HUDSON RIVER HABITAT RESTORATION

ECOSYSTEM RESTORATION
FINAL INTEGRATED FEASIBILITY REPORT AND ENVIRONMENTAL ASSESSMENT

Appendix G1: Essential Fish Habitat and NOAA Threatened & Endangered Species Coordination

U.S. ARMY CORPS OF ENGINEERS
NEW YORK DISTRICT

September 2020

DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS, NEW YORK DISTRICT
JACOB K. JAVITS FEDERAL BUILDING
26 FEDERAL PLAZA
NEW YORK NEW YORK 10278-0090

June 20, 2019

REPLY TO
ATTENTION OF
Environmental Analysis Branch

Ms. Karen Greene
Mid-Atlantic Field Office Supervisor and EFH Coordinator
National Marine Fisheries Service
James J. Howard Marine Sciences Laboratory
74 Magruder Road
Highlands, NJ 07732

Dear Ms. Greene,

The U.S. Army Corps of Engineers, New York District (District) in partnership with New York State Department of Environmental Conservation, the non-federal sponsor, will be releasing the Draft Integrated Feasibility Report and Environmental Assessment (FR/EA) for the Hudson River Habitat Restoration Ecosystem Restoration Feasibility Study (HRHR Study). The Draft FR/EA addresses the potential impacts associated with implementation of ecosystem restoration actions within the HRHR Study Area. The HRHR Study Area is defined as approximately 125 miles of the Hudson River, between Governor Mario M. Cuomo (formerly Tappan Zee) Bridge downstream to Troy Lock and Dam upstream, and associated tributaries up to the first natural barrier.

As discussed with your office in April 2018, the District will coordinate EFH consultation through this letter.

The Tentatively Selected Plan (TSP) includes the restoration of five sites throughout the Hudson River and its tributaries that will restore a mosaic of interconnected, large river habitats, and restore lost connectivity between the Hudson River and adjacent habitats. Specifically, the TSP consists of restoration measures that would restore two major side channels, creating 38 acres of intertidal and shallow water habitat; restore and create approximately 148 acres of wetlands; and reconnect 17 miles of tributary habitat to the river through the removal of three dams and one in-water utility pipe. The report is accessible on the District website at: https://www.nan.usace.army.mil

The District anticipates that there may be a variety of impacts to Essential Fish Habitat (EFH) as a result of the implementation of the HRHR Ecosystem Restoration Plan; some may be temporary and related to construction activities and some may be permanent due to changes in habitat types. However, it is anticipated that ecosystem restoration would result in long-term, net benefits to managed species (all life stages), associated species, and EFH.

As project plans are further developed in the Pre-Construction Engineering and Design (PED) Phase, the District will coordinate with NOAA Fisheries and undertake project specific EFH consultation so that the effects of the individual actions can be evaluated and site-specific EFH conservation recommendations can be developed. The District requests your review and confirmation of concurrence with this overall assessment and path forward.

Should you have any questions regarding this action or the above requests please contact the project biologist, Matthew Voisine, by phone (917) 790-8718, or by email at matthew.voisine@usace.army.mil.

Sincerely,

Peter Weppler, Chief
Environmental Analysis Branch

UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
GREATER ATLANTIC REGIONAL FISHERIES OFFICE
55 Great Republic Drive
Gloucester, MA 01930-2276

August 15, 2019

Peter Weppler, Chief
Environmental Analysis Branch
Planning Division
New York District
U.S. Army Corps of Engineers
26 Federal Plaza
New York, NY 10278-0900

RE: Hudson River Habitat Restoration Ecosystem Restoration Study Feasibility Study (HRHR Study); Draft Integrated Feasibility Report and Environmental Assessment

Dear Mr. Weppler:

Thank you for your June 20, 2019, letter regarding coordination with us under the Magnuson Stevens Fishery Conservation and Management Act (MSA) for the Hudson River Habitat Restoration Ecosystem Restoration Study (HRHR Study). The U.S. Army Corps of Engineers, New York District (District) in partnership with New York State Department of Environmental Conservation, the non-federal sponsor, has developed the Draft Integrated Feasibility Report and Environmental Assessment (FR/EA) to address the potential impacts associated with implementation of ecosystem restoration actions within the HRHR Study Area. The HRHR Study Area is defined as approximately 125 miles of the Hudson River, from the Governor Mario M. Cuomo (formerly Tappan Zee) Bridge upstream to the Troy Lock and Dam, and the river's associated tributaries up to the first natural barrier.

The Tentatively Selected Plan (TSP) includes the restoration of five sites within the study area that will restore a mosaic of interconnected, large river habitats, and lost connectivity between the Hudson River and adjacent habitats. Specifically, the TSP consists of restoration measures that would restore two major side channels, creating 38 acres of intertidal and shallow water habitat; restore and create approximately 148 acres of wetlands; and reconnect 17 miles of tributary habitat to the river through the removal of three dams and one in-water utility pipe.

The five sites include:

- Henry Hudson Park in the Town of Bethlehem on the western bank of the Hudson River in Albany County.
- Binnen Kill on the western bank of the Hudson River on the border of the towns of Bethlehem and Coymanns.
- Schodack Island, part of Schodack Island State Park, located near the eastern bank of the Hudson River, approximately three miles south of Castleton-on-Hudson in the Town of Schodack.

- Eddyville Dam, on Rondout Creek, approximately 3.6 miles upstream of the creek's confluence with the Hudson River, between the towns of Esopus and Ulster in Ulster County.
- Three locations Moodna Creek including a sewer utility line, Firth Cliff Dam, and Orr's Mill Dam, located approximately 1.8, 3.0, and 3.7 miles upstream of the creek's confluence with the Hudson River, respectively, in the towns of New Windsor and Cornwall in Orange County.

As you are aware, the MSA requires federal agencies to consult with us on projects such as this which may adversely affect EFH and other aquatic resources. In turn, we must provide recommendations to conserve EFH. These recommendations may include measures to avoid, minimize, mitigate, or otherwise offset adverse effects on EFH resulting from actions or proposed actions authorized, funded, or undertaken by that agency. The consultation process is guided by the requirements of our EFH regulation at 50 CFR 600.905, which mandates the preparation of EFH assessments and generally outlines each agency's obligations in this consultation procedure. In cases of habitat and ecosystem restoration projects such as the HRHR Study where the overall result of the actions may be improved EFH and aquatic resource habitat, construction related adverse effects and habitat tradeoffs, as well as the habitat benefits are addressed as part of the consultation process.

The Fish and Wildlife Coordination Act (FWCA) also requires you to consult with us on projects such as this that may result in the modification of a natural stream or body of water. It also requires the consideration of the effects that these projects would have on fish and wildlife, and must also provide for improvement of these resources. Under this authority, we work to protect, conserve and enhance species and habitats for a wide range of aquatic resources such as diadromous species, shellfish, and other commercially and recreationally important species that are not managed by the federal fishery management councils and therefore do not have designated EFH.

Although EFH is designated only with the estuarine waters of the study area, roughly to Poughkeepsie, the Hudson River and its tributaries provides important habitat for a wide variety of NOAA trust resources including diadromous species such as diadromous species including alewife (*Alosa pseudoharengus*), blueback herring (*Alosa aestivalis*), American shad (*Alosa sapidissima*), striped bass (*Morone saxatilis*), and American eel (*Anguilla rostrata*). Alosine fishes such as alewife, blueback herring and American shad are forage for a number of federally managed species whose EFH has been designated in the estuary including bluefish (*Pomatomus saltatrix*), summer flounder (*Paralichthys dentatus*) and windowpane flounder (*Scophthalmus aquosus*). The EFH final rule states that prey species are an important component of EFH and that loss of prey may be an adverse effect on EFH and managed species. As a result, actions that reduce the availability of prey species, either through direct harm or capture, or through adverse impacts to the prey species' habitat may also be considered adverse effects on EFH. Conversely, activities that benefit these species can be considered to benefit EFH.

American shad, striped bass, blueback herring, and alewife once supported important commercial and recreational fisheries throughout their range, with fishing spanning rivers (both freshwater and saltwater), estuaries, tributaries, and the ocean. Landings for these species have

declined dramatically from historic highs due to a variety of factors including spawning and nursery habitat degradation and blocked access to habitat, resulting from dam construction, increased erosion and sedimentation, and losses of wetland buffers. Because landing statistics and the number of fish observed on annual spawning runs indicate a drastic decline in alewife and blueback herring populations throughout much of their range since the mid-1960s, river herring have been designated as Species of Concern by NOAA. Species of Concern are those about which we have concerns regarding their status and threats, but for which insufficient information is available to indicate a need to list the species under the Endangered Species Act (ESA). Protecting, restoring and enhancing habitats used by these species will help to restore healthy, self-sustaining populations of these species.

According to your letter, the District anticipates that there may be a variety of impacts to EFH as a result of the implementation of the HRHR Ecosystem Restoration Plan. Some impacts may be temporary and related to construction activities and some may be permanent due to changes in habitat types. However, you anticipate that the ecosystem restoration would result in long-term, net benefits to managed species (all life stages), associated species, and EFH. We agree with this assessment and fully support implementation of the HRHR Ecosystem Restoration Plan.

We also agree that the most appropriate means of evaluating the effects of the proposed actions on EFH and other NOAA trust resources is though project-specific consultation as project plans are further developed in the Pre-Construction Engineering and Design (PED) Phase. This will allow site-specific EFH conservation recommendations to be developed.

Endangered Species

Federally listed species including Atlantic sturgeon (*Acipenser oxyrinchus oxyrinchus*) and shortnose sturgeon (*Acipenser brevirostrum*) are known to occur within the Hudson River, and thus may be present within the HRHR Study area. In-water activities associated with the TSP have the potential to impact these species. Please coordinate with our Protected Resources Division to address any potential impacts to these species pursuant to section 7 of the ESA. Should you have any questions about the section 7 consultation process, please contact Edith Carson-Supino at edith.carson-supino@noaa.gov or (978) 282-8490.

Thank you for the opportunity to comment on the FS/EA. We look forward to working with your office as the project moves forward. If you have any questions or need additional information, please contact me at (732) 872-3023 or karen.greene@noaa.gov .

Sincerely,

Karen M. Greene
Mid Atlantic Field Offices Supervisor
Habitat Conservation Division

cc: ACOE- M. Vosine
PRD – E. Carson-Supino
NMFS RC – C. Alderson, J. Catena