus</i> BR
Plover, piping	<i>Charadrius melodus</i> **	Owl, barred	<i>Strix varia</i>
Sandpiper, upland	<i>Batramia longicauda</i>	Owl, long-eared	<i>Asio otus</i>
Shrike, loggerhead	<i>Lanius ludovicianus</i>	Rail, black	<i>Laterallus jamaicensis</i>
Skimmer, black	<i>Rynchops niger</i> BR	Skimmer, black	<i>Rynchops niger</i> NB
Sparrow, Henslow's	<i>Ammodramus henslowii</i>	Sparrow, grasshopper	<i>Ammodramus savannarum</i> BR
Sparrow, vesper	<i>Poocetes gramineus</i> BR	Sparrow, Savannah	<i>Passerculus sandwichensis</i> BR
Tern, least	<i>Sterna antillarum</i>	Sparrow, vesper	<i>Poocetes gramineus</i> NB

<u>Tem. roseate</u>	<u>Sterna dougallii</u> **	<u>Woodpecker, red-headed</u>	<u>Melanerpes erythrocephalus</u>
<u>Wren, sedge</u>	<u>Cistothorus platensis</u>		
**Federally endangered or threatened			
BR - Breeding population only; NB - non-breeding population only			

REPTILES			
Endangered		Threatened	
<u>Rattlesnake, timber</u>	<u>Crotalus h. horridus</u>	<u>Snake, northern pine</u>	<u>Pituophis m. melanoleucus</u>
<u>Snake, corn</u>	<u>Elaphe g. guttata</u>	<u>Turtle, Atlantic green</u>	<u>Chelonia mydas</u> **
<u>Snake, queen</u>	<u>Regina septemvittata</u>	<u>Turtle, wood</u>	<u>Clemmys insculpta</u>
<u>Turtle, bog</u>	<u>Clemmys muhlenbergii</u> **		
<u>Atlantic hawksbill</u>	<u>Eretmochelys imbricata</u> **		
<u>Atlantic leatherback</u>	<u>Dermochelys coriacea</u> **		
<u>Atlantic loggerhead</u>	<u>Caretta caretta</u> **		
<u>Atlantic Ridley</u>	<u>Lepidochelys kempi</u> **		
**Federally endangered or threatened			

AMPHIBIANS			
Endangered		Threatened	
<u>Salamander, blue-spotted</u>	<u>Ambystoma laterale</u>	<u>Salamander, eastern mud</u>	<u>Pseudotriton montanus</u>
<u>Salamander, eastern tiger</u>	<u>Ambystoma tigrinum</u>	<u>Salamander, long-tailed</u>	<u>Eurycea longicauda</u>
<u>Treefrog, southern gray</u>	<u>Hyla chrysocelis</u>	<u>Treefrog, pine barrens</u>	<u>Hyla andersonii</u>

INVERTEBRATES			
Endangered		Threatened	
<u>Beetle, American burying</u>	<u>Nicrophorus mericanus</u> **	<u>Elfin, frosted (butterfly)</u>	<u>Callophrys irus</u>
<u>Beetle, northeastern beach tiger</u>	<u>Cincindela d. dorsalis</u> **	<u>Floater, triangle (mussel)</u>	<u>Alasmidonta undulata</u>
<u>Copper, bronze</u>	<u>Lycaena hyllus</u>	<u>Fritillary, silver-bordered (butterfly)</u>	<u>Bolaria selene myrina</u>
<u>Floater, brook (mussel)</u>	<u>Alasmidonta varicosa</u>	<u>Lampmussel, eastern (mussel)</u>	<u>Lampsilis radiata</u>
<u>Floater, green (mussel)</u>	<u>Lasmigona subviridis</u>	<u>Lampmussel, yellow (mussel)</u>	<u>Lampsilis cariosa</u>
<u>Satyr, Mitchell's (butterfly)</u>	<u>Neonympha m. mitchellii</u> **	<u>Mucket, tidewater (mussel)</u>	<u>Leptodea ochracea</u>
<u>Skipper, arogos (butterfly)</u>	<u>Atrytone arogos arogos</u>	<u>Pondmussel, eastern (mussel)</u>	<u>Ligumia nasuta</u>
<u>Skipper, Appalachian grizzled (butterfly)</u>	<u>Pyrgus wyandot</u>	<u>White, checkered (butterfly)</u>	<u>Pontia protodice</u>
<u>Wedgemussel, dwarf</u>	<u>Alasmidonta heterodon</u> **		
**Federally endangered or threatened			

MAMMALS	
Endangered	
<u>Bat, Indiana</u>	<i>Myotis sodalis</i> **
<u>Bobcat</u>	<i>Lynx rufus</i>
<u>Whale, black right</u>	<i>Balaena glacialis</i> **
<u>Whale, blue</u>	<i>Balaenoptera musculus</i> **
<u>Whale, fin</u>	<i>Balaenoptera physalus</i> **
<u>Whale, humpback</u>	<i>Megaptera novaeangliae</i> **
<u>Whale, sei</u>	<i>Balaenoptera borealis</i> **
<u>Whale, sperm</u>	<i>Physeter macrocephalus</i> **
<u>Woodrat, Allegheny</u>	<i>Neotoma floridana magister</i>
**Federally Endangered	

FISH	
Endangered	
<u>Sturgeon, shortnose</u>	<i>Acipenser brevirostrum</i> **
**Federally Endangered	

List updated 3/11/04

The lists of New Jersey's endangered and nongame wildlife species are maintained by the DEP's Division of Fish and Wildlife's [Endangered and Nongame Species Program](#). These lists are used to determine protection and management actions necessary to ensure the survival of the state's endangered and nongame wildlife.

This work is made possible through voluntary contributions received through Check-off donations to the Endangered Wildlife Conservation Fund on the New Jersey State Income Tax Form, the sale of [Conserve Wildlife License Plates](#), and donations. For more information about the Endangered and Nongame Species Program or to report a sighting of endangered or threatened wildlife, contact the Endangered and Nongame Species, NJ Division of Fish and Wildlife, P.O. Box 400, Trenton, NJ 08625-0400, or call 609-292-9400.

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