

Appendix F
U.S. Fish and Wildlife Service
Consultation

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Governor's Office of Storm Recovery

ANDREW M. CUOMO
Governor

April 7, 2020

Mr. Steven T. Papa
United States Fish and Wildlife Service
Long Island Ecological Services Field Office
340 Smith Road
Shirley, NY 11967

**Re: Living with the Bay Stormwater Infrastructure Upgrades Projects
Villages of Rockville Centre, and East Rockaway, and the Town of
Hempstead, Nassau County, NY
USFWS Consultation Code: 05E1LI00-2020-SLI-0259**

Dear Mr. Papa:

The New York State Governor's Office of Storm Recovery (GOSR) is considering whether to fund the Living with the Bay (LWTB) Stormwater Project (the Project) located in the Nassau County, New York. The Project area would span across multiple communities, including the Villages of Rockville Centre and East Rockaway, and the Town of Hempstead. The Project consists of five (5) components driven by the Rebuild by Design Competition lead by the U.S. Department of Housing and Urban Development and intended to respond to Hurricane Sandy's impacts in the region by addressing flooding caused by storm surge and rainfall, improving coastal habitat and water quality, easing public access to the waterfront, and educating the public on stormwater and environmental management. Funding for the Project would be provided by the U.S. Department of Housing and Urban Renewal (HUD) Community Development Block Grant – Disaster Recovery (CDBG-DR) program for storm recovery activities in New York State.

The purpose of this letter is to provide the U.S. Fish and Wildlife Service – Long Island Ecological Services Field Office (USFWS) notice of the Project and to document compliance with Section 7 of the Endangered Species Act (ESA), as well as the Migratory Bird Treaty Act (MBTA), the Bald and Golden Eagle Protection Act (BGEPA), and the Fish and Wildlife Coordination Act. As discussed below, we have reviewed the Project and found that the Project does not jeopardize the continued existence of ESA species or destroy or adversely modify their critical habitat. This letter requests acknowledgement from the USFWS that they have received our determination regarding the Project provided in this letter, and that USFWS has no objections to the determination.

1.0 PROJECT DESCRIPTION

Attachment 1 include figures depicting the Project component locations and proposed activities at each location. The Project components are as follows:

Smith Pond Rehabilitation: Smith Pond is a 22-acre freshwater pond located along the Mill River north of Sunrise Highway in the Village of Rockville Centre. The proposed improvements would consist of the following:

Floodwall and Floodgate. Installation and construction of vinyl sheet pile floodwalls with a timber cap along Merrick Road, and along Claude and Nassau Streets, to prevent off-site flooding. A 35-

foot-wide passive floodgate would be incorporated into the wall at the southern parking lot on Nassau Street.

Weir Enhancements and Access Road. The deteriorated timber sheeting and wale on the downstream face of the weir would receive a new concrete-block face. The adjacent timber bulkheads and piles would be removed and replaced with a new concrete bulkhead that would be tied into the weir and receiving-channel concrete slab. The receiving concrete slab would also be repaired. Along the access road to the weir from Merrick Road, 15-foot-wide compacted dense graded aggregate would be placed with a 2-percent cross slope for drainage.

Fish Ladder. This pool and chute fish ladder operate at a range of streamflows that occur during the spring at Smith Pond. Each pool would be 6-feet-long by 6-feet-wide with a minimum depth of 2.5-feet and a drop per pool of 0.5-feet.

Porous Pavement. A porous pavement parking lot would be installed on the east side of Smith Pond.

Inlet Headwall and Wing Walls. Structural repair of the northeast culvert head wall and wing walls would include tuck-pointing all exposed mortar joints, stone repair, replacement of the deteriorated wall cap, stone cleaning all surfaces, and final cleaning.

Greenway and Pedestrian Outlook Enhancements. A new 6-foot-wide greenway would be constructed using the alignments of existing pathways. The northern outlook at the northeast outfall and the new southern outlook at the weir would both be connected to the greenway. Electrical conduits and wiring would be installed along the proposed greenway for low-level bollard lighting.

Invasive Vegetation Removal. Upland/wetland invasive vegetation removal would occur along the north, east, and west shorelines of Smith Pond, with supplemental plantings of native species.

Lister Park Improvements: South of Smith Pond, just north of East Rockaway High School, the Lister Park project would entail the proposed improvements:

Tighe Field. Construction of a bioretention basin and introduction of vegetation at the northwest corner of the Tighe Field parking lot; improvement of the parking lot and walkways by removing the curb on the north and west sides of the parking lot and replacing it with pre-cast concrete bumpers and a new 4-foot sidewalk with an ADA-compliant curb and detectable warning surface from the parking lot; and installation of a drainage system leading to the bioretention basin.

Centennial Field. Construction of a bioretention basin, installation of an underdrain collection system, and introduction of vegetation immediately north of the Centennial Field parking lot; a full-depth pavement reclamation of the parking lot; and installation of a 6-inch perforated high-density polyethylene (HDPE) storm drain through the middle of the parking lot.

Bligh Field. Construction of a 670-linear-foot, 10-foot wide porous, asphalt greenway adjacent to the river, with drainage relief pipes installed at low points; installation and rehabilitation of four crosswalks; removal of the sidewalk on the southern side of South Park Avenue, between Oceanview and Riverside Roads, and the curb along South Park Avenue; installation of a knee wall; on the opposite side of Riverside Road, installation of a concrete sidewalk; a full-depth pavement reclamation process of the parking lot to install porous asphalt; construction of an earthen berm along the eastern side of Bligh Field; construction of an access ramp to the existing Mill River Overlook on the east side of parking lot, and the replacement of the existing overlook.

Living Shoreline. Installation of a living shoreline and bank stabilization along the Mill River, adjacent to Tighe, Centennial, and Bligh Fields.

East Rockaway High School Improvements: Located along the west bank of the Mill River, between Centre Avenue and Pearl Street, the East Rockaway High School component would involve the proposed improvements:

Bulkhead and Shoreline Improvements. The existing bulkhead would be elevated by 2 feet above the current grade, and approximately 634 linear feet of proposed bulkhead would be built along the east side of the site. On the eastern shoreline of Mill River, approximately 29 linear feet of proposed bulkhead would be installed, as well as a 20-by-10-foot rip rap apron at the corner of River Avenue.

Green Infrastructure and Emergency Generator. A rain garden and a hydrodynamic separator would be installed by the faculty parking lot. An emergency generator would be installed between the school building.

Parking Lot Enhancements. The entire parking lot would be replaced with new pavement, graded to direct stormwater runoff to the proposed green infrastructure to the east.

Improved Drainage. A 3-foot-wide French drain with 12-inch perforated HDPE pipe is proposed on the eastern side of the sports field, which would be preserved and maintained. At two locations, additional piping would connect the perforated HDPE pipe invert to the bulkhead.

Proposed Greenway. Creation of a porous asphalt greenway, ranging from 4 to 10 feet in width, beginning at the end of Centre Avenue in the north and ending at Ocean Avenue in the south.

East, West, and North Boulevards Stormwater Drainage Improvements: This component is situated in Bay Park, a hamlet in the southwestern portion of the Town of Hempstead. It is bordered by Hewlett and Hewlett Harbor to the west, East Rockaway to the north, Oceanside to the east, and Hewlett Bay to the south. The proposed improvements would consist of the following:

Drainage Improvements. Installation of conventional storm sewer structures, such as catch basins, manholes, and storm drainpipes. All improvements would be constructed within existing roadway rights-of-way.

Roadway Enhancements. Minor paving and surface enhancements at the East, North, and West Boulevards within their rights-of-way.

Bioretention Basins. Two bioretention basins would be installed at the ends of West Evans Street and Court West Street. Each basin would cover an area of approximately 3,200 square feet.

Bulkhead. Two new bulkheads, one at the end of West Evans Street and the other at the end of West Sampson Street, would be installed. The bulkheads would be 30- to 35-feet long, made of timber, and include 32-foot-long wood piles driven into the channel bottom. Vinyl sheeting would be attached, and each bulkhead would be supported by an inland structure located in the existing roadway, approximately 14 feet from the bulkhead.

Mill River Greenway Construction: The proposed greenway would span across multiple communities, including the Villages of Hempstead, Rockville Centre, Lynbrook, and East Rockaway, and the Town of Hempstead. As it connects through these communities, the greenway would connect to several waterbodies along the Mill River, including Smith Pond, South Pond, McDonald Pond, and Hempstead Lake. The continuous greenway would extend approximately 5.1 miles from Hempstead Lake State Park and Tanglewood Preserve south to Bay Park and Hewlett Bay. The multiuse path would vary in width and, where practical, would typically include 10-foot-wide permeable pavement with water storage and infiltration.

2.0 ENDANGERED SPECIES ACT

The USFWS, Long Island Ecological Services Field Office was contacted through the Information, Planning, and Conservation System (IPaC) regarding the potential presence of species under the jurisdiction of the USFWS within the area of the Project. The USFWS Official Species List is included as **Attachment 2**. USFWS indicates that six threatened and endangered species may occur within the Project area: northern long-eared bat (*Myotis septentrionalis* – threatened); piping plover (*Charadrius melodus* – threatened); red knot (*Calidris canutus rufa* - threatened); roseate tern (*Sterna dougallii* – endangered); sandplain gerardia (*Agalinis acuta* – endangered); and seabeach amaranth (*Amaranthus pumilus* – threatened). There are no critical habitats for these or any other species within the vicinity of the Project. Table 1 presents a list of these federally listed species and their preferred habitat. Additional descriptions of each species and their habitats are summarized below based on the New York State Department of Environmental Conservation (NYSDEC) fact sheetsⁱ and USFWS species profilesⁱⁱ unless otherwise referenced.

Table 1. Federally Listed Species that may Occur within the Vicinity of the Project

Common Name	Scientific Name	Federal Listing	Suitable Habitat
northern long-eared bat	<i>Myotis septentrionalis</i>	Threatened	Summer: Interior of mature forests with sufficient bark crevices and snags for roosting Winter: Caves and mines
Piping plover	<i>Charadrius melodus</i>	Threatened	Foraging: intertidal beach and dunes, mudflats Nesting: open sandy beaches
Red knot	<i>Calidris canutus rufa</i>	Threatened	Foraging: intertidal beach and shallow coastal waters, mudflats Nesting: Canadian arctic region
Roseate tern	<i>Sterna dougallii dougalli</i>	Endangered	Foraging: shallow coastal waters Nesting: open sandy beaches
Sandplain gerardia	<i>Agalinis acuta</i>	Endangered	Pine-barrens grasslands; remnant grasslands
Seabeach amaranth	<i>Amaranthus pumilus</i>	Threatened	Nearly pure sand substrate above the high tide line; open sand or sparsely vegetated base of foredunes

Northern long-eared bat: The northern long-eared bat is a medium-sized bat that is distinguished by its long ears, particularly as compared to other bats in its genus. The northern long-eared bat is found across much of the eastern and north central United States. White-nose syndrome is the predominant threat to this bat, especially throughout the northeast where the species has declined by up to 99 percent from pre-white-nose syndrome levels at many hibernation sites. Summer habitat of the northern long-eared bat typically includes mature, closed-canopy, upland and riparian forest within heavily forested landscapes^{iii iv}. The long-eared bat is considered to be an interior forest-dependent species that requires large tracts of unbroken forest for both foraging and breeding^{v vi vii}. They tend to avoid woodlands with significant edge habitat. During summer,

northern long-eared bats roost singly or in colonies underneath bark, in cavities, or in crevices of both live and dead trees, using tree species based on suitability to retain bark or provide cavities or crevices. They emerge at dusk to fly through the understory of forested hillsides and ridges feeding on moths, flies, leafhoppers, caddisflies, and beetles or by gleaning insects from vegetation and water surfaces. Northern long-eared bats spend winter hibernating in caves and mines.

As detailed in the above Project component descriptions, the LWTB projects are proposed in highly developed urban areas. There are no known hibernacula nearby and the Project areas do not provide the mature interior forest habitat preferred by northern long-eared bat. However, bats may potentially forage within the Project areas, and trees in stands of forest within the vicinity of the Project may potentially serve as roosts during the active season. All five Project components require tree clearing that could potentially affect northern long-eared bat summer roosting, foraging, and travel habitat. A total of approximately 240 trees would be removed for construction of the Project components: 75 trees for Smith Pond Rehabilitation; 91 trees Lister Park Improvements; 68 trees for East Rockaway High School Improvements; 2 trees for East, West, and North Boulevards Stormwater Drainage Improvements; and 4 trees for Mill River Greenway Construction. Following construction, a total of 103 trees and shrubs would be planted at Lister Park, and 798 trees and shrubs would be planted as part of the Smith Pond Rehabilitation forest enhancement and restoration and greenway plantings. GOSR has determined that the Project may affect, but is not likely to adversely affect, northern long-eared bat. Tree removal would be minimized in the final design to the greatest extent practicable, and trees to be protected from cutting would be clearly demarcated prior to construction to prevent unnecessary clearing. Potential impacts would also be minimized by avoiding all tree removal activities during the pup season (June 1 and June 31). If tree removal during the pup season cannot be avoided, a qualified biologist would survey the area to note the presence or absence of the northern long-eared bat prior to clearing. A Northern Long-Eared Bat 4(d) Rule Streamlined Consultation Form for the Project is included as Attachment 3.

Piping plover: The piping plover is a small shorebird that is listed as federally threatened and state endangered. Habitat is only found at the shore, on barrier islands, sandy beaches, and dredged material disposal islands. The piping plover diet consists principally of marine worms, insect larvae, beetles, crustaceans, and mollusks and is obtained by foraging on beaches, mudflats, dunes, and in tidal wrack. In New York, this species breeds on Long Island's oceanfront sandy beaches, from Queens to the Hamptons, in the eastern bays, and in the harbors of northern Suffolk County. Piping plovers arrive to the New York area in early to mid-March and establish nesting territories by early April. Nests are usually placed well above the high tide line on open sandy beaches or in areas that have been filled with dredged sand, often near dunes in areas with little or no beach grass. By early September, most have departed for their wintering areas.

The Project areas do not contain suitable habitat for piping plover. The potential for this species to occur within any of the Project areas is considered extremely low and limited to occasional transients. Therefore, the Project would have no effect on piping plover.

Red knot: The red knot is a large, bulky sandpiper that is listed as federally threatened. Red knots feed on invertebrates, especially small clams, mussels, and snails, but also crustaceans, marine worms, and horseshoe crab eggs. Red knots breed in the Canadian Arctic and winter at the southern tip of South America, flying more than 9,300 miles from south to north every spring and repeat the trip in reverse every autumn, making this bird one of the longest-distance migrants in the animal kingdom. Habitat in the northeastern U.S. includes Atlantic and bay beaches and mudflats with abundant horseshoe crab egg food source that are free from human disturbance. A major stopping point on the spring migration is the Delaware Bay where red knot feed heavily on horseshoe crab eggs to replenish fat supplies before continuing. In New York, red knot occur along the salt meadows and mudflats of the south shore of Long Island in both spring and fall. Although

migrating red knots occur along Long Island, none of its beaches, bays, or estuaries are known to be high-use staging areas that support large concentrations of individuals.

The Project areas do not contain suitable habitat for red knot. The potential for this species to occur within any of the Project areas is considered extremely low and limited to occasional transients. Therefore, the Project would have no effect on red knot.

Roseate tern: The roseate tern is a waterbird listed as federally and state endangered. Foraging habitat includes shallow coastal waters, inlets, and offshore seas. Roseate terns feed primarily on the American sand lance, a small marine fish. In the northeastern U.S., roseate tern nest on beaches, barrier islands, and offshore islands. Open sandy beaches isolated from human activity are its optimal nesting habitat. Roseate terns arrive on the breeding grounds in late April or early May and begin nesting one month later. The nest is usually placed in dense grass clumps or even under boulders or rip-rap, and may be only a depression in sand, shell, or gravel and may be lined with bits of grass and other debris. In New York, this species breeds only at a few Long Island colonies and is always found nesting with common terns. The majority of the population in New York nests on Great Gull Island off the eastern end of Long Island, with only a few nesting attempts documented elsewhere. Migration to wintering grounds begins in late summer.

The Project areas do not contain suitable habitat for roseate tern. The potential for this species to occur within any of the Project areas is considered extremely low and limited to occasional transients. Therefore, the Project would have no effect on roseate tern.

Sandplain gerardia: The only Federally Endangered plant species in New York State, sandplain gerardia is a small annual plant with delicate pink blossoms that occurs in sandy coastal plain habitat in poor, dry soils. Six of the twelve known natural populations in the world can be found in coastal grassland areas on Long Island. It now survives in remnant grasslands in pine barrens with broad, grassy swaths; remnants of the Hempstead Plains dominated by grasses and composites with scattered shrubs and bare areas scraped by a bulldozer; and other remnant grasslands of the South Fork including those around golf courses, and along roadsides and railroads.

Suitable habitat for sandplain gerardia is not present within the Project area, as it only occurs in coastal grasslands. Therefore, the Project would have no effect on sandplain gerardia.

Seabeach amaranth: Seabeach amaranth is an annual plant that is listed as federally endangered and state threatened. The plant grows on a nearly pure sand substrate above the high tide line on barrier island beaches and is intolerant of even occasional flooding during its growing season. Seabeach amaranth does not compete well in areas of established growth but will potentially stabilize in disturbed areas. The habitat is sparsely vegetated with annual herbs and, less commonly, perennial herbs, and scattered shrubs. Flowering and seed production usually start in July and continue until the plants die in the fall. It is only known from Long Island, ranging from Coney Island to near the east end of the South Fork along the southern shore^{viii}. Beaches where seabeach amaranth is known to occur are usually over 20 meters wide protected from vehicle use and excessive trampling.

Suitable habitat for seabeach amaranth is not present within the Project area as it only occurs in the upper beach zone of wide barrier island beaches. Therefore, the Project would have no effect on seabeach amaranth.

On behalf of GOSR, Seatuck Environmental Association conducted avian surveys along the Mill River corridor between 2016 and 2019 in support of the Living with the Bay (LWTB) projects. There were no sightings of piping plover, red knot, or roseate tern or any other federally listed species at any location surveyed along the Mill River corridor between 2016-2019^{ix}. Additionally, to date, there are no sightings of federally protected avian species within the Project area documented on eBird^{xi}, an online database of bird

observations, or the Breeding Bird Atlas^{xii}, a statewide survey designed to map the distribution of breeding birds in New York.

A request for species records within the Project areas was sent to the New York State Natural Heritage Program (NYSNHP). A response was received on March 18, 2020 (included as **Attachment 4**) indicating that there are no records of any federally protected species in the vicinity of the Project areas. NYSNHP reported that two rare dragonflies have been documented near the ball fields along the Mill River in Lister Park: seaside dragonlet (*Erythrodiplax berenice*) and Rambur's forktail (*Ischnura ramburii*). NYSNHP recommends that Project work in Lister Park and near the Mill River be conducted so as not to degrade or impair the riverside habitat or water quality of the Mill River. The Project would not degrade or impair riverside habitat and would improve water quality within the Mill River. Project activities proposed at East Rockaway High School and Lister Park include shoreline improvements which may be beneficial to dragonfly species. Further, these species are very skilled fliers and if displaced during construction, seaside dragonlet and Rambur's Forktail are expected to return to the Project area completion of construction.

3.0 MIGRATORY BIRD TREATY ACT

The Project would take place within the Atlantic Flyway. The USFWS IPaC was accessed to obtain a Migratory Bird Resource List for the Project area. The list of migratory species is provided in the USFWS Trust Resource List, included as **Attachment 5**. The list comprises thirty-one USFWS Birds of Conservation Concern (BCC) and other species that may warrant special attention. BCC include migratory and non-migratory bird species (beyond those already designated as federally threatened or endangered) that represent the highest conservation priorities. Project sponsors are required to prevent any harm or taking of the identified species.

It is anticipated that passerine birds may temporarily leave the area during construction due to noise and disturbance and utilize similar nearby habitat. The Project components requires removal of approximately 240 trees within areas routinely subject to human disturbance. A total of 901 trees/shrubs would be planted as part of the Project, predominantly within forest restoration and enhancement areas at Smith Pond. The Project would have no significant adverse impact to migratory birds or their habitat. The Project is not likely to jeopardize the continued existence of any migratory birds, and it would not result in the destruction or adverse modification of designated critical habitat of any such species.

4.0 BALD AND GOLDEN EAGLE PROTECTION ACT

Bald eagles (*Haliaeetus leucocephalus*) were removed from the federal list of threatened and endangered species on August 9, 2007 and are no longer protected under the ESA. Bald eagles, along with golden eagles (*Aquila chrysaetos*), are federally protected under the BGEPA and the MBTA. The BGEPA, originally passed in 1940, provides for the protection of the bald eagle and the golden eagle (as amended in 1962) by prohibiting the take, possession, sale, purchase, barter, offer to sell, purchase or barter, transport, export or import, of any bald or golden eagle, alive or dead, including any part, nest, or egg, unless allowed by permit.

Bald eagle is included on the Migratory Bird list for the Project area (see **Attachment 5**). There are no records of bald eagles nesting within the vicinity of the Project area, and this species is expected to occur only as an occasional transient. As with other migratory birds, foraging bald eagles may temporarily avoid the area during construction due to noise and disturbance. Golden eagles may occur in New York during migration, but they do not breed in the region. Golden eagles are not included on the Migratory Bird list for the Project area and are not likely to occur within the vicinity of the Project area.

GOSR has determined that the Project would not result in "taking" bald or golden eagles. The Project would not substantially interfere with normal breeding, feeding, or sheltering behavior that may cause injury, decrease in productivity, or nest abandonment.

5.0 FISH AND WILDLIFE COORDINATION ACT

The Fish and Wildlife Coordination Act (FWCA) authorizes USFWS to provide assistance to, and cooperate with, federal, state, and public or private agencies and organizations in the development, protection, rearing, and stocking of all species of wildlife, resources thereof, and their habitat, in controlling losses of the same from disease or other causes, in minimizing damages from overabundant species, and in providing public shooting and fishing areas, including easements across public lands for access thereto. The amendments enacted in 1946 require consultation between USFWS and state fish and wildlife agencies where the “waters of any stream or other body of water are proposed or authorized, permitted or licensed to be impounded, diverted . . . or otherwise controlled or modified” by any agency under a federal permit or license. Consultation is to be undertaken for the purpose of “preventing loss of and damage to wildlife resources.” The purpose of the FWCA is to give fish and wildlife resources equal consideration during the project planning process, while at the same time accomplishing the objectives of the proposed action.

Implementation of the Project would not result in the modification to waters, such as impoundment, diversion, channel deepening, or any other control or modification to natural streams or bodies of water. Therefore, coordination with USFWS with respect to FWCA is not necessary. Fish and wildlife habitat that may be temporarily disturbed during Project construction would be enhanced or restored to pre-existing conditions. The Project would enhance ecosystems functions that support wildlife habitat in the area by addressing flooding caused by storm surge and rainfall and improving coastal habitat and water quality.

6.0 CONCLUSION

The Project consists of five components within the Villages of Rockville Centre and East Rockaway, and the Town of Hempstead designed to address flooding caused by storm surge and rainfall, improve coastal habitat and water quality, improve public access to the waterfront, and educate the public on stormwater and environmental management.

According to the USFWS IPaC Trust Resource Report and Official Species List of threatened and endangered species, there are six listed species under USFWS jurisdiction (northern long-eared bat, piping plover, red knot, roseate tern, sandplain gerardia, and seabeach amaranth) that may potentially occur within the vicinity of the Project areas, and thirty-one migratory birds of concern, including bald eagle, that could potentially occur within the vicinity of the Project areas. The Project areas do not contain suitable habitat for piping plover, red knot, roseate tern, sandplain gerardia, or seabeach amaranth. The Project would take place within the range of potential occurrence of northern long-eared bat; however, the Project areas are not located within the vicinity of known or assumed northern long-eared bat hibernacula or maternity roosts. Migratory birds, including bald eagle, may temporarily leave construction areas due to noise and disturbance, but it is anticipated they would utilize nearby similar habitat. There are no known bald eagle nests within the vicinity of the Project areas.

There is no designated critical habitat for any species within the Project areas. The Project is not expected to result in a “taking” of any listed species. Project implementation is conditioned upon issuance of applicable federal and state permits and would be constructed in accordance with federal and state permit conditions. For purposes of consultation under Section 7(a)(2) of the ESA, GOSR has determined that the Project would have GOSR has determined the Project would have no effect on piping plover, red knot, roseate tern, sandplain gerardia, or seabeach amaranth and may affect, but is not likely to adversely affect, northern long-eared bat. A Northern Long-Eared Bat 4(d) Rule Streamlined Consultation Form is included as Attachment 3.

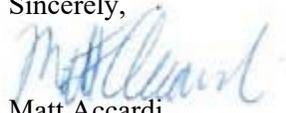
The Project is not likely to jeopardize the continued existence of vulnerable migratory birds or BCC, nor the destruction or adverse modification their designated critical habitat. The Project would not result in “taking,” injury, decrease in productivity, or nest abandonment of bald or golden eagles. Implementation of the Project

would not require coordination with USFWS under the FWCA as the Project would not result in the control or modification of any natural stream or body of water.

This letter requests acknowledgement from USFWS that they have no objections to this determination. If USFWS does not respond within 60 days from submittal of this letter, then GOSR may presume that its determination for the Project is informed by the best available information and its project responsibilities under Section 7 of the ESA have been fulfilled. GOSR understands that the USFWS presumes that all activities would be implemented as described herein. GOSR will promptly report any departures from the described activities to the Long Island Field Office.

If you have any questions, please feel free to contact me via telephone number (212) 480-6265 or email: Matt.Accardi@stormrecovery.ny.gov. Thank you for your consideration and cooperation.

Sincerely,



Matt Accardi

Assistant General Counsel and Certifying Environmental Officer
Bureau of Environmental Review and Assessment
Governor's Office of Storm Recovery
25 Beaver Street, 5th Floor, New York, New York 10004

Attachments:

- 1) Project Location Figures
- 2) USFWS Official Species List
- 3) Northern Long-Eared Bat 4(d) Rule Streamlined Consultation Form
- 4) NYSNHP Response Letter
- 5) USFWS IPaC Trust Resources Report

ⁱ <http://www.dec.ny.gov/animals/7494.html>; <http://acris.nynhp.org/animals.php>

ⁱⁱ <http://ecos.fws.gov/ecp/>

ⁱⁱⁱ Ford, W.M., M.A. Menzel, J.L. Rodrigue, J.M. Menzel, and J.B. Johnson. 2005. Relating bat species presence to simple habitat measures in a central Appalachian forest. *Biological Conservation* 126: 528-539.

^{iv} Henderson, L.E., L.J. Farrow, and H.G. Broders. 2008. Intra-specific effects of forest loss on the distribution of the forest-dependent northern long-eared bat (*Myotis septentrionalis*). *Biological Conservation* 141:1819-1828.

^v Foster, R.W. and A. Kurta, A. 1999. Roosting ecology of the northern bat (*Myotis septentrionalis*) and comparisons with the endangered Indiana bat (*Myotis sodalis*). *Journal of Mammalogy* 80: 659-672.

^{vi} Broders, H.G., G.J. Forbes, S. Woodley, and I.D. Thompson. 2006. Range extent and stand selection for forest-dwelling northern long-eared and little brown bats in New Brunswick. *Journal of Wildlife Management* 70: 1174-1184.

^{vii} Henderson, L.E., L.J. Farrow, and H.G. Broders. 2008. Intra-specific effects of forest loss on the distribution of the forest-dependent northern long-eared bat (*Myotis septentrionalis*). *Biological Conservation* 141:1819-1828.

^{viii} NYSDEC Natural Heritage Program. Plant Guides.

^{ix} Seatuck Environmental Association. Final Survey Report 2017 Bird Surveys of Mill River Marsh Islands

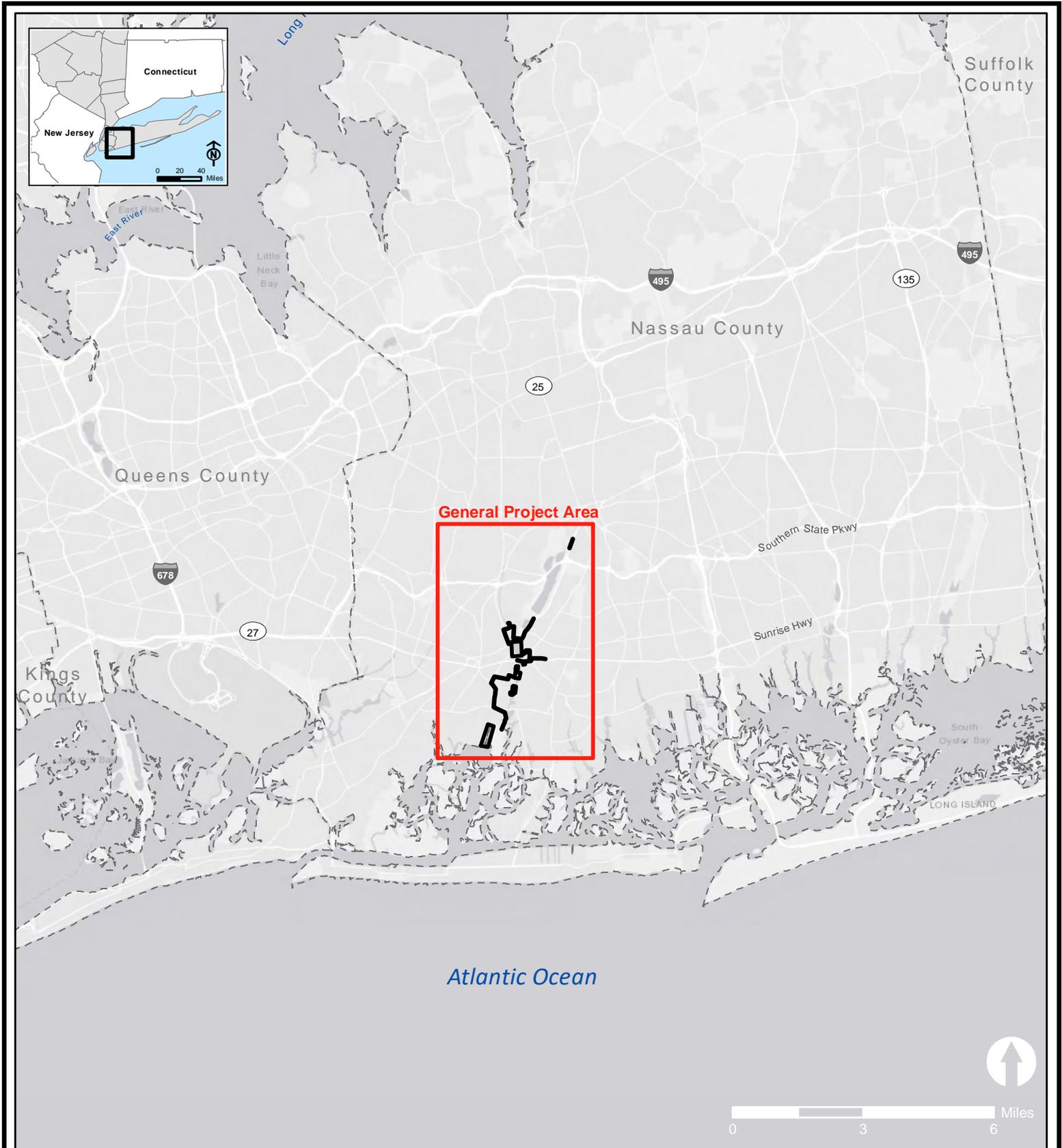
^x Seatuck Environmental Association. Final Survey Report 2016-2019 Bird Surveys of the Mill River Corridor

^{xi} eBird. 2019. The Cornell Lab of Ornithology. <http://ebird.org/ebird/places>

^{xii} <https://www.dec.ny.gov/pubs/103459.html>. Breeding Bird Atlas dataset for Google Maps and Google Earth. The Second Atlas of Breeding Birds in New York State, edited by Kevin J. McGowan and Kimberley Corwin, December 2008

ATTACHMENTS

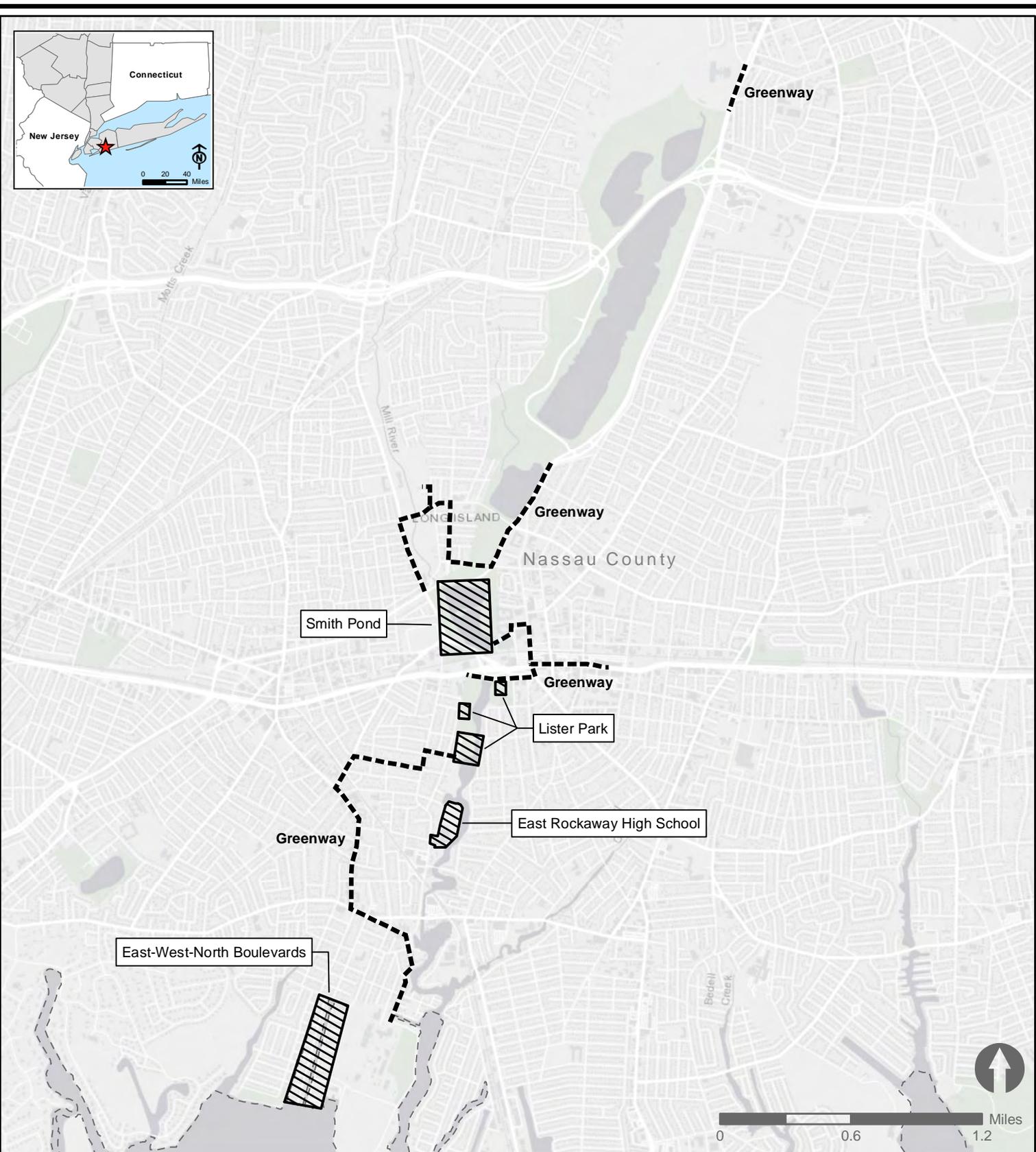
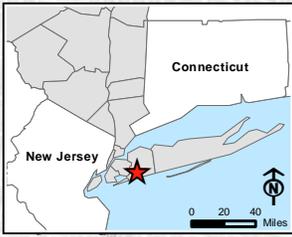
ATTACHMENT 1



- Project Component
- County Boundary

Regional Location

Living with the Bay Stormwater Project



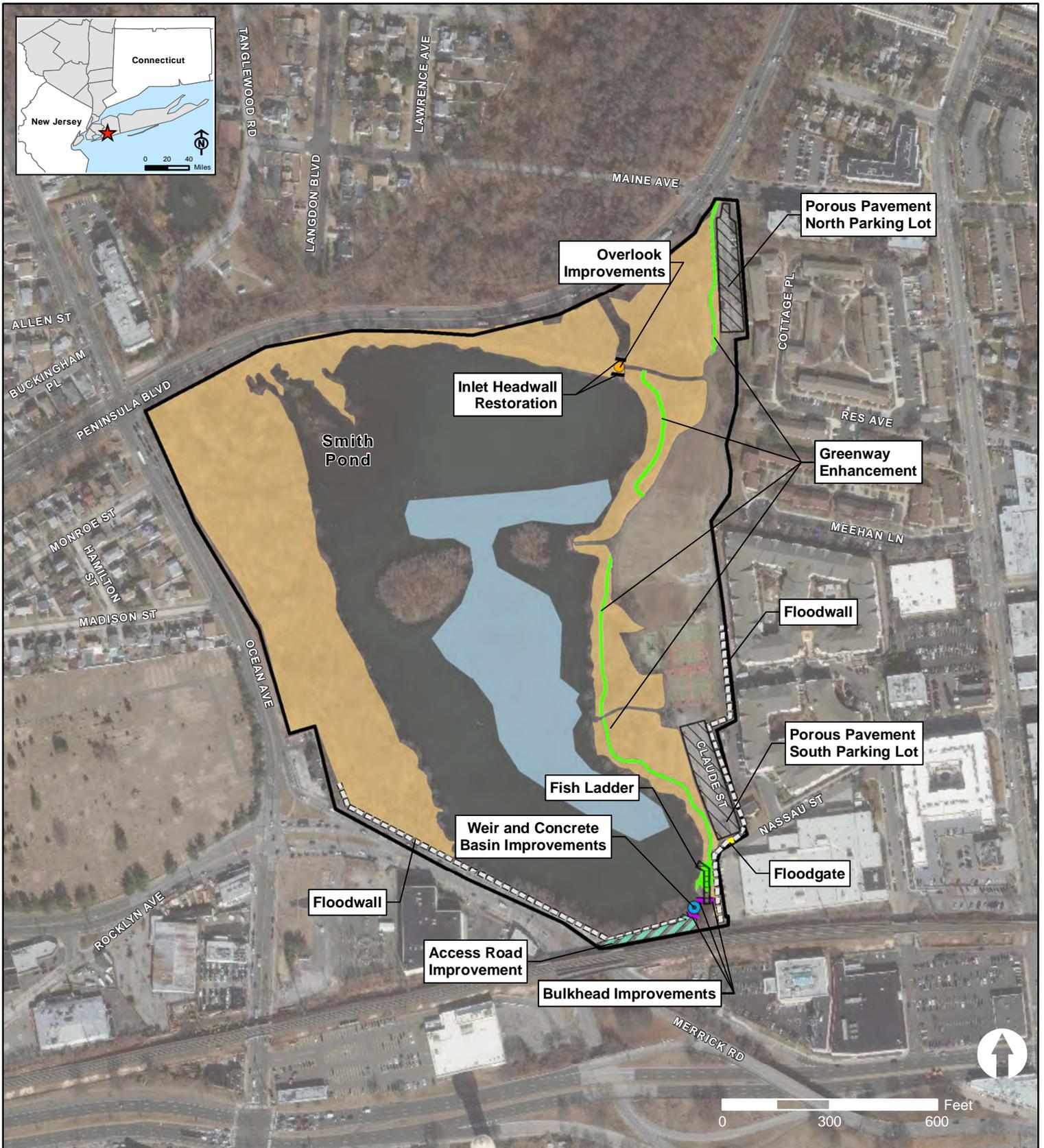
- Project Centerline
- ▨ Project Boundary
- County Boundary

Project Location

Living with the Bay Stormwater Project

Source: ESRI World Light Gray Canvas Base





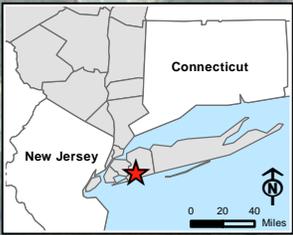
- Project Area
- Invasive Plant Treatment Area and Revegetation
- Aquatic Plant Treatment Area
- Access Road Improvement
- Fish Ladder
- Parking Lot
- Pathway

- Overlook Enhancement
- Wier Improvement
- Bulkhead
- Flood Gate
- Flood Wall
- Stone Headwall

Smith Pond

Living with the Bay
Stormwater Project

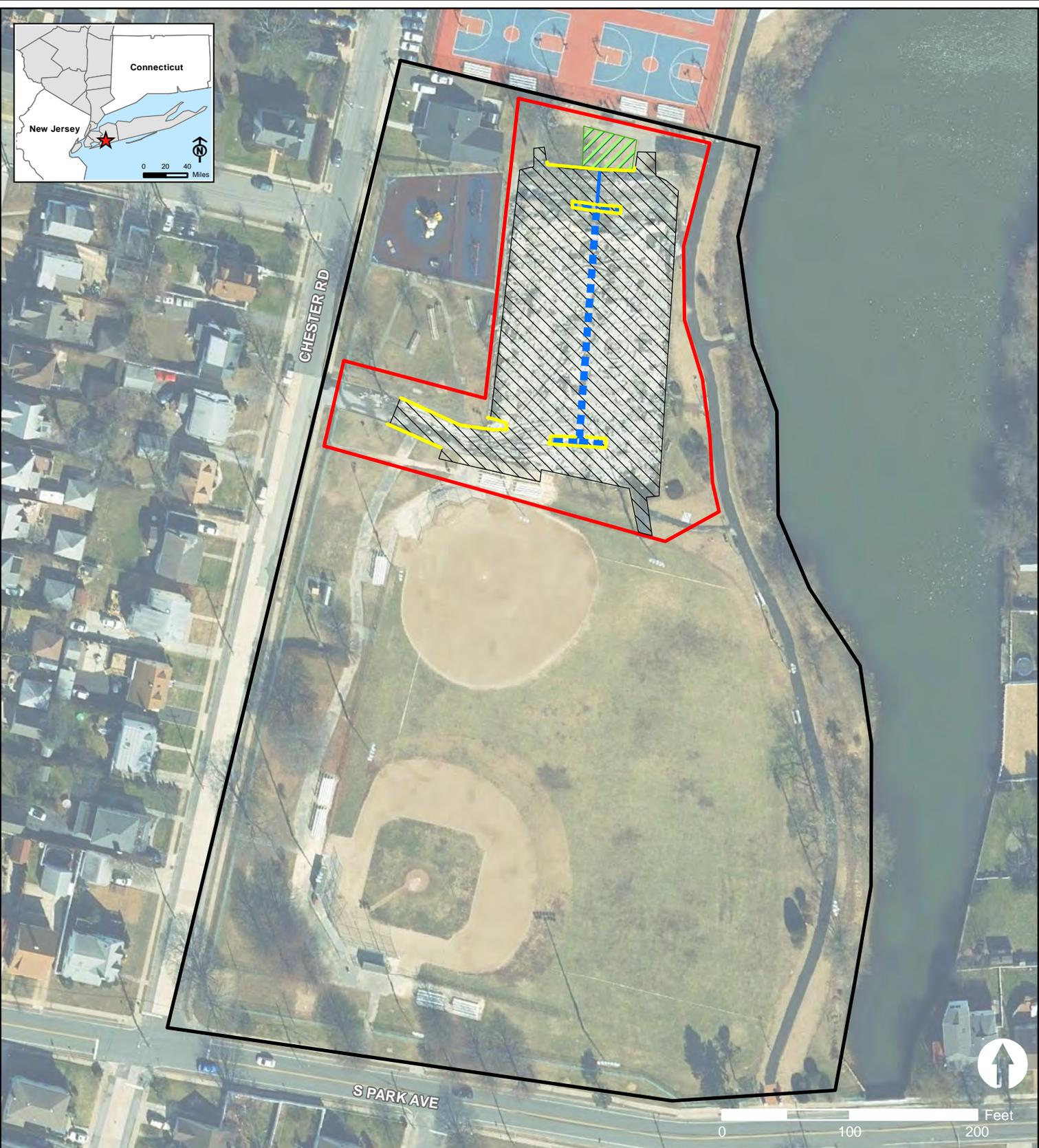




- Project Area
- Area of Work
- Removed Concrete Curb
- Proposed Drainage System - Polygdrain
- Proposed ADA Sidewalk
- Proposed Bioretention Basin
- Bioretention Basin Associated Grass Area

Lister Park - Tighe Field

Living with the Bay
Stormwater Project



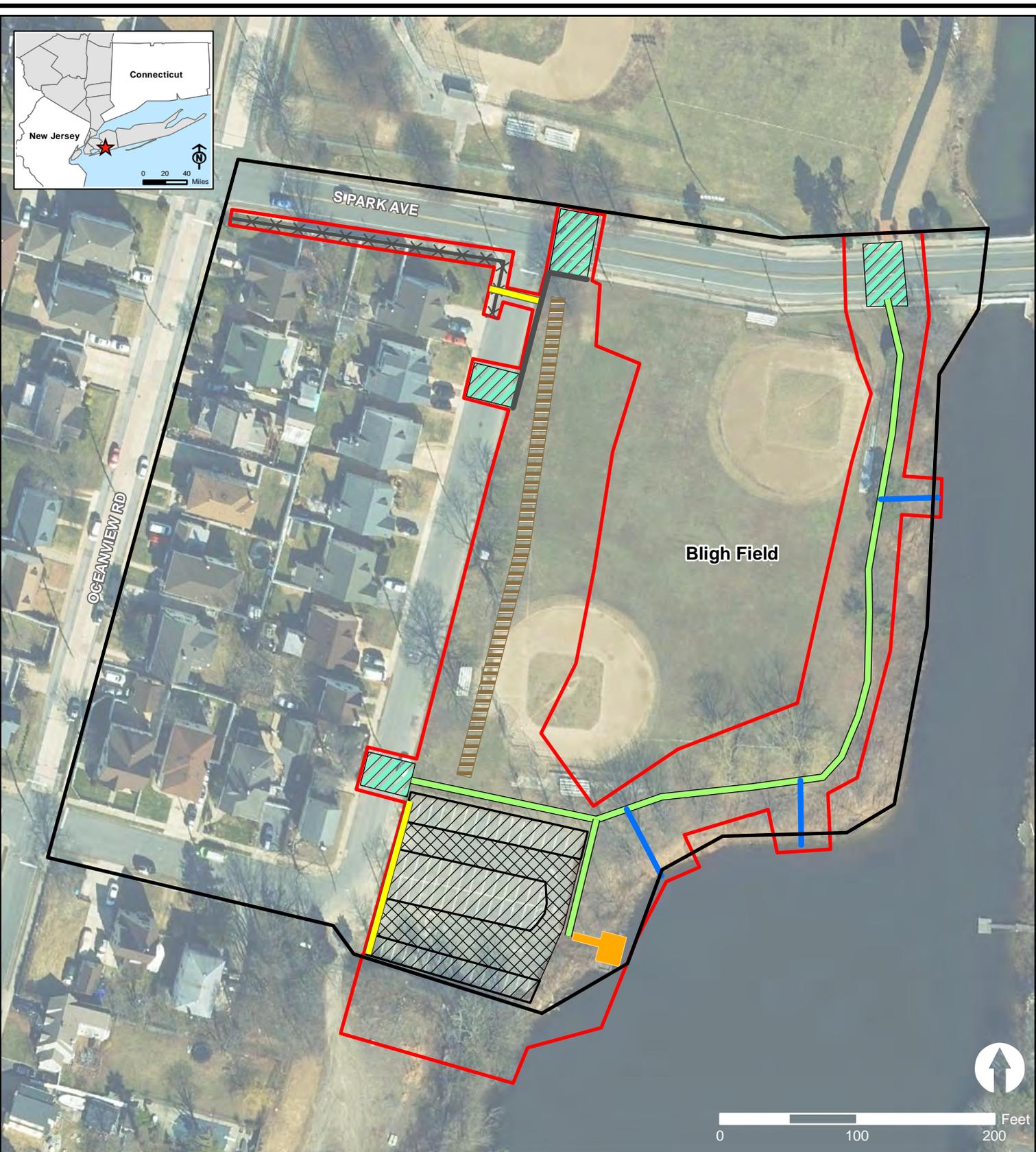
- Project Area
- Area of Work
- Proposed Drainage System - Polydrain
- Proposed Storm Drain Pipe
- Proposed Concrete Curb
- Proposed New Full Depth Pavement
- Proposed Bioretention Basin and Associated Infrastructure

Lister Park - Centennial Field

Living with the Bay
Stormwater Project



Source: NY Orthoimagery 2016



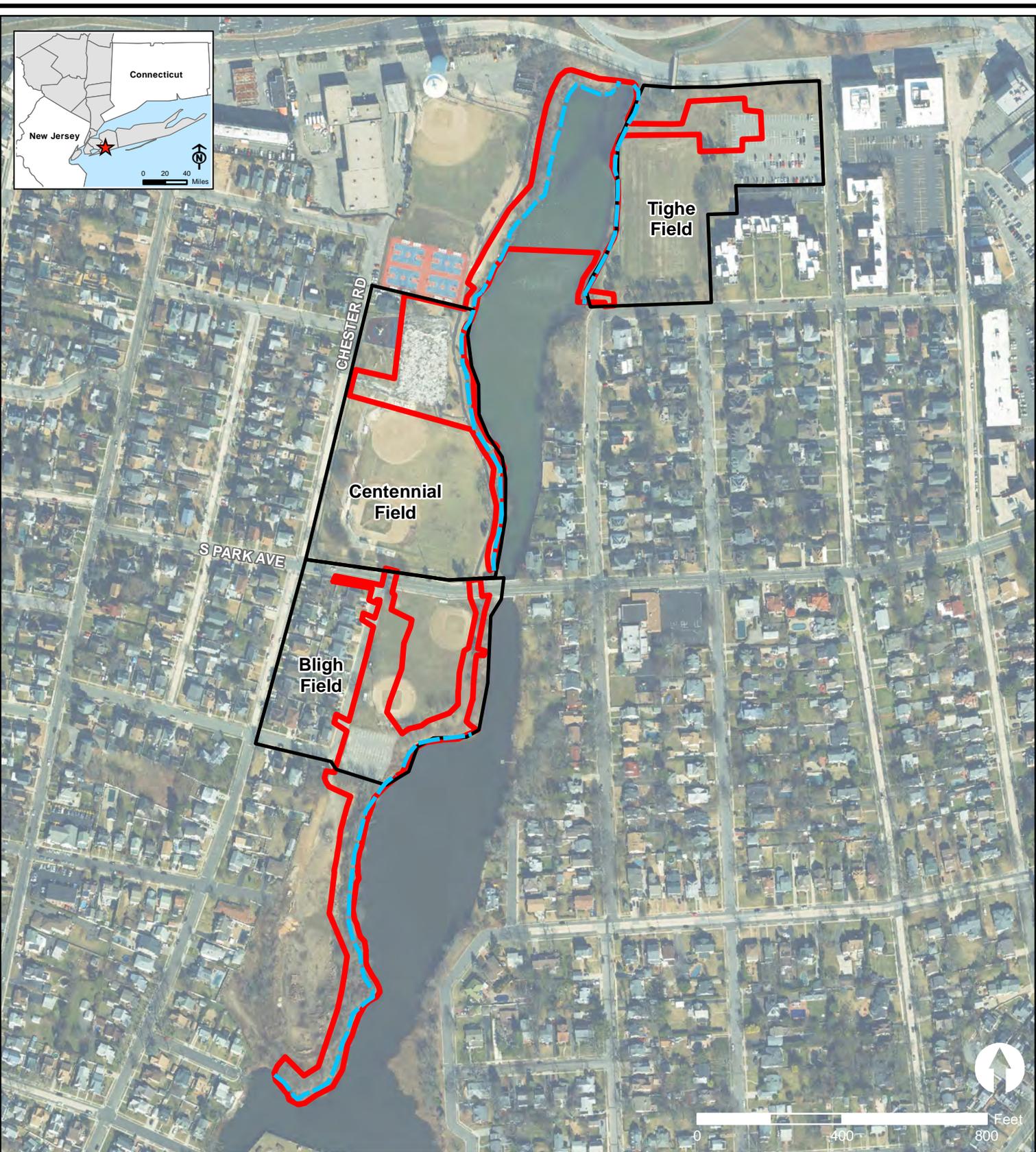
- | | |
|------------------------------------|--------------------------------------|
| Project Area | Proposed Area of Work |
| Proposed Concrete Sidewalk | Proposed Crosswalk |
| Proposed Drainage Relief Pipe | Proposed Access Ramp and Outlook |
| Proposed Porous Asphalt Greenway | Proposed Earthen Berm |
| Proposed Existing Sidewalk Removal | Proposed Porous Pavement Parking Lot |
| Self-closing Flood Barrier | Proposed Asphalt Circulation Route |

Lister Park - Bligh Field

Living with the Bay
Stormwater Project



Source: NY Orthoimagery 2016



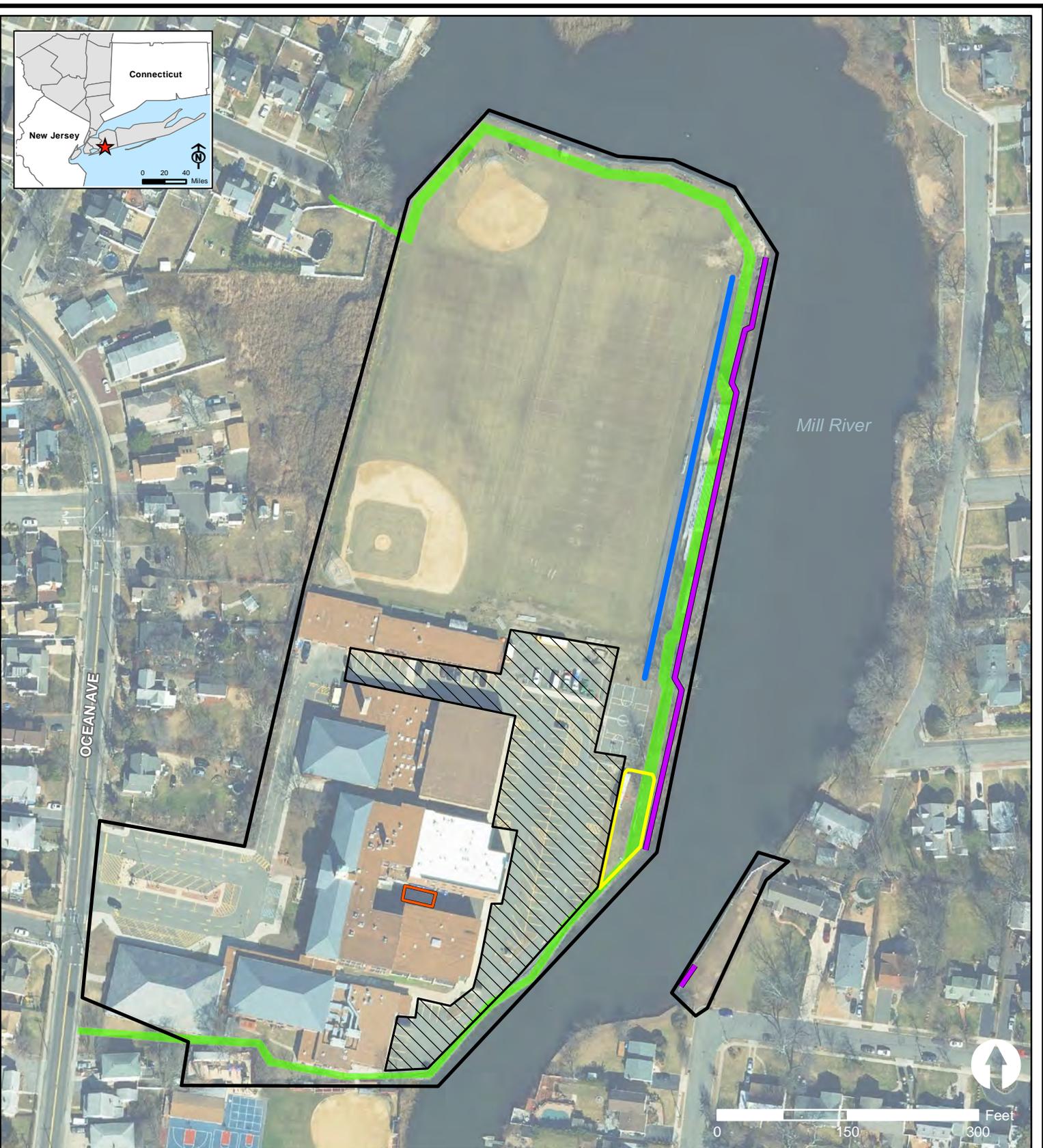
-  Area of Work
-  Project Area
-  Proposed Lister Park Living Shoreline

Lister Park

Work within Project Area is to be permitted under subrecipient Village of Rockville Centre

Living with the Bay Stormwater Project





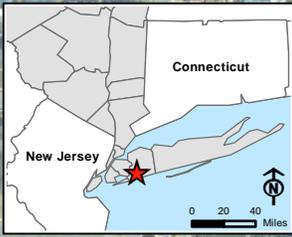
- Project Area
- Proposed Bulkhead
- Proposed Drainage System - HDPE Pipe
- Proposed Emergency Generator
- Proposed Green Infrastructure
- Faculty Parking Lot
- Proposed Greenway

East Rockaway High School

Living with the Bay
Stormwater Project



Source: NY Orthoimagery 2016



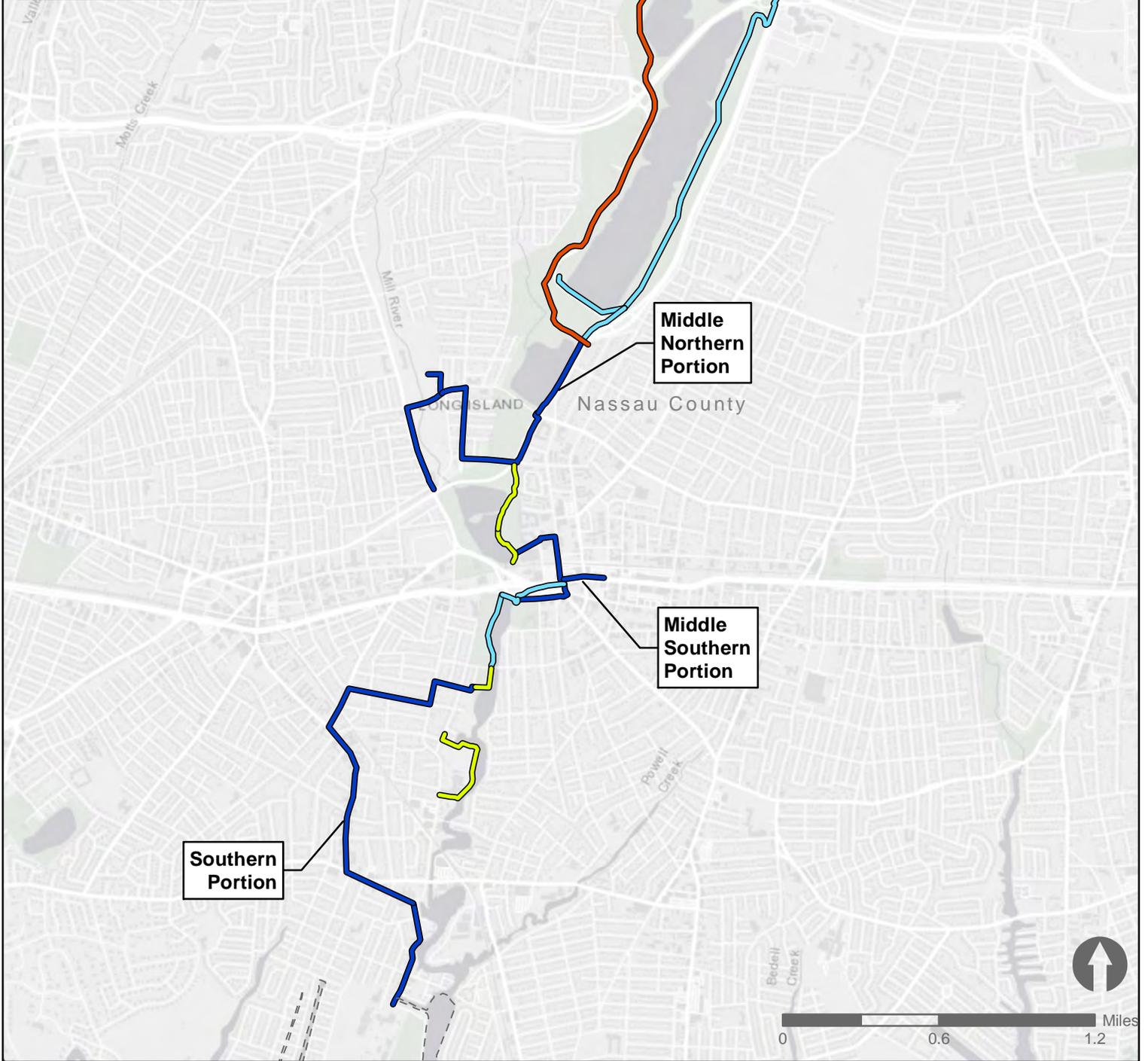
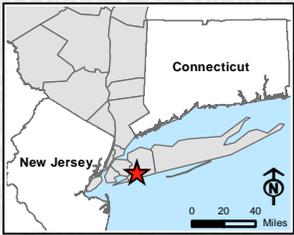
- ▲ Proposed Bioretention Basin
- Proposed Bulkhead
- Other Proposed Improvements within Right-of-Way

East-West-North Boulevards

Living with the Bay
Stormwater Project

Source: NY Orthoimagery 2016





- Existing Trail
- Proposed Greenway for Mill River Greenway Component
- Proposed Greenway for Other Component
- Hempstead Lake State Park Project
- County Boundary

Greenway

Living with the Bay Stormwater Project

ATTACHMENT 2



United States Department of the Interior



FISH AND WILDLIFE SERVICE
Long Island Ecological Services Field Office
340 Smith Road
Shirley, NY 11967-2258
Phone: (631) 286-0485 Fax: (631) 286-4003

In Reply Refer To:

January 29, 2020

Consultation Code: 05E1LI00-2020-SLI-0259

Event Code: 05E1LI00-2020-E-00597

Project Name: Living with the Bay Stormwater Infrastructure Upgrades Projects

Subject: List of threatened and endangered species that may occur in your proposed project location, and/or may be affected by your proposed project

To Whom It May Concern:

The enclosed species list identifies threatened, endangered, proposed and candidate species, as well as proposed and final designated critical habitat, that may occur within the boundary of your proposed project and/or may be affected by your proposed project. The species list fulfills the requirements of the U.S. Fish and Wildlife Service (Service) under section 7(c) of the Endangered Species Act (Act) of 1973, as amended (16 U.S.C. 1531 *et seq.*).

New information based on updated surveys, changes in the abundance and distribution of species, changed habitat conditions, or other factors could change this list. Please feel free to contact us if you need more current information or assistance regarding the potential impacts to federally proposed, listed, and candidate species and federally designated and proposed critical habitat. Please note that under 50 CFR 402.12(e) of the regulations implementing section 7 of the Act, the accuracy of this species list should be verified after 90 days. This verification can be completed formally or informally as desired. The Service recommends that verification be completed by visiting the ECOS-IPaC website at regular intervals during project planning and implementation for updates to species lists and information. An updated list may be requested through the ECOS-IPaC system by completing the same process used to receive the enclosed list.

The purpose of the Act is to provide a means whereby threatened and endangered species and the ecosystems upon which they depend may be conserved. Under sections 7(a)(1) and 7(a)(2) of the Act and its implementing regulations (50 CFR 402 *et seq.*), Federal agencies are required to utilize their authorities to carry out programs for the conservation of threatened and endangered species and to determine whether projects may affect threatened and endangered species and/or designated critical habitat.

A Biological Assessment is required for construction projects (or other undertakings having similar physical impacts) that are major Federal actions significantly affecting the quality of the human environment as defined in the National Environmental Policy Act (42 U.S.C. 4332(2)(c)). For projects other than major construction activities, the Service suggests that a biological evaluation similar to a Biological Assessment be prepared to determine whether the project may affect listed or proposed species and/or designated or proposed critical habitat. Recommended contents of a Biological Assessment are described at 50 CFR 402.12.

If a Federal agency determines, based on the Biological Assessment or biological evaluation, that listed species and/or designated critical habitat may be affected by the proposed project, the agency is required to consult with the Service pursuant to 50 CFR 402. In addition, the Service recommends that candidate species, proposed species and proposed critical habitat be addressed within the consultation. More information on the regulations and procedures for section 7 consultation, including the role of permit or license applicants, can be found in the "Endangered Species Consultation Handbook" at:

<http://www.fws.gov/endangered/esa-library/pdf/TOC-GLOS.PDF>

Please be aware that bald and golden eagles are protected under the Bald and Golden Eagle Protection Act (16 U.S.C. 668 *et seq.*), and projects affecting these species may require development of an eagle conservation plan (http://www.fws.gov/windenergy/eagle_guidance.html). Additionally, wind energy projects should follow the wind energy guidelines (<http://www.fws.gov/windenergy/>) for minimizing impacts to migratory birds and bats.

Guidance for minimizing impacts to migratory birds for projects including communications towers (e.g., cellular, digital television, radio, and emergency broadcast) can be found at: <http://www.fws.gov/migratorybirds/CurrentBirdIssues/Hazards/towers/towers.htm>; <http://www.towerkill.com>; and <http://www.fws.gov/migratorybirds/CurrentBirdIssues/Hazards/towers/comtow.html>.

We appreciate your concern for threatened and endangered species. The Service encourages Federal agencies to include conservation of threatened and endangered species into their project planning to further the purposes of the Act. Please include the Consultation Tracking Number in the header of this letter with any request for consultation or correspondence about your project that you submit to our office.

Attachment(s):

- Official Species List
-

Official Species List

This list is provided pursuant to Section 7 of the Endangered Species Act, and fulfills the requirement for Federal agencies to "request of the Secretary of the Interior information whether any species which is listed or proposed to be listed may be present in the area of a proposed action".

This species list is provided by:

Long Island Ecological Services Field Office

340 Smith Road

Shirley, NY 11967-2258

(631) 286-0485

Project Summary

Consultation Code: 05E1LI00-2020-SLI-0259

Event Code: 05E1LI00-2020-E-00597

Project Name: Living with the Bay Stormwater Infrastructure Upgrades Projects

Project Type: Federal Grant / Loan Related

Project Description: The New York State Governor's Office of Storm Recovery ("GOSR") is funding the Living with the Bay Stormwater Project (the Project) located in the Nassau County, New York. The proposed project area would span across multiple communities, including the Villages of Hempstead, Rockville Centre, Lynbrook, and East Rockaway, and the Town of Hempstead. The Project consists of five (5) components intended to respond to Hurricane Sandy's impacts in the region by addressing flooding caused by storm surge and rainfall, improving coastal habitat and water quality, easing public access to the waterfront, and educating the public on stormwater and environmental management. The Project components are as follows:

The Smith Pond Rehabilitation component would consist of the following components: Floodwall and Floodgate; Weir Enhancements and Access Road; Fish Ladder; Porous Pavement; Greenway and Pedestrian Outlook Enhancements; and Invasive Vegetation Removal.

The Lister Park Improvements would entail stormwater improvements at Tighe Field, Centennial Field, and Bligh Field, and a living shoreline along the Mill River, adjacent to Tighe, Centennial, and Bligh Fields.

The East Rockaway High School component would involve the following: Bulkhead and Shoreline Improvements; Green Infrastructure and Emergency Generator; Parking Lot Enhancements; Improved Drainage; and Proposed Greenway.

The East, West, North Boulevards Stormwater Drainage Improvements would consist of the following: Drainage Improvements; Roadway Enhancements; Bioretention Basins; and installation of two new Bulkheads.

The Mill River Greenway component would connect the greenway to several waterbodies along the Mill River, including Smith Pond, South Pond, McDonald Pond, and Hempstead Lake. The continuous greenway

would extend approximately 5.1 miles from Hempstead Lake State Park and Tanglewood Preserve south to Bay Park and Hewlett Bay.

Project Location:

Approximate location of the project can be viewed in Google Maps: <https://www.google.com/maps/place/40.63204201328791N73.66857081747224W>



Counties: Nassau, NY

Endangered Species Act Species

There is a total of 6 threatened, endangered, or candidate species on this species list.

Species on this list should be considered in an effects analysis for your project and could include species that exist in another geographic area. For example, certain fish may appear on the species list because a project could affect downstream species.

IPaC does not display listed species or critical habitats under the sole jurisdiction of NOAA Fisheries¹, as USFWS does not have the authority to speak on behalf of NOAA and the Department of Commerce.

See the "Critical habitats" section below for those critical habitats that lie wholly or partially within your project area under this office's jurisdiction. Please contact the designated FWS office if you have questions.

-
1. [NOAA Fisheries](#), also known as the National Marine Fisheries Service (NMFS), is an office of the National Oceanic and Atmospheric Administration within the Department of Commerce.

Mammals

NAME	STATUS
Northern Long-eared Bat <i>Myotis septentrionalis</i> No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/9045	Threatened

Birds

NAME	STATUS
Piping Plover <i>Charadrius melodus</i> Population: [Atlantic Coast and Northern Great Plains populations] - Wherever found, except those areas where listed as endangered. There is final critical habitat for this species. Your location is outside the critical habitat. Species profile: https://ecos.fws.gov/ecp/species/6039	Threatened
Red Knot <i>Calidris canutus rufa</i> No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/1864	Threatened
Roseate Tern <i>Sterna dougallii dougallii</i> Population: Northeast U.S. nesting population No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/2083	Endangered

Flowering Plants

NAME	STATUS
Sandplain Gerardia <i>Agalinis acuta</i> No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/8128	Endangered
Seabeach Amaranth <i>Amaranthus pumilus</i> No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/8549	Threatened

Critical habitats

THERE ARE NO CRITICAL HABITATS WITHIN YOUR PROJECT AREA UNDER THIS OFFICE'S JURISDICTION.

ATTACHMENT 3

Northern Long-Eared Bat 4(d) Rule Streamlined Consultation Form

Federal agencies should use this form for the optional streamlined consultation framework for the northern long-eared bat (NLEB). This framework allows federal agencies to rely upon the U.S. Fish and Wildlife Service's (USFWS) January 5, 2016, intra-Service Programmatic Biological Opinion (BO) on the final 4(d) rule for the NLEB for section 7(a)(2) compliance by: (1) notifying the USFWS that an action agency will use the streamlined framework; (2) describing the project with sufficient detail to support the required determination; and (3) enabling the USFWS to track effects and determine if re-initiation of consultation is required per 50 CFR 402.16.

This form is not necessary if an agency determines that a proposed action will have no effect to the NLEB or if the USFWS has concurred in writing with an agency's determination that a proposed action may affect, but is not likely to adversely affect the NLEB (i.e., the standard informal consultation process). Actions that may cause prohibited incidental take require separate formal consultation. Providing this information does not address section 7(a)(2) compliance for any other listed species.

Information to Determine 4(d) Rule Compliance:

	YES	NO
1. Does the project occur wholly outside of the WNS Zone ¹ ?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
2. Have you contacted the appropriate agency ² to determine if your project is near known hibernacula or maternity roost trees?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
3. Could the project disturb hibernating NLEBs in a known hibernaculum?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
4. Could the project alter the entrance or interior environment of a known hibernaculum?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
5. Does the project remove any trees within 0.25 miles of a known hibernaculum at any time of year?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
6. Would the project cut or destroy known occupied maternity roost trees, or any other trees within a 150-foot radius from the maternity roost tree from June 1 through July 31.	<input type="checkbox"/>	<input checked="" type="checkbox"/>

You are eligible to use this form if you have answered yes to question #1 **or** yes to question #2 **and** no to questions 3, 4, 5 and 6. The remainder of the form will be used by the USFWS to track our assumptions in the BO.

Agency and Applicant³ (Name, Email, Phone No.):

Matt Accardi, Assistant General Counsel, Certifying Officer
Bureau of Environmental Review and Assessment
Governor's Office of Storm Recovery
25 Beaver Street, 5th Floor
New York, NY 10004
(212) 480-6265
matt.accardi@stormrecovery.ny.gov

Project Name:

Rebuild by Design: Living with the Bay - Stormwater Infrastructure Upgrades Projects,

Project Location (include coordinates if known):

Villages of Hempstead, Rockville Centre, Lynbrook, and East Rockaway, and the Town of Hempstead, Nassau County, NY

Basic Project Description (provide narrative below or attach additional information):

¹ <http://www.fws.gov/midwest/endangered/mammals/nleb/pdf/WNSZone.pdf>

² See <http://www.fws.gov/midwest/endangered/mammals/nleb/nhisites.html>

³ If applicable - only needed for federal actions with applicants (e.g., for a permit, etc.) who are party to the consultation.

The project consists of the following five components intended to respond to Hurricane Sandy’s impacts in the region by addressing flooding caused by storm surge and rainfall, improving coastal habitat and water quality, easing public access to the waterfront, and educating the public on stormwater and environmental management:

- **Smith Pond Rehabilitation:** Floodwall and floodgate; weir enhancements and access road; fish ladder; porous pavement; inlet headwall and wing wall repairs; greenway and pedestrian outlook enhancements; and invasive vegetation removal.
- **Lister Park Improvements:** Bioretention basins construction and parking lot improvements at Tighe and Centennial Fields; greenway and earthen construction and access improvements at Bligh Field; and living shoreline installation along the Mill River
- **East Rockaway High School Improvements:** Bulkhead and shoreline improvements; green infrastructure and emergency generator; parking lot enhancements; improved drainage, and greenway installation.
- **East, West, and North Boulevards Stormwater Drainage Improvements:** Installation of conventional storm sewer structures; roadway enhancements; bioretention basin; and bulkhead installation.
- **Mill River Greenway Construction:** Continuous multiuse pathway through the Villages of Hempstead, Rockville Centre, Lynbrook, and East Rockaway, and the Town of Hempstead, connecting to several waterbodies along the Mill River, including Smith Pond, South Pond, McDonald Pond, and Hempstead Lake.

A total of approximately 240 trees would be removed: 75 trees for Smith Pond Rehabilitation; 91 trees Lister Park Improvements; 68 trees for East Rockaway High School Improvements; 2 trees for East, West, and North Boulevards Stormwater Drainage Improvements; and 4 trees for Mill River Greenway Construction.

General Project Information	YES	NO
Does the project occur within 0.25 miles of a known hibernaculum?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Does the project occur within 150 feet of a known maternity roost tree?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Does the project include forest conversion ⁴ ? (if yes, report acreage below)	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Estimated total acres of forest conversion	1.5	
If known, estimated acres ⁵ of forest conversion from April 1 to October 31	1.5	
If known, estimated acres of forest conversion from June 1 to July 31 ⁶		
Does the project include timber harvest? (if yes, report acreage below)	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Estimated total acres of timber harvest		
If known, estimated acres of timber harvest from April 1 to October 31		
If known, estimated acres of timber harvest from June 1 to July 31		
Does the project include prescribed fire? (if yes, report acreage below)	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Estimated total acres of prescribed fire		
If known, estimated acres of prescribed fire from April 1 to October 31		
If known, estimated acres of prescribed fire from June 1 to July 31		
Does the project install new wind turbines? (if yes, report capacity in MW below)	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Estimated wind capacity (MW)		

Agency Determination:

⁴ Any activity that temporarily or permanently removes suitable forested habitat, including, but not limited to, tree removal from development, energy production and transmission, mining, agriculture, etc. (see page 48 of the BO).

⁵ If the project removes less than 10 trees and the acreage is unknown, report the acreage as less than 0.1 acre.

⁶ If the activity includes tree clearing in June and July, also include those acreage in April to October.

By signing this form, the action agency determines that this project may affect the NLEB, but that any resulting incidental take of the NLEB is not prohibited by the final 4(d) rule.

If the USFWS does not respond within 30 days from submittal of this form, the action agency may presume that its determination is informed by the best available information and that its project responsibilities under 7(a)(2) with respect to the NLEB are fulfilled through the USFWS January 5, 2016, Programmatic BO. The action agency will update this determination annually for multi-year activities.

The action agency understands that the USFWS presumes that all activities are implemented as described herein. The action agency will promptly report any departures from the described activities to the appropriate USFWS Field Office. The action agency will provide the appropriate USFWS Field Office with the results of any surveys conducted for the NLEB. Involved parties will promptly notify the appropriate USFWS Field Office upon finding a dead, injured, or sick NLEB.

Signature: 

Date Submitted: April 7, 2020

ATTACHMENT 4

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

Division of Fish and Wildlife, New York Natural Heritage Program
625 Broadway, Fifth Floor, Albany, NY 12233-4757
P: (518) 402-8935 | F: (518) 402-8925
www.dec.ny.gov

March 18, 2020

Matt Accardi
Governor's Office of Storm Recovery (GOSR)
25 Beaver Street
New York, NY 10004

Re: Living with the Bay Stormwater Infrastructure Upgrades Projects
County: Nassau Town/City: Hempstead

Dear Mr. Accardi:

In response to your recent request, we have reviewed the New York Natural Heritage Program database with respect to the above project.

We have no records of state-listed animals or plants at the project sites.

Along the Mill River in Lister Park, near the ball fields, two rare dragonflies have been documented: **Seaside Dragonlet** (*Erythrodiplax berenice*) and **Rambur's Forktail** (*Ischnura ramburii*). While not listed by NYS, these two species are rare in New York and of conservation concern. We recommend that project work in Lister Park and near the Mill River be conducted so as not to degrade or impair the riverside habitat or water quality of the Mill River. This will also protect habitats downstream along the Mill River, including patches of low salt marsh and high salt marsh.

For most sites, comprehensive field surveys have not been conducted. We cannot provide a definitive statement on the presence or absence of all rare or state-listed species or significant natural communities. Depending on the nature of the project and the conditions at the project site, further information from on-site surveys or other resources may be required to fully assess impacts on biological resources.

For information regarding permits that may be required under state law for regulated areas or activities (e.g., regulated wetlands), please contact the NYS DEC Region 1 Office, Division of Environmental Permits, at dep.r1@dec.ny.gov.

Sincerely,



Nicholas Conrad
Information Resources Coordinator
New York Natural Heritage Program

nc1



Department of
Environmental
Conservation

ATTACHMENT 5

IPaC Information for Planning and Consultation U.S. Fish & Wildlife Service

IPaC resource list

This report is an automatically generated list of species and other resources such as critical habitat (collectively referred to as *trust resources*) under the U.S. Fish and Wildlife Service's (USFWS) jurisdiction that are known or expected to be on or near the project area referenced below. The list may also include trust resources that occur outside of the project area, but that could potentially be directly or indirectly affected by activities in the project area. However, determining the likelihood and extent of effects a project may have on trust resources typically requires gathering additional site-specific (e.g., vegetation/species surveys) and project-specific (e.g., magnitude and timing of proposed activities) information.

Below is a summary of the project information you provided and contact information for the USFWS office(s) with jurisdiction in the defined project area. Please read the introduction to each section that follows (Endangered Species, Migratory Birds, USFWS Facilities, and NWI Wetlands) for additional information applicable to the trust resources addressed in that section.

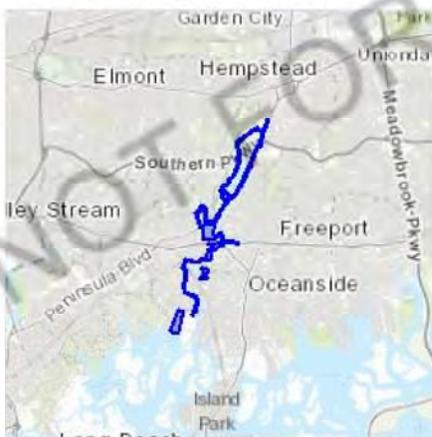
Project information

NAME

Living with the Bay Stormwater Infrastructure Upgrades Projects

LOCATION

Nassau County, New York



DESCRIPTION

The

New York State Governor's Office of Storm Recovery ("GOSR") is funding the Living with the Bay Stormwater Project (the Project) located in the Nassau County, New York. The proposed project area would span across multiple communities, including the Villages of Hempstead, Rockville Centre, Lynbrook, and East Rockaway, and the Town of Hempstead. The Project consists of five (5) components intended to respond to Hurricane Sandy's impacts in the region by addressing flooding caused by storm surge and rainfall, improving coastal

habitat and water quality, easing public access to the waterfront, and educating the public on stormwater and environmental management. The Project components are as follows: The Smith Pond Rehabilitation component would consist of the following components: Floodwall and Floodgate; Weir Enhancements and Access Road; Fish Ladder; Porous Pavement; Greenway and Pedestrian Outlook Enhancements; and Invasive Vegetation Removal. The Lister Park Improvements would entail stormwater improvements at Tighe Field, Centennial Field, and Bligh Field, and a living shoreline along the Mill River, adjacent to Tighe, Centennial, and Bligh Fields. The East Rockaway High School component would involve the following: Bulkhead and Shoreline Improvements; Green Infrastructure and Emergency Generator; Parking Lot Enhancements; Improved Drainage; and Proposed Greenway. The East, West, North Boulevards Stormwater Drainage Improvements would consist of the following: Drainage Improvements; Roadway Enhancements; Bioretention Basins; and installation of two new Bulkheads. The Mill River Greenway component would connect the greenway to several waterbodies along the Mill River, including Smith Pond, South Pond, McDonald Pond, and Hempstead Lake. The continuous greenway would extend approximately 5.1 miles from Hempstead Lake State Park and Tanglewood Preserve south to Bay Park and Hewlett Bay.

Local office

Long Island Ecological Services Field Office

☎ (631) 286-0485

🏠 (631) 286-4003

340 Smith Road

Shirley, NY 11967-2258

Endangered species

This resource list is for informational purposes only and does not constitute an analysis of project level impacts.

The primary information used to generate this list is the known or expected range of each species. Additional areas of influence (AOI) for species are also considered. An AOI includes areas outside of the species range if the species could be indirectly affected by activities in that area (e.g., placing a dam upstream of a fish population, even if that fish does not occur at the dam site, may indirectly impact the species by reducing or eliminating water flow downstream). Because species can move, and site conditions can change, the species on this list are not guaranteed to be found on or near the project area. To fully determine any potential effects to species, additional site-specific and project-specific information is often required.

Section 7 of the Endangered Species Act **requires** Federal agencies to "request of the Secretary information whether any species which is listed or proposed to be listed may be present in the area of such proposed action" for any project that is conducted, permitted, funded, or licensed by any Federal agency. A letter from the local office and a species list which fulfills this requirement can **only** be obtained by requesting an official species list from either the Regulatory Review section in IPaC (see directions below) or from the local field office directly.

For project evaluations that require USFWS concurrence/review, please return to the IPaC website and request an official species list by doing the following:

1. Log in to IPaC.
2. Go to your My Projects list.
3. Click PROJECT HOME for this project.
4. Click REQUEST SPECIES LIST.

Listed species

¹ and their critical habitats are managed by the [Ecological Services Program](#) of the U.S. Fish and Wildlife Service (USFWS) and the fisheries division of the National Oceanic and Atmospheric Administration (NOAA Fisheries²).

Species and critical habitats under the sole responsibility of NOAA Fisheries are **not** shown on this list. Please contact [NOAA Fisheries](#) for [species under their jurisdiction](#).

1. Species listed under the [Endangered Species Act](#) are threatened or endangered; IPaC also shows species that are candidates, or proposed, for listing. See the [listing status page](#) for more information.
2. [NOAA Fisheries](#), also known as the National Marine Fisheries Service (NMFS), is an office of the National Oceanic and Atmospheric Administration within the Department of Commerce.

The following species are potentially affected by activities in this location:

Mammals

NAME	STATUS
Northern Long-eared Bat <i>Myotis septentrionalis</i> No critical habitat has been designated for this species. https://ecos.fws.gov/ecp/species/9045	Threatened

Birds

NAME	STATUS
Piping Plover <i>Charadrius melodus</i> There is final critical habitat for this species. Your location is outside the critical habitat. https://ecos.fws.gov/ecp/species/6039	Threatened
Red Knot <i>Calidris canutus rufa</i> No critical habitat has been designated for this species. https://ecos.fws.gov/ecp/species/1864	Threatened
Roseate Tern <i>Sterna dougallii dougallii</i> No critical habitat has been designated for this species. https://ecos.fws.gov/ecp/species/2083	Endangered

Flowering Plants

NAME	STATUS
Sandplain Gerardia <i>Agalinis acuta</i> No critical habitat has been designated for this species. https://ecos.fws.gov/ecp/species/8128	Endangered
Seabeach Amaranth <i>Amaranthus pumilus</i> No critical habitat has been designated for this species. https://ecos.fws.gov/ecp/species/8549	Threatened

Critical habitats

Potential effects to critical habitat(s) in this location must be analyzed along with the endangered species themselves.

THERE ARE NO CRITICAL HABITATS AT THIS LOCATION.

Migratory birds

Certain birds are protected under the Migratory Bird Treaty Act

¹ and the Bald and Golden Eagle Protection Act².

Any person or organization who plans or conducts activities that may result in impacts to migratory birds, eagles, and their habitats should follow appropriate regulations and consider implementing appropriate conservation measures, as described [below](#).

1. The [Migratory Birds Treaty Act](#) of 1918.
2. The [Bald and Golden Eagle Protection Act](#) of 1940.

Additional information can be found using the following links:

- Birds of Conservation Concern <http://www.fws.gov/birds/management/managed-species/birds-of-conservation-concern.php>
- Measures for avoiding and minimizing impacts to birds <http://www.fws.gov/birds/management/project-assessment-tools-and-guidance/conservation-measures.php>
- Nationwide conservation measures for birds <http://www.fws.gov/migratorybirds/pdf/management/nationwidestandardconservationmeasures.pdf>

The birds listed below are birds of particular concern either because they occur on the [USFWS Birds of Conservation Concern](#) (BCC) list or warrant special attention in your project location. To learn more about the levels of concern for birds on your list and how this list is generated, see the FAQ [below](#). This is not a list of every bird you may find in this location, nor a guarantee that every bird on this list will be found in your project area. To see exact locations of where birders and the general public have sighted birds in and around your project area, visit the [E-bird data mapping tool](#) (Tip: enter your location, desired date range and a species on your list). For projects that occur off the Atlantic Coast, additional maps and models detailing the relative occurrence and abundance of bird species on your list are available. Links to additional information about Atlantic Coast birds, and other important information about your migratory bird list, including how to properly interpret and use your migratory bird report, can be found [below](#).

For guidance on when to schedule activities or implement avoidance and minimization measures to reduce impacts to migratory birds on your list, click on the PROBABILITY OF PRESENCE SUMMARY at the top of your list to see when these birds are most likely to be present and breeding in your project area.

NAME

BREEDING SEASON (IF A BREEDING SEASON IS INDICATED FOR A BIRD ON YOUR LIST, THE BIRD MAY BREED IN YOUR PROJECT AREA SOMETIME WITHIN THE TIMEFRAME SPECIFIED, WHICH IS A VERY LIBERAL ESTIMATE OF THE DATES INSIDE WHICH THE BIRD BREEDS ACROSS ITS ENTIRE RANGE. "BREEDS ELSEWHERE" INDICATES THAT THE BIRD DOES NOT LIKELY BREED IN YOUR PROJECT AREA.)

American Oystercatcher *Haematopus palliatus*

Breeds Apr 15 to Aug 31

This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska.

<https://ecos.fws.gov/ecp/species/8935>

Bald Eagle *Haliaeetus leucocephalus*

Breeds Oct 15 to Aug 31

This is not a Bird of Conservation Concern (BCC) in this area, but warrants attention because of the Eagle Act or for potential susceptibilities in offshore areas from certain types of development or activities.

<https://ecos.fws.gov/ecp/species/1626>

Black Skimmer *Rynchops niger*

Breeds May 20 to Sep 15

This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska.

<https://ecos.fws.gov/ecp/species/5234>

Black-billed Cuckoo *Coccyzus erythrophthalmus*

Breeds May 15 to Oct 10

This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska.

<https://ecos.fws.gov/ecp/species/9399>

Bobolink *Dolichonyx oryzivorus*

Breeds May 20 to Jul 31

This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska.

Buff-breasted Sandpiper *Calidris subruficollis*

Breeds elsewhere

This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska.

<https://ecos.fws.gov/ecp/species/9488>

Canada Warbler *Cardellina canadensis*

Breeds May 20 to Aug 10

This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska.

<p>Cerulean Warbler <i>Dendroica cerulea</i> This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska. https://ecos.fws.gov/ecp/species/2974</p>	Breeds Apr 29 to Jul 20
<p>Clapper Rail <i>Rallus crepitans</i> This is a Bird of Conservation Concern (BCC) only in particular Bird Conservation Regions (BCRs) in the continental USA</p>	Breeds Apr 10 to Oct 31
<p>Dunlin <i>Calidris alpina arctica</i> This is a Bird of Conservation Concern (BCC) only in particular Bird Conservation Regions (BCRs) in the continental USA</p>	Breeds elsewhere
<p>Gull-billed Tern <i>Gelochelidon nilotica</i> This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska. https://ecos.fws.gov/ecp/species/9501</p>	Breeds May 1 to Jul 31
<p>Hudsonian Godwit <i>Limosa haemastica</i> This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska.</p>	Breeds elsewhere
<p>Kentucky Warbler <i>Oporornis formosus</i> This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska.</p>	Breeds Apr 20 to Aug 20
<p>Least Tern <i>Sterna antillarum</i> This is a Bird of Conservation Concern (BCC) only in particular Bird Conservation Regions (BCRs) in the continental USA</p>	Breeds Apr 20 to Sep 10
<p>Lesser Yellowlegs <i>Tringa flavipes</i> This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska. https://ecos.fws.gov/ecp/species/9679</p>	Breeds elsewhere
<p>Long-eared Owl <i>asio otus</i> This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska. https://ecos.fws.gov/ecp/species/3631</p>	Breeds elsewhere
<p>Nelson's Sparrow <i>Ammodramus nelsoni</i> This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska.</p>	Breeds May 15 to Sep 5

<p>Prairie Warbler <i>Dendroica discolor</i> This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska.</p>	Breeds May 1 to Jul 31
<p>Prothonotary Warbler <i>Protonotaria citrea</i> This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska.</p>	Breeds Apr 1 to Jul 31
<p>Purple Sandpiper <i>Calidris maritima</i> This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska.</p>	Breeds elsewhere
<p>Red-headed Woodpecker <i>Melanerpes erythrocephalus</i> This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska.</p>	Breeds May 10 to Sep 10
<p>Red-throated Loon <i>Gavia stellata</i> This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska.</p>	Breeds elsewhere
<p>Ruddy Turnstone <i>Arenaria interpres morinella</i> This is a Bird of Conservation Concern (BCC) only in particular Bird Conservation Regions (BCRs) in the continental USA</p>	Breeds elsewhere
<p>Rusty Blackbird <i>Euphagus carolinus</i> This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska.</p>	Breeds elsewhere
<p>Seaside Sparrow <i>Ammodramus maritimus</i> This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska.</p>	Breeds May 10 to Aug 20
<p>Semipalmated Sandpiper <i>Calidris pusilla</i> This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska.</p>	Breeds elsewhere
<p>Short-billed Dowitcher <i>Limnodromus griseus</i> This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska. https://ecos.fws.gov/ecp/species/9480</p>	Breeds elsewhere
<p>Snowy Owl <i>Bubo scandiacus</i> This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska.</p>	Breeds elsewhere

Whimbrel *Numenius phaeopus*

This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska.

<https://ecos.fws.gov/ecp/species/9483>

Breeds elsewhere

Willet *Tringa semipalmata*

This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska.

Breeds Apr 20 to Aug 5

Wood Thrush *Hylocichla mustelina*

This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska.

Breeds May 10 to Aug 31

Probability of Presence Summary

The graphs below provide our best understanding of when birds of concern are most likely to be present in your project area. This information can be used to tailor and schedule your project activities to avoid or minimize impacts to birds. Please make sure you read and understand the FAQ "Proper Interpretation and Use of Your Migratory Bird Report" before using or attempting to interpret this report.

Probability of Presence (■)

Each green bar represents the bird's relative probability of presence in the 10km grid cell(s) your project overlaps during a particular week of the year. (A year is represented as 12 4-week months.) A taller bar indicates a higher probability of species presence. The survey effort (see below) can be used to establish a level of confidence in the presence score. One can have higher confidence in the presence score if the corresponding survey effort is also high.

How is the probability of presence score calculated? The calculation is done in three steps:

1. The probability of presence for each week is calculated as the number of survey events in the week where the species was detected divided by the total number of survey events for that week. For example, if in week 12 there were 20 survey events and the Spotted Towhee was found in 5 of them, the probability of presence of the Spotted Towhee in week 12 is 0.25.
2. To properly present the pattern of presence across the year, the relative probability of presence is calculated. This is the probability of presence divided by the maximum probability of presence across all weeks. For example, imagine the probability of presence in week 20 for the Spotted Towhee is 0.05, and that the probability of presence at week 12 (0.25) is the maximum of any week of the year. The relative probability of presence on week 12 is $0.25/0.25 = 1$; at week 20 it is $0.05/0.25 = 0.2$.
3. The relative probability of presence calculated in the previous step undergoes a statistical conversion so that all possible values fall between 0 and 10, inclusive. This is the probability of presence score.

To see a bar's probability of presence score, simply hover your mouse cursor over the bar.

Breeding Season (■)

Yellow bars denote a very liberal estimate of the time-frame inside which the bird breeds across its entire range. If there are no yellow bars shown for a bird, it does not breed in your project area.

Survey Effort (|)

Vertical black lines superimposed on probability of presence bars indicate the number of surveys performed for that species in the 10km grid cell(s) your project area overlaps. The number of surveys is expressed as a range, for example, 33 to 64 surveys.

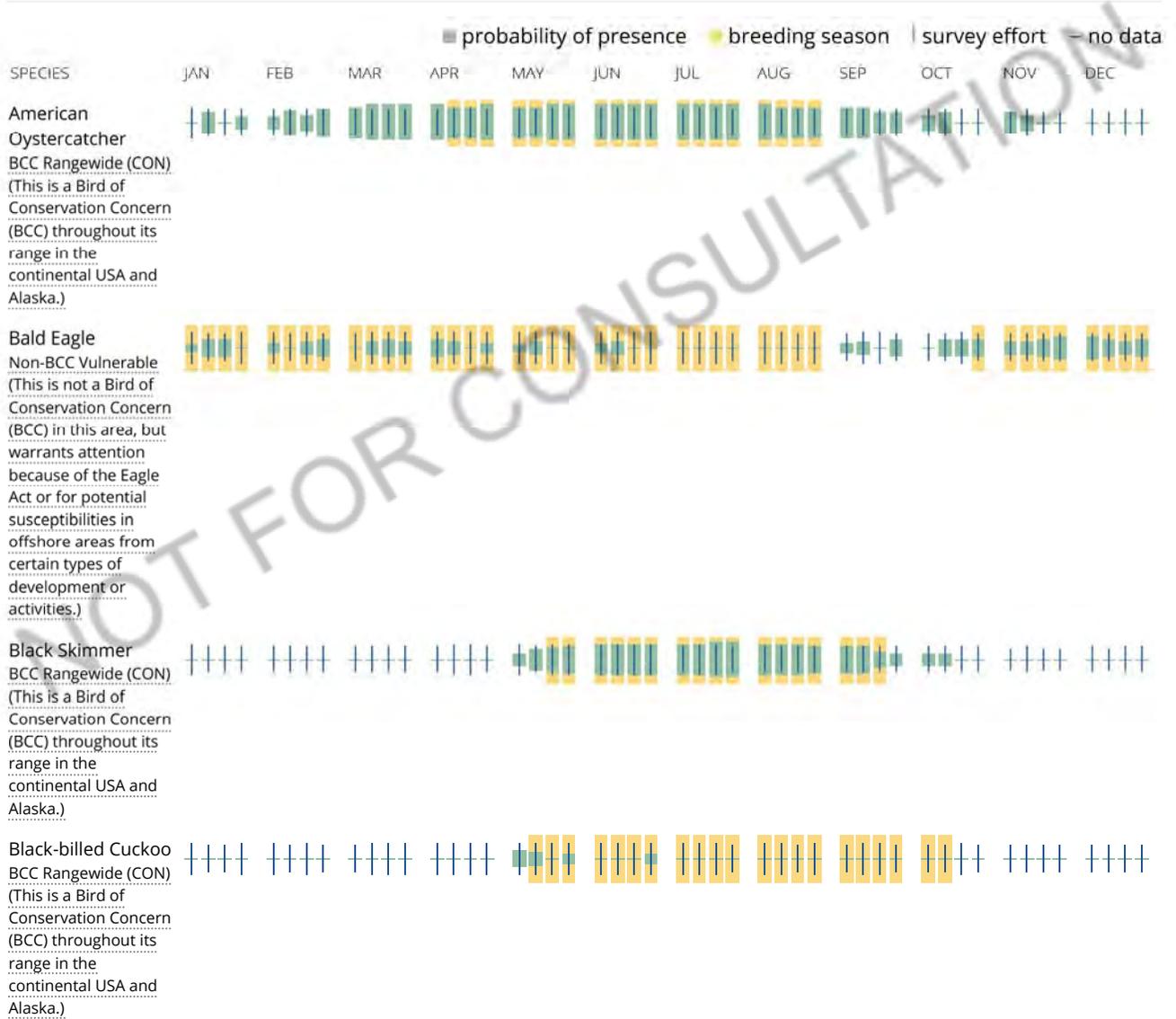
To see a bar's survey effort range, simply hover your mouse cursor over the bar.

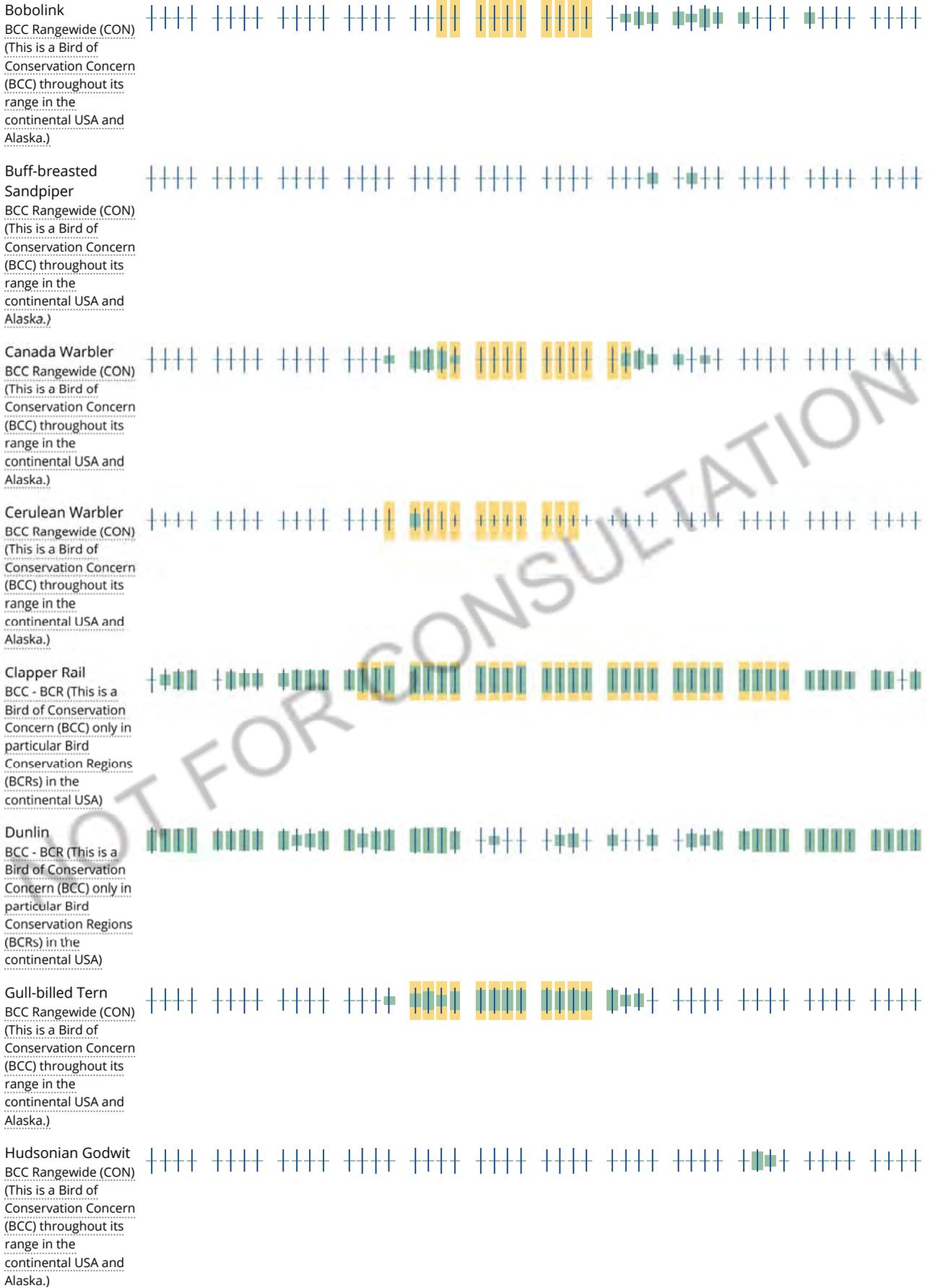
No Data (-)

A week is marked as having no data if there were no survey events for that week.

Survey Timeframe

Surveys from only the last 10 years are used in order to ensure delivery of currently relevant information. The exception to this is areas off the Atlantic coast, where bird returns are based on all years of available data, since data in these areas is currently much more sparse.





SPECIES	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
Kentucky Warbler BCC Rangwide (CON) (This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska.)	++++	++++	++++	+++	+++	+++	+++	+++	++++	++++	++++	++++
Least Tern BCC - BCR (This is a Bird of Conservation Concern (BCC) only in particular Bird Conservation Regions (BCRs) in the continental USA)	++++	++++	++++	+++	+++	+++	+++	+++	+++	++++	++++	++++
Lesser Yellowlegs BCC Rangwide (CON) (This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska.)	++++	++++	++++	+++	+++	+++	+++	+++	+++	+++	++++	++++
Long-eared Owl BCC Rangwide (CON) (This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska.)	++++	++++	+++	++++	++++	++++	++++	++++	++++	++++	++++	++++
Nelson's Sparrow BCC Rangwide (CON) (This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska.)	+++	++++	++++	+++	+++	+++	+++	+++	+++	+++	+++	++++
Prairie Warbler BCC Rangwide (CON) (This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska.)	++++	++++	++++	+++	+++	+++	+++	+++	+++	++++	++++	++++
Prothonotary Warbler BCC Rangwide (CON) (This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska.)	++++	++++	++++	+++	+++	+++	+++	+++	++++	++++	++++	++++

NOT FOR CONSULTATION

Purple Sandpiper
 BCC Rangewide (CON)
 (This is a Bird of
 Conservation Concern
 (BCC) throughout its
 range in the
 continental USA and
 Alaska.)

Red-headed
 Woodpecker
 BCC Rangewide (CON)
 (This is a Bird of
 Conservation Concern
 (BCC) throughout its
 range in the
 continental USA and
 Alaska.)

Red-throated Loon
 BCC Rangewide (CON)
 (This is a Bird of
 Conservation Concern
 (BCC) throughout its
 range in the
 continental USA and
 Alaska.)

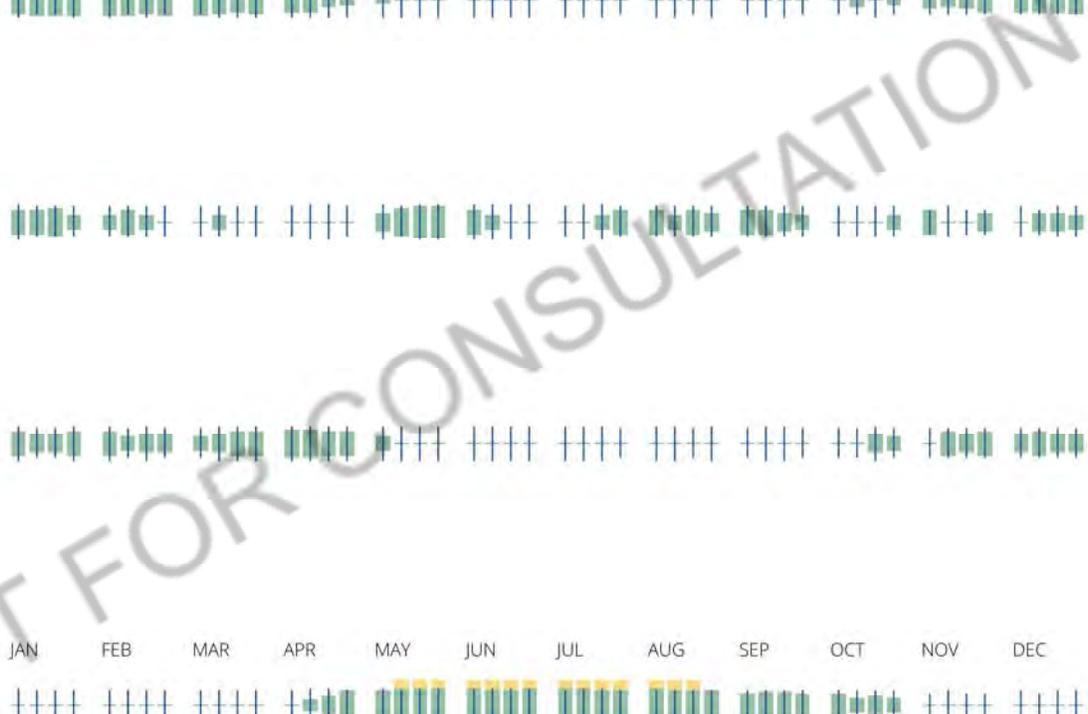
Ruddy Turnstone
 BCC - BCR (This is a
 Bird of Conservation
 Concern (BCC) only in
 particular Bird
 Conservation Regions
 (BCRs) in the
 continental USA)

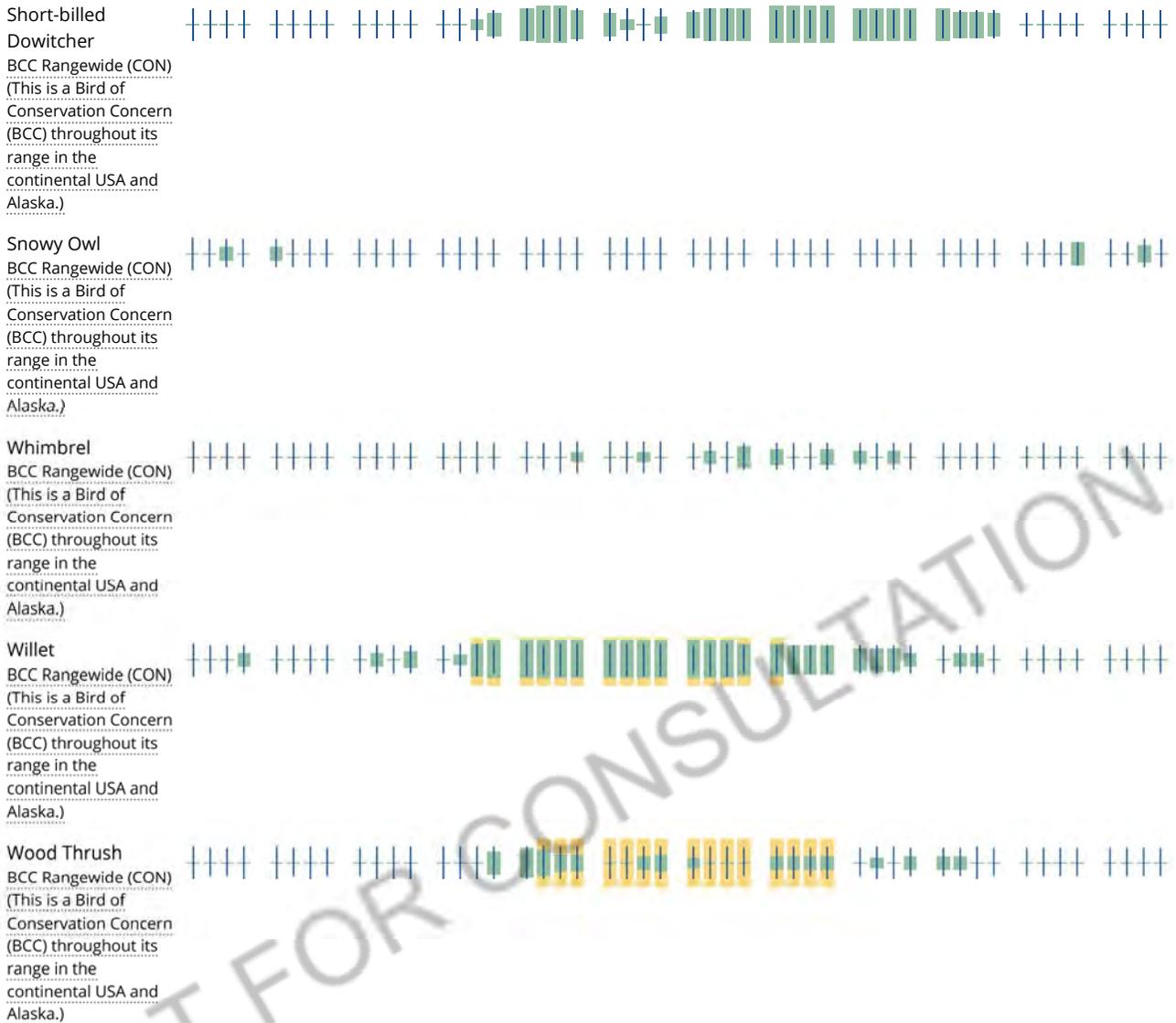
Rusty Blackbird
 BCC Rangewide (CON)
 (This is a Bird of
 Conservation Concern
 (BCC) throughout its
 range in the
 continental USA and
 Alaska.)

SPECIES JAN FEB MAR APR MAY JUN JUL AUG SEP OCT NOV DEC

Seaside Sparrow
 BCC Rangewide (CON)
 (This is a Bird of
 Conservation Concern
 (BCC) throughout its
 range in the
 continental USA and
 Alaska.)

Semipalmated
 Sandpiper
 BCC Rangewide (CON)
 (This is a Bird of
 Conservation Concern
 (BCC) throughout its
 range in the
 continental USA and
 Alaska.)





Tell me more about conservation measures I can implement to avoid or minimize impacts to migratory birds.

[Nationwide Conservation Measures](#) describes measures that can help avoid and minimize impacts to all birds at any location year round. Implementation of these measures is particularly important when birds are most likely to occur in the project area. When birds may be breeding in the area, identifying the locations of any active nests and avoiding their destruction is a very helpful impact minimization measure. To see when birds are most likely to occur and be breeding in your project area, view the Probability of Presence Summary. [Additional measures](#) and/or [permits](#) may be advisable depending on the type of activity you are conducting and the type of infrastructure or bird species present on your project site.

What does IPaC use to generate the migratory birds potentially occurring in my specified location?

The Migratory Bird Resource List is comprised of USFWS [Birds of Conservation Concern \(BCC\)](#) and other species that may warrant special attention in your project location.

The migratory bird list generated for your project is derived from data provided by the [Avian Knowledge Network \(AKN\)](#). The AKN data is based on a growing collection of [survey, banding, and citizen science datasets](#) and is queried and filtered to return a list of those birds reported as occurring in the 10km grid cell(s) which your project intersects,

and that have been identified as warranting special attention because they are a BCC species in that area, an eagle ([Eagle Act](#) requirements may apply), or a species that has a particular vulnerability to offshore activities or development.

Again, the Migratory Bird Resource list includes only a subset of birds that may occur in your project area. It is not representative of all birds that may occur in your project area. To get a list of all birds potentially present in your project area, please visit the [AKN Phenology Tool](#).

What does IPaC use to generate the probability of presence graphs for the migratory birds potentially occurring in my specified location?

The probability of presence graphs associated with your migratory bird list are based on data provided by the [Avian Knowledge Network \(AKN\)](#). This data is derived from a growing collection of [survey, banding, and citizen science datasets](#).

Probability of presence data is continuously being updated as new and better information becomes available. To learn more about how the probability of presence graphs are produced and how to interpret them, go to the Probability of Presence Summary and then click on the "Tell me about these graphs" link.

How do I know if a bird is breeding, wintering, migrating or present year-round in my project area?

To see what part of a particular bird's range your project area falls within (i.e. breeding, wintering, migrating or year-round), you may refer to the following resources: [The Cornell Lab of Ornithology All About Birds Bird Guide](#), or (if you are unsuccessful in locating the bird of interest there), the [Cornell Lab of Ornithology Neotropical Birds guide](#). If a bird on your migratory bird species list has a breeding season associated with it, if that bird does occur in your project area, there may be nests present at some point within the timeframe specified. If "Breeds elsewhere" is indicated, then the bird likely does not breed in your project area.

What are the levels of concern for migratory birds?

Migratory birds delivered through IPaC fall into the following distinct categories of concern:

1. "BCC Rangewide" birds are [Birds of Conservation Concern](#) (BCC) that are of concern throughout their range anywhere within the USA (including Hawaii, the Pacific Islands, Puerto Rico, and the Virgin Islands);
2. "BCC - BCR" birds are BCCs that are of concern only in particular Bird Conservation Regions (BCRs) in the continental USA; and
3. "Non-BCC - Vulnerable" birds are not BCC species in your project area, but appear on your list either because of the [Eagle Act](#) requirements (for eagles) or (for non-eagles) potential susceptibilities in offshore areas from certain types of development or activities (e.g. offshore energy development or longline fishing).

Although it is important to try to avoid and minimize impacts to all birds, efforts should be made, in particular, to avoid and minimize impacts to the birds on this list, especially eagles and BCC species of rangewide concern. For more information on conservation measures you can implement to help avoid and minimize migratory bird impacts and requirements for eagles, please see the FAQs for these topics.

Details about birds that are potentially affected by offshore projects

For additional details about the relative occurrence and abundance of both individual bird species and groups of bird species within your project area off the Atlantic Coast, please visit the [Northeast Ocean Data Portal](#). The Portal also offers data and information about other taxa besides birds that may be helpful to you in your project review. Alternately, you may download the bird model results files underlying the portal maps through the [NOAA NCCOS Integrative Statistical Modeling and Predictive Mapping of Marine Bird Distributions and Abundance on the Atlantic Outer Continental Shelf](#) project webpage.

Bird tracking data can also provide additional details about occurrence and habitat use throughout the year, including migration. Models relying on survey data may not include this information. For additional information on marine bird tracking data, see the [Diving Bird Study](#) and the [nanotag studies](#) or contact [Caleb Spiegel](#) or [Pam Loring](#).

What if I have eagles on my list?

If your project has the potential to disturb or kill eagles, you may need to [obtain a permit](#) to avoid violating the Eagle Act should such impacts occur.

Proper Interpretation and Use of Your Migratory Bird Report

The migratory bird list generated is not a list of all birds in your project area, only a subset of birds of priority concern. To learn more about how your list is generated, and see options for identifying what other birds may be in your project area, please see the FAQ "What does IPaC use to generate the migratory birds potentially occurring in my specified location". Please be aware this report provides the "probability of presence" of birds within the 10 km grid cell(s) that overlap your project; not your exact project footprint. On the graphs provided, please also look carefully at the survey effort (indicated by the black vertical bar) and for the existence of the "no data" indicator (a red horizontal bar). A high survey effort is the key component. If the survey effort is high, then the probability of presence score can be viewed as more dependable. In contrast, a low survey effort bar or no data bar means a lack of data and, therefore, a lack of certainty about presence of the species. This list is not perfect; it is simply a starting point for identifying what birds of concern have the potential to be in your project area, when they might be there, and if they might be breeding (which means nests might be present). The list helps you know what to look for to confirm presence, and helps guide you in knowing when to implement conservation measures to avoid or minimize potential impacts from your project activities, should presence be confirmed. To learn more about conservation measures, visit the FAQ "Tell me about conservation measures I can implement to avoid or minimize impacts to migratory birds" at the bottom of your migratory bird trust resources page.

Facilities

National Wildlife Refuge lands

Any activity proposed on lands managed by the [National Wildlife Refuge](#) system must undergo a 'Compatibility Determination' conducted by the Refuge. Please contact the individual Refuges to discuss any questions or concerns.

THERE ARE NO REFUGE LANDS AT THIS LOCATION.

Fish hatcheries

THERE ARE NO FISH HATCHERIES AT THIS LOCATION.

Wetlands in the National Wetlands Inventory

Impacts to [NWI wetlands](#) and other aquatic habitats may be subject to regulation under Section 404 of the Clean Water Act, or other State/Federal statutes.

For more information please contact the Regulatory Program of the local [U.S. Army Corps of Engineers District](#).

Please note that the NWI data being shown may be out of date. We are currently working to update our NWI data set. We recommend you verify these results with a site visit to determine the actual extent of wetlands on site.

This location overlaps the following wetlands:

ESTUARINE AND MARINE DEEPWATER

[E1UBL](#)

ESTUARINE AND MARINE WETLAND

[E2US2P](#)

[E2US1N](#)

[E2US1P](#)

FRESHWATER EMERGENT WETLAND

[PEM1Fx](#)

[PEM1C](#)

[PEM1F](#)

[PEM1E](#)

FRESHWATER FORESTED/SHRUB WETLAND

[PFO1C](#)

[PFO1Ax](#)

FRESHWATER POND

[PUBHx](#)

[PUB/FO1Fh](#)

[PUB/FO1F](#)

[PUBFx](#)

LAKE

[L1UBHh](#)

RIVERINE

[R2UBH](#)

[R4SBC](#)

[R5UBH](#)

[R2UBHx](#)

A full description for each wetland code can be found at the [National Wetlands Inventory website](#)

Data limitations

The Service's objective of mapping wetlands and deepwater habitats is to produce reconnaissance level information on the location, type and size of these resources. The maps are prepared from the analysis of high altitude imagery. Wetlands are identified based on vegetation, visible hydrology and geography. A margin of error is inherent in the use of imagery; thus, detailed on-the-ground inspection of any particular site may result in revision of the wetland boundaries or classification established through image analysis.

The accuracy of image interpretation depends on the quality of the imagery, the experience of the image analysts, the amount and quality of the collateral data and the amount of ground truth verification work conducted. Metadata should be consulted to determine the date of the source imagery used and any mapping problems.

Wetlands or other mapped features may have changed since the date of the imagery or field work. There may be occasional differences in polygon boundaries or classifications between the information depicted on the map and the actual conditions on site.

Data exclusions

Certain wetland habitats are excluded from the National mapping program because of the limitations of aerial imagery as the primary data source used to detect wetlands. These habitats include seagrasses or submerged aquatic vegetation that are found in the intertidal and subtidal zones of estuaries and nearshore coastal waters. Some deepwater reef communities (coral or tubercid worm reefs) have also been excluded from the inventory. These habitats, because of their depth, go undetected by aerial imagery.

Data precautions

Federal, state, and local regulatory agencies with jurisdiction over wetlands may define and describe wetlands in a different manner than that used in this inventory. There is no attempt, in either the design or products of this inventory, to define the limits of proprietary jurisdiction of any Federal, state, or local government or to establish the geographical scope of the regulatory programs of government agencies. Persons intending to engage in activities involving modifications within or adjacent to wetland areas should seek the advice of appropriate federal, state, or local agencies concerning specified agency regulatory programs and proprietary jurisdictions that may affect such activities.

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United States Department of the Interior



FISH AND WILDLIFE SERVICE
Long Island Ecological Services Field Office
340 Smith Road
Shirley, NY 11967-2258
Phone: (631) 286-0485 Fax: (631) 286-4003

In Reply Refer To:

June 03, 2020

Consultation Code: 05E1LI00-2020-SLI-0259

Event Code: 05E1LI00-2020-E-01222

Project Name: Living with the Bay Stormwater Infrastructure Upgrades Projects

Subject: Updated list of threatened and endangered species that may occur in your proposed project location, and/or may be affected by your proposed project

To Whom It May Concern:

The enclosed species list identifies threatened, endangered, proposed and candidate species, as well as proposed and final designated critical habitat, that may occur within the boundary of your proposed project and/or may be affected by your proposed project. The species list fulfills the requirements of the U.S. Fish and Wildlife Service (Service) under section 7(c) of the Endangered Species Act (Act) of 1973, as amended (16 U.S.C. 1531 *et seq.*).

New information based on updated surveys, changes in the abundance and distribution of species, changed habitat conditions, or other factors could change this list. Please feel free to contact us if you need more current information or assistance regarding the potential impacts to federally proposed, listed, and candidate species and federally designated and proposed critical habitat. Please note that under 50 CFR 402.12(e) of the regulations implementing section 7 of the Act, the accuracy of this species list should be verified after 90 days. This verification can be completed formally or informally as desired. The Service recommends that verification be completed by visiting the ECOS-IPaC website at regular intervals during project planning and implementation for updates to species lists and information. An updated list may be requested through the ECOS-IPaC system by completing the same process used to receive the enclosed list.

The purpose of the Act is to provide a means whereby threatened and endangered species and the ecosystems upon which they depend may be conserved. Under sections 7(a)(1) and 7(a)(2) of the Act and its implementing regulations (50 CFR 402 *et seq.*), Federal agencies are required to utilize their authorities to carry out programs for the conservation of threatened and endangered species and to determine whether projects may affect threatened and endangered species and/or designated critical habitat.

A Biological Assessment is required for construction projects (or other undertakings having similar physical impacts) that are major Federal actions significantly affecting the quality of the human environment as defined in the National Environmental Policy Act (42 U.S.C. 4332(2)(c)). For projects other than major construction activities, the Service suggests that a biological evaluation similar to a Biological Assessment be prepared to determine whether the project may affect listed or proposed species and/or designated or proposed critical habitat. Recommended contents of a Biological Assessment are described at 50 CFR 402.12.

If a Federal agency determines, based on the Biological Assessment or biological evaluation, that listed species and/or designated critical habitat may be affected by the proposed project, the agency is required to consult with the Service pursuant to 50 CFR 402. In addition, the Service recommends that candidate species, proposed species and proposed critical habitat be addressed within the consultation. More information on the regulations and procedures for section 7 consultation, including the role of permit or license applicants, can be found in the "Endangered Species Consultation Handbook" at:

<http://www.fws.gov/endangered/esa-library/pdf/TOC-GLOS.PDF>

Please be aware that bald and golden eagles are protected under the Bald and Golden Eagle Protection Act (16 U.S.C. 668 *et seq.*), and projects affecting these species may require development of an eagle conservation plan (http://www.fws.gov/windenergy/eagle_guidance.html). Additionally, wind energy projects should follow the wind energy guidelines (<http://www.fws.gov/windenergy/>) for minimizing impacts to migratory birds and bats.

Guidance for minimizing impacts to migratory birds for projects including communications towers (e.g., cellular, digital television, radio, and emergency broadcast) can be found at: <http://www.fws.gov/migratorybirds/CurrentBirdIssues/Hazards/towers/towers.htm>; <http://www.towerkill.com>; and <http://www.fws.gov/migratorybirds/CurrentBirdIssues/Hazards/towers/comtow.html>.

We appreciate your concern for threatened and endangered species. The Service encourages Federal agencies to include conservation of threatened and endangered species into their project planning to further the purposes of the Act. Please include the Consultation Tracking Number in the header of this letter with any request for consultation or correspondence about your project that you submit to our office.

Attachment(s):

- Official Species List
-

Official Species List

This list is provided pursuant to Section 7 of the Endangered Species Act, and fulfills the requirement for Federal agencies to "request of the Secretary of the Interior information whether any species which is listed or proposed to be listed may be present in the area of a proposed action".

This species list is provided by:

Long Island Ecological Services Field Office

340 Smith Road

Shirley, NY 11967-2258

(631) 286-0485

Project Summary

Consultation Code: 05E1LI00-2020-SLI-0259

Event Code: 05E1LI00-2020-E-01222

Project Name: Living with the Bay Stormwater Infrastructure Upgrades Projects

Project Type: Federal Grant / Loan Related

Project Description: The New York State Governor's Office of Storm Recovery ("GOSR") is funding the Living with the Bay Stormwater Project (the Project) located in the Nassau County, New York. The proposed project area would span across multiple communities, including the Villages of Hempstead, Rockville Centre, Lynbrook, and East Rockaway, and the Town of Hempstead. The Project consists of five (5) components intended to respond to Hurricane Sandy's impacts in the region by addressing flooding caused by storm surge and rainfall, improving coastal habitat and water quality, easing public access to the waterfront, and educating the public on stormwater and environmental management. The Project components are as follows:

The Smith Pond Rehabilitation component would consist of the following components: Floodwall and Floodgate; Weir Enhancements and Access Road; Fish Ladder; Porous Pavement; Greenway and Pedestrian Outlook Enhancements; and Invasive Vegetation Removal.

The Lister Park Improvements would entail stormwater improvements at Tighe Field, Centennial Field, and Bligh Field, and a living shoreline along the Mill River, adjacent to Tighe, Centennial, and Bligh Fields.

The East Rockaway High School component would involve the following: Bulkhead and Shoreline Improvements; Green Infrastructure and Emergency Generator; Parking Lot Enhancements; Improved Drainage; and Proposed Greenway.

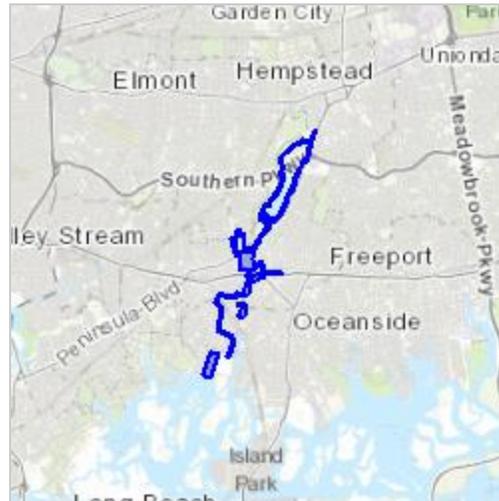
The East, West, North Boulevards Stormwater Drainage Improvements would consist of the following: Drainage Improvements; Roadway Enhancements; Bioretention Basins; and installation of two new Bulkheads.

The Mill River Greenway component would connect the greenway to several waterbodies along the Mill River, including Smith Pond, South Pond, McDonald Pond, and Hempstead Lake. The continuous greenway

would extend approximately 5.1 miles from Hempstead Lake State Park and Tanglewood Preserve south to Bay Park and Hewlett Bay.

Project Location:

Approximate location of the project can be viewed in Google Maps: <https://www.google.com/maps/place/40.63204201328791N73.66857081747224W>



Counties: Nassau, NY

Endangered Species Act Species

There is a total of 6 threatened, endangered, or candidate species on this species list.

Species on this list should be considered in an effects analysis for your project and could include species that exist in another geographic area. For example, certain fish may appear on the species list because a project could affect downstream species.

IPaC does not display listed species or critical habitats under the sole jurisdiction of NOAA Fisheries¹, as USFWS does not have the authority to speak on behalf of NOAA and the Department of Commerce.

See the "Critical habitats" section below for those critical habitats that lie wholly or partially within your project area under this office's jurisdiction. Please contact the designated FWS office if you have questions.

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1. [NOAA Fisheries](#), also known as the National Marine Fisheries Service (NMFS), is an office of the National Oceanic and Atmospheric Administration within the Department of Commerce.

Mammals

NAME	STATUS
Northern Long-eared Bat <i>Myotis septentrionalis</i> No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/9045	Threatened

Birds

NAME	STATUS
Piping Plover <i>Charadrius melodus</i> Population: [Atlantic Coast and Northern Great Plains populations] - Wherever found, except those areas where listed as endangered. There is final critical habitat for this species. Your location is outside the critical habitat. Species profile: https://ecos.fws.gov/ecp/species/6039	Threatened
Red Knot <i>Calidris canutus rufa</i> No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/1864	Threatened
Roseate Tern <i>Sterna dougallii dougallii</i> Population: Northeast U.S. nesting population No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/2083	Endangered

Flowering Plants

NAME	STATUS
Sandplain Gerardia <i>Agalinis acuta</i> No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/8128	Endangered
Seabeach Amaranth <i>Amaranthus pumilus</i> No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/8549	Threatened

Critical habitats

THERE ARE NO CRITICAL HABITATS WITHIN YOUR PROJECT AREA UNDER THIS OFFICE'S JURISDICTION.
