Appendix G

National Marine Fisheries Service

Consultation

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Governor's Office of Storm Recovery

ANDREW M. CUOMO
Governor

MEMORANDUM

To: Living with the Bay – Stormwater Projects Environmental Review Record
From: Matt Accardi, Certifying Environemntal Officer, GOSR
Re: No Effect Determination: ESA-listed Species under NOAA's NMFS Jurisdiction
Date: August 28, 2020

The purpose of this memorandum is document compliance with Section 7 of the Endangered Species Act (ESA) with respect to the species listed under the jurisdiction of the National Oceanic and Atmospheric Administration (NOAA) National Marine Fisheries Service (NMFS).

The State of New York is the Grantee of Community Development Disaster Recovery (CDBG-DR) funds appropriated by the Disaster Relief Appropriations Act, 2013 (Pub. L. 113-2, approved January 29, 2013) related to disaster relief, long-term recover, restoration of infrastructure and housing, and economic revitalization in the most impacts and distressed areas resulting from a major disaster declared pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act of 1974 (Stafford Act) in calendar years 2011, 2012, and 2013. As the "Responsible Entity," as that term is defined by 24 CFR 58.2(a)(7)(i), the Governor's Office of Storm Recovery (GOSR) implements the State's obligations under the National Environmental Policy Act (NEPA). 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 Rebuild by Design, a competition lead by the U.S. Department of Housing and Urban Development, which responds to Hurricane Sandy's impacts in the region by addressing flooding caused by tidal surge and rainfall, improving coastal habitat and water quality, easing public access to the waterfront, and educating the public on stormwater and environmental management.

Pursuant to NEPA, and Section 7 of the ESA, GOSR must determine whether the Project would have any effects on ESA-listed species under the jurisdiction of NOAA's NMFS.

On May 11, 2020, GOSR submitted a request for consultation pursuant to Section 7 of the ESA to NOAA's NMFS. In its May 11, 2020 request for consultation, GOSR indicated that it determined the Project may affect, but is not likely to adversely affect any species or critical habitat under NOAA's NMFS jurisdiction. In subsequent conversations with NOAA's NMFS staff on May 12, 2020, GOSR was directed to re-consider its May 11, 2020 request for consultation in light of the "Section 7: Consultation Technical Guidance in the Greater Atlantic Region" available at https://www.fisheries.noaa.gov/new-england-mid-atlantic/consultations/section-7-consultation-technical-guidance-greater-atlantic.

In response, GOSR retained the services of qualified biologists at WSP to re-evaluate GOSR's prior determination per the instructions of NOAA's NMFS staff. On May 21, 2020, WSP provided GOSR a memorandum containing an analysis on the potential effects the Project could have on ESA-listed species under the jurisdiction of NOAA's NMFS pursuant to the Section 7: Consultation Technical Guidance in the Greater Atlantic Region (see attached). According to the memo, the Project is within the one-mile buffer of the species range established for the following species: Atlantic sturgeon (*acipenser oxyrinchus*); Green sea turtle (*chelonia mydas*); Kemp's Ridley turtle (*lepidochelys kempii*); Leatherback turtle (*dermochelys corniacea*); Loggerhead turtle (*caretta*). Based on the analysis completed by WSP biologists, the Project would have no effect on these species due to the lack of in-water work and/or that the Project components do not propose activities that would directly or indirectly affect any species under NOAA's NMFS jurisidiction.

Accordingly, GOSR has determined that the Project would not result in incidental take nor introduce stressors on listed species, such as: sound disturbance; changes in water depth or substrate characteristics; dredging; exposure to pollutants or changes in water quality; changes in abundance, availability, accessibility or quality of prey; loss of SAV or shellfish beds; or changes to in-water structures. And, pursuant to the Section 7: Consultation Technical Guidance in the Greater Atlantic Region, GOSR has determined that the Project would have No Effect on ESA-listed species under the jurisdiction of NOAA's NMFS.

Enclosures:

Memorandum: Living with the Bay Stormwater Infrastructure Upgrades Projects….NMFS Section 7 Review dated May 21, 2020

ENCLOSURES

MEMORANDUM

TO: Matt Accardi, Governor's Office of Storm Recovery

FROM: Tara Stewart, WSP

SUBJECT: Living with the Bay Stormwater Infrastructure Upgrades Projects
Villages of Rockville Centre and East Rockaway, and the Town of Hempstead, Nassau County
NMFS Section 7 Review – No Effect Determination

DATE: May 21, 2020

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 Rebuild by Design, a competition lead by the U.S. Department of Housing and Urban Development, which responds to Hurricane Sandy's impacts in the region by addressing flooding caused by tidal 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.

WSP biologists have reviewed the five components of the above-referenced Project, in accordance with National Oceanic and Atmospheric Administration (NOAA) National Marine Fisheries Service (NMFS) Greater Atlantic Regional Fisheries Office Section 7 Program Guidance, to determine whether Endangered Species Act (ESA) species under NOAA jurisdiction may be present at the Project component sites and/or adversely impacted by proposed activities. This memorandum provides a summary of listed species that may occur within the vicinity of the Project and an assessment of the potential for impacts to such species and/or their habitat. As discussed below, we have reviewed the Project and found that the Project, inclusive of all five components, would have No Effect on ESA species under NOAA jurisdiction.

1.0 INTRODUCTION

Attachment 1 includes figures depicting the five Project component locations. The effects of Project component activities that would be completed on land or in areas not accessible to ESA-listed species are not considered further in this consultation. The Project components on land or in areas not accessible to ESA-listed species include the following: Smith Pond Rehabilitation; East Rockaway High School Improvements; East, West, and North Boulevards Stormwater Drainage Improvements; and Mill River Greenway. These four components are described below, and the Lister Park Improvements component is discussed in Sections 3.0 - 6.0.

2.0 PROJECT COMPONENT ON LAND / NOT ACCESSIBLE TO ESA-LISTED SPECIES

2.1 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 at Smith Pond would consist of the following components: installation and construction of floodwalls and a floodgate; existing weir enhancements and access road construction; installation of a fish ladder; installation of a porous pavement parking lot; structural repair of a culvert head wall and wing walls; greenway and pedestrian outlook enhancements; and invasive vegetation removal.

Under existing conditions, the weir at the south end of Smith Pond does not allow fish passage from the downstream tidal portions of the Mill River. The portion of the Mill River between the existing weir and downstream culverts beneath the Long Island Railroad is nontidal. The tidal portion of the Mill River begins approximately 750 feet downstream of the weir. A temporary cofferdam would be installed downstream of the weir and remain in-place throughout installation of the fish ladder.

During preparation of a NYSDEC/USACE Joint Permit Application for the Smith Pond Rehabilitation project, a request was submitted to NMFS for information regarding the presence of ESA listed threatened or endangered species under NMFS jurisdiction. A response from NMFS on November 8, 2019 (included as **Attachment 2**) indicated that no federally listed or proposed threatened or endangered species under NMFS jurisdiction are known to exist in project area and a consultation in accordance with Section 7 of the ESA was not necessary. Therefore, the Smith Pond Rehabilitation component would have No Effect on NMFS ESA species and is not considered further in this analysis.

2.2 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 bulkhead improvements, green infrastructure, improved drainage from athletic fields, and installation of an emergency generator. For the bulkhead improvements, the existing bulkhead would be elevated by 2 feet above the current grade, and approximately 705 linear feet of proposed bulkhead would be built along the east side of the site, connecting to existing bulkheads.

Bulkhead construction for this component does not involve in-water work since the bulkhead would be installed above mean high water. NMFS ESA species would not be exposed to effects of land-based activities associated with this component. Therefore, the East Rockaway High School Improvements component would have No Effect on NMFS ESA species and is not considered further in this analysis.

2.3 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 comprise installation of conventional storm sewer structures, such as catch basins, manholes, and storm drainpipes; roadway enhancements; and installation of two bioretention basins.

All improvements would be constructed within existing roadway rights-of-way and would not involve in-water work. NMFS ESA species would not be exposed to effects of land-based activities. Therefore, the East, West, and North Boulevards Stormwater Drainage Improvements component would have No Effect on NMFS ESA species is not considered further in this analysis.

2.4 Mill River Greenway

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 five miles from Hempstead Lake State Park and Tanglewood Preserve south to Bay Park and Hewlett Bay.

This component does not involve in-water work. NMFS ESA species would not be exposed to effects of land-based activities associated with this component. Therefore, the Mill River Greenway component would have No Effect on NMFS ESA species is not considered further in this analysis.

3.0 LISTER PARK IMPROVEMENTS COMPONENT DESCRIPTION

South of Smith Pond, just north of East Rockaway High School, the Lister Park Improvements component would entail the proposed improvements: construction of a bioretention basin at Tighe Field; reconstruction and repaving of the existing parking lot and bioretention basin at Centennial Field; construction of porous asphalt greenway at Bligh Field; construction of an earthen berm and knee walls for flood protection at Bligh Field; in-kind replacement of overlooks at Bligh Field and Centennial Field; and installation of a living shoreline and bank stabilization along the Mill River, adjacent to Tighe, Centennial, and Bligh Fields.

Construction of the living shoreline at Lister Park would involve activity in tidal waters. Approximately 15,711 square feet (sf) (0.36 acre) of living shoreline would be constructed along approximately 3,550 linear feet of the existing river bank. Installation of living shorelines involves soils excavation, filling and grading, placement of rock sills for protection, and installing plantings. These activities would occur both above and below the mean high water (MHW) elevation. Installation of rock sills and lining for the living shoreline would result in temporary impact to 6,270 sf (0.14 acre) of intertidal wetland, permanent impact to 535 sf (0.01 acre) of intertidal wetland, and the conversion of 6,032 sf (0.14 acre) of open water to intertidal wetlands. Temporary disturbance in open waters is limited to installation of coir logs near the MLW elevation. The shallow slopes of the living shoreline sections would be primarily comprised of filter fabric and native plantings while the steep slope sections are comprised of terraced rock sills with filter fabric, coir logs, and native tidal and upland vegetation. Some grading of the existing slope and clean fill material is required to stabilize the shoreline. The purpose of the living shoreline is to enhance habitat quality and eliminate the erosion and bank instability that currently exists.

Replacement of the overlooks at Bligh Field and Centennial Field would not result in a loss of resource since they are in-kind replacements of the decking only. The existing footings of both overlook structures would remain in place. In-water activity is limited to the installation of turbidity barriers around both work areas for erosion control. The Bligh Field overlook sits on top of an existing stormwater outfall pipe which would be fitted with backflow prevention.

Construction of the Lister Park Improvement component is anticipated to begin in the fall of 2020 and be completed in the fall of 2021. Project implementation is conditioned upon issuance of applicable federal and state permits and would therefore be constructed in accordance with federal and state permit conditions. Proposed BMPs include working during low tide, turbidity barrier installations around the overlook work areas, and the installation of 12” coir logs staked and vegetated with saltmarsh bulrush (*Schoenoplectus robustus*) on 36” centers along the length of the living shoreline. Due the nature of the proposed activities, most construction would occur during low tides within areas above mean low water, avoiding in-water disturbance.

The potential effects on NMFS ESA species as a result of construction of the living shoreline and replacement of the two overlooks at Lister Park (the action) are considered below.

4.0 DESCRIPTION OF THE ACTION AREA

The Action Area is defined as “all areas to be affected directly or indirectly by the Federal action and not merely the immediate area involved in the action” (50CFR§402.02). The Lister Park Improvement component is proposed in a highly developed urban area along the Mill River in Nassau County, approximately 2.3 miles upstream of Hempstead Bay. The Mill River is a navigable, tidal watercourse which is classified by the New York State Department of Environmental Conservation (NYSDEC) as SC (marine waters) which contains a best usage for fishing (6 NYCRR Section 885-176). For this analysis, the Action Area is confined to the intertidal shoreline where the living shoreline is proposed and the open water where turbidity barriers would be installed for the overlook replacements. The existing shoreline where the living shoreline is proposed is predominantly natural eroding shoreline, with small segments of bulkhead and concrete wall. The overlook is on top of an existing stormwater outfall pipe. **Attachment 3** includes figures showing Existing and Proposed Conditions along the shoreline within the Action Area. Flow restrictions from a culvert contribute to lower MHW levels (+2.0 FT NAVD) in the north section of Action Area compared to the southern section (+2.7 FT NAVD). Mean Low Water (+1.3 FT NAVD) is consistent throughout the Action Area.

5.0 NMFS LISTED SPECIES (AND CRITICAL HABITAT) IN THE ACTION AREA

Table 1 lists the NOAA ESA species in the Greater Atlantic Region. According to a review of NOAA critical habitat maps[i] and NOAA ESA Section 7 mapper[ii], no critical habitat for any species exists in or near the Action Area. Based the NOAA ESA Section 7 mapper[iii] query results (see **Attachment 4**) and species tables, the Action Area is not within the range of any ESA species. The Action Area is within one mile of waters used by Atlantic sturgeon and green, Kemp’s Ridley, leatherback and loggerhead sea turtles.

Table 1. NMFS Endangered Species Act Species within the Greater Atlantic Region

	Common Name	Scientific Name	Federal and State Listing	Action Area within Species Range	Action Area within One-Mile Buffer of Species Range
Fish	Atlantic salmon	*Salmon salar*	Endangered	No	No
	Shortnose sturgeon	*Acipenser brevirostrum*	Endangered	No	No
	Atlantic sturgeon	*Acipenser oxyrinchus*	Endangered	No	Yes
Sea Turtles	Green sea turtle	*Chelonia mydas*	Threatened	No	Yes
	Hawksbill turtle	*Eretmochelys imbricate*	Endangered	No	No
	Kemp's Ridley turtle	*Lepidochelys kempii*	Endangered	No	Yes
	Leatherback turtle	*Dermochelys coriacea*	Endangered	No	Yes
	Loggerhead turtle	*Caretta*	Threatened	No	Yes
Marine Mammals	Blue whale	*Balaenoptera musculus*	Endangered	No	No
	Fin whale	*Balaenoptera physalus*	Endangered	No	No
	North Atlantic right whale	*Eubalaena glacialis*	Endangered	No	No
	Sei whale	*Balaenoptera borealis*	Endangered	No	No
	Sperm whale	*Physeter microcephalus*	Endangered	No	No

Atlantic Sturgeon

Atlantic sturgeon migrate through and forage in the coastal waters of Long Island, but are not expected to occur in the immediate vicinity of the Action Area. As depicted in **Attachment 4**, the Action Area is approximately 0.8 upstream of this species' range. Occurrence in waters within the Action Area would be tied to the presence of suitable benthic resources for foraging; however, the Action Area has no submerged aquatic vegetation (SAV) and limited benthic resources. Additionally, because the Action Area is located in saline, tidally influenced waters, no eggs, larvae or juvenile Atlantic sturgeon would be present. The Action Area does not contain any known overwintering areas; thus, only sub-adult and adult Atlantic sturgeon would potentially be present in the tidal portions of the Mill River from April through November. Construction is planned to occur during the winter months, avoiding this time frame that transient sea turtles and sub-adult and adult sturgeon occur in Long Island coastal waters. Should some construction activities occur between April and November, it is not anticipated that Atlantic sturgeon would be present within the Action Area due to lack of breeding, overwintering, and foraging habitat.

Sea turtles

Sea turtle species migrate through and forage the coastal waters of Long Island seasonally (approximately May–December), but are not expected to occur in the immediate vicinity of the Action Area. As depicted in **Attachment 4**, the Action Area is approximately 0.8 upstream of these species' range. Sea turtle occurrence in waters within the Action Area would be tied to the presence of suitable foraging habitat. Leatherback sea turtles feed almost exclusively on jellyfish in offshore marine environments, whereas green sea turtles tend to frequent seagrass beds. Loggerhead and Kemp's ridley sea turtles feed on mollusks and crustaceans. The Action Area has no SAV and limited benthic resources. Sea turtles are only found in the northeast during the summer and fall months, with the highest

concentrations of turtles occurring from June through October. Construction is planned to occur during the winter months, avoiding this time frame that transient sea turtles occur in Long Island coastal waters. Should some construction activities occur between May and November, it is not anticipated that Atlantic sturgeon or sea turtles would be present within the Action Area due to lack of breeding, overwintering, and foraging habitat.

6.0 EFFECT DETERMINATION

The effects of the action on ESA species are summarized below for each potential stressor analyzed.

Sound

Minimal in-water activity is anticipated to occur during implementation of the action and construction is not expected to create a significant increase in ambient noise levels within the Action Area. All work would be conducted from land. In-water activity would be limited to installation of erosion control measures (turbidity curtains and coir logs). Due to the nature of the activity, most construction would be conducted during low tide. The majority of the construction would occur during the fall and winter months when Atlantic sturgeon and sea turtles would not be present in the Mill River. If some activity occurs during late spring or summer, the nearest potential occurrence of these species would be approximately 0.8 miles downstream from the Action Area.

Atlantic sturgeon and sea turtles would not be present where potential effects from temporary noise disturbance are likely to occur. The action would have No Effect on Atlantic sturgeon or sea turtles from exposure to noise.

Habitat Structure & Disturbance

The Action Area does not provide habitat for Atlantic sturgeon or sea turtles, and neither are expected to occur in the Action Area. Occurrence of these species within the Action Area would be tied to the presence of suitable benthic resources for foraging; however, the Action Area has no SAV and limited benthic resources. The nearest potential occurrence of these species would be approximately 0.8 miles downstream from the Action Area.

The action would have No Effect on Atlantic sturgeon or sea turtles from disturbance to habitat or changes in habitat structure and characteristics.

Dredging

The action does not include dredging. The action would have No Effect on Atlantic sturgeon or sea turtles from exposure to effects from dredging.

Water Quality

Silt fencing would be installed to prevent sediment and debris from discharging into the Mill River as part of stormwater runoff during land-based activities. Inlet filters would also be installed in existing catch basins to prevent construction sediment and debris from entering the existing storm water system and discharging into the Mill River. Working in tidal wetlands during low tide, installation of turbidity barriers, and the placement of staked coir logs near MLW elevation would prevent or minimize any impact to water quality during living shoreline installation.

Atlantic sturgeon and sea turtles would not be present in the Action Area. The action would not result in any significant increase in surface run-off to the Mill River that may impact downstream habitat for ESA listed species. The Project is designed to help mitigate and control stormwater runoff and would have beneficial impacts on water quality. The action would have No Effect on Atlantic sturgeon or sea turtles from exposure to pollutants or changes in water quality, water current, or temperature.

Prey Quantity/Quality

The Action Area does not provide foraging habitat for Atlantic sturgeon or sea turtles, and neither are expected to occur in the Action Area. The action would not result in the loss of SAV or shellfish beds and would have No Effect on Atlantic sturgeon or sea turtles from changes in the abundance, availability, accessibility, or quality of prey.

Vessels

Atlantic sturgeon and sea turtles would not be present in the Action Area, and all work would be conducted from land. The action would have No Effect on Atlantic sturgeon or sea turtles from exposure to increased risk of vessel strike.

In-water Structures Including Aquaculture

Atlantic sturgeon and sea turtles would not be present in the Action Area. The action would have No Effect on Atlantic sturgeon or sea turtles from exposure to in-water structures.

7.0 CONCLUSIONS

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. Four components, Smith Pond Rehabilitation, East Rockaway High School Improvements, Mill River Greenway, and East, West, and North Boulevards Stormwater Drainage Improvements were determined to have No Effect on NMFS ESA species based on lack of in-water work and/or presence of ESA species and were not considered further in this analysis. Conclusions regarding potential effects on NMFS ESA species from implementation of the Lister Park Improvements component are summarized below.

Based on this analysis, there are no activities related to the Lister Park Improvement component that would directly or indirectly affect any ESA species under NMFS jurisdiction. The action would not result in incidental take nor introduce stressors on listed species, such as: sound disturbance; changes in water depth or substrate characteristics; dredging; exposure to pollutants or changes in water quality; changes in the abundance, availability, accessibility or quality of prey; loss of SAV or shellfish beds; or changes to in-water structures. Pursuant to the NMFS Greater Atlantic Region Endangered Species Act Section 7 Program, a No Effect Determination has been made for Lister Park Improvement component.

Attachments:
1) Project Location Figures
2) NMFS Correspondence Regarding Smith Pond Rehabilitation Project
3) Lister Park Shoreline Existing and Proposed Conditions Figures
4) Lister Park NOAA Section 7 Mapper Results

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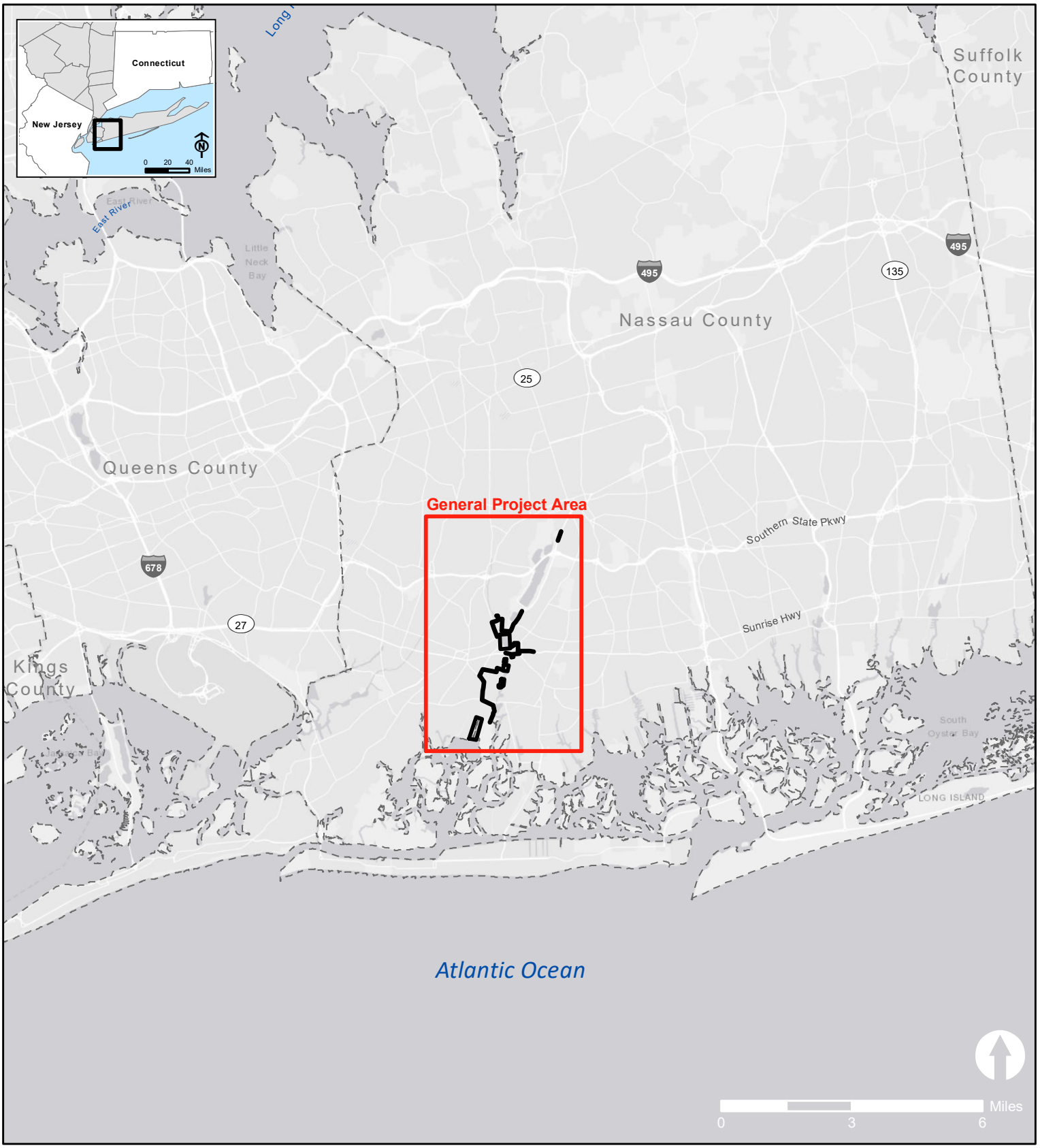
[i] https://www.fisheries.noaa.gov/new-england-mid-atlantic/consultations/section-7-species-critical-habitat-information-maps-greater#species-and-critical-habitat-maps
[ii] https://noaa.maps.arcgis.com/apps/webappviewer/index.html?id=1bc332edc5204e03b250ac11f9914a27
[iii] https://noaa.maps.arcgis.com/apps/webappviewer/index.html?id=1bc332edc5204e03b250ac11f9914a27

ATTACHMENTS

ATTACHMENT 1



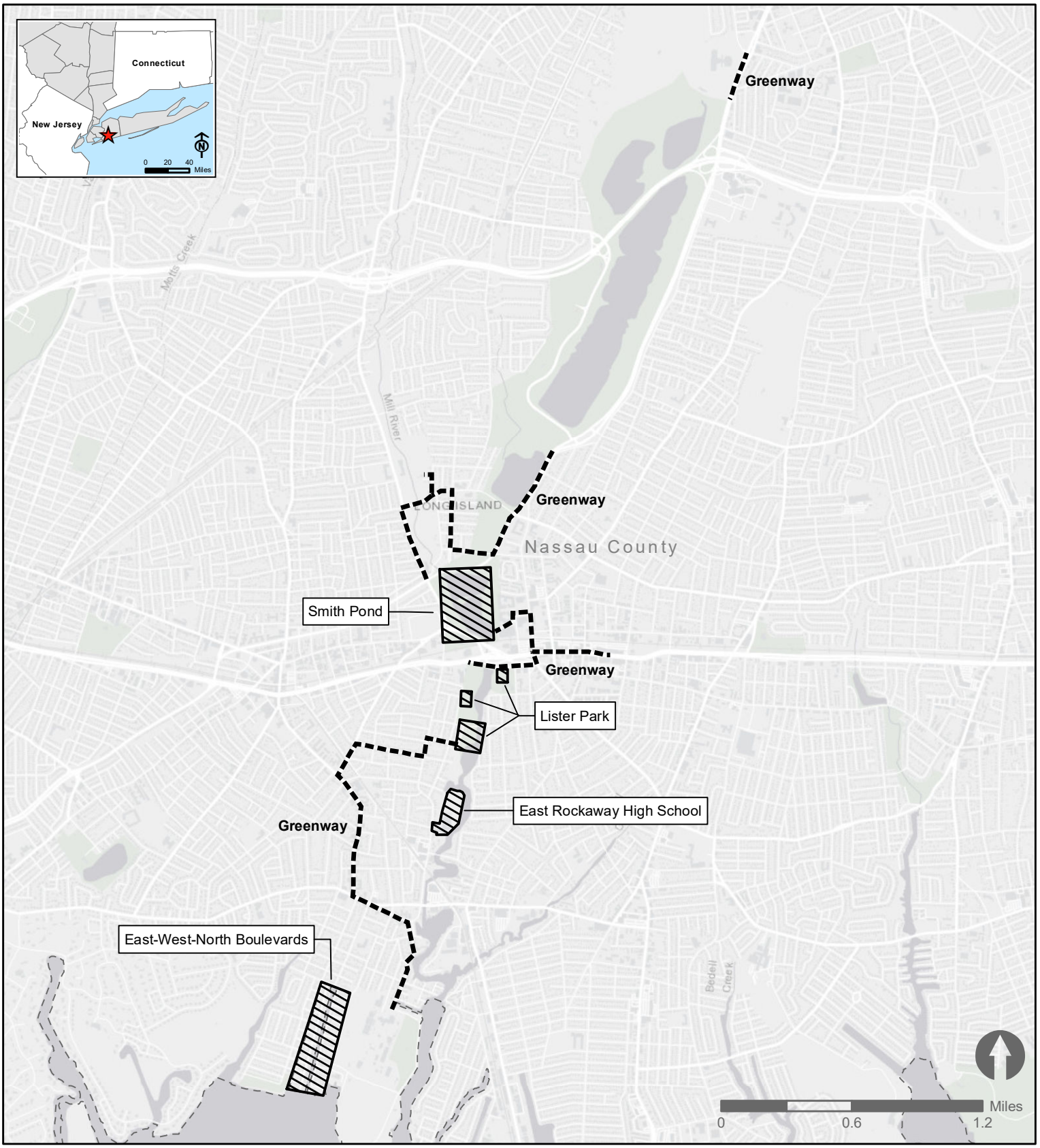
Project Component

County Boundary

Regional Location

Living with the Bay Stormwater Project

Source: ESRI World Light Gray Canvas Base



Project Centerline
Project Boundary
County Boundary

Project Location

Living with the Bay Stormwater Project

Source: ESRI World Light Gray Canvas Base

ATTACHMENT 2

From:	Edith Carson-Supino - NOAA Federal
To:	Stewart, Tara
Cc:	Karen Greene - NOAA Federal
Subject:	Re: Smith Pond Rehabilitation Project - ESA request for info
Date:	Friday, November 8, 2019 9:41:04 AM
Attachments:	Incoming - Figure 1_Site location.pdf

External

Ms. Stewart:

Thank you for requesting technical assistance regarding ESA listed species under our jurisdiction. In the future, please send all requests to our Section 7 email address: nmfs.gar.esa.section7@noaa.gov.

You can also find information about the temporal and spatial distribution of species and their different life stages on our interactive species mapper. The mapper can be found on our website at https://noaa.maps.arcgis.com/apps/webappviewer/index.html?id=1bc332edc5204e03b250ac11f9914a27.

We received your email on November 7, 2019, regarding the proposed Smith Pond Rehabilitation project within Morgan Days Park in the Village of Rockville Centre, NY (attached). Here are our comments.

Endangered Species Act

No federally listed or proposed threatened or endangered species under our jurisdiction are known to exist in the site of your proposed project. Based on this, we do not believe a consultation in accordance with section 7 of the Endangered Species Act is necessary. As such, no further coordination on this activity with the NOAA Fisheries Protected Resources Division is necessary at this time. Should project plans change or new information become available that changes the basis for this determination, further coordination should be pursued. Please contact me ((978) 282-8490 or Edith.Carson-Supino@noaa.gov), should you have any questions regarding these comments.

Magnuson-Stevens Fishery Conservation and Management Act - Essential Fish Habitat

Recent changes to the Corps of Engineers' Nationwide Permits have removed the requirement that NOAA Fisheries be contacted for information on essential fish habitat and that applicants provide evidence of the contact and our resources. You now access the information on your own from our websites. The Habitat Conservation Division's website is: https://www.fisheries.noaa.gov/new-england-mid-atlantic/habitat-conservation/conserving-habitat-greater-atlantic-region. Information on essential fish habitat can be found there.

Thank you,

Edith

Edith Carson-Supino, M.Sc.
Section 7 Fish Biologist
NOAA Fisheries
U.S. Department of Commerce
Greater Atlantic Regional Fisheries Office
Phone: 978-282-8490

edith.carson-supino@noaa.gov

For ESA Section 7 guidance please see:
https://www.greateratlantic.fisheries.noaa.gov/section7

On Thu, Nov 7, 2019 at 9:59 AM Stewart, Tara <tara.stewart@wsp.com> wrote:

> Hi Ms. Carson-Supino,
>
> Louis Berger (a WSP Company) is preparing a Joint permit application to obtain state and federal approvals for the Smith Pond Rehabilitation Project on behalf the Governor's Office of Storm Recovery (GOSR) and the Housing Trust Fund Corporation (HTFC). Smith Pond is locating within Morgan Days Park in the Village of Rockville Centre, NY. The project area is shown on the attached figure.
>
> The project is part of the Rebuild by Design Living with the Bay (RBD LWTB) Resiliency Strategy. GOSR/HTFC received a federal grant to assist New York State in the implementation of several projects identified in the RBD LWTB, including the Smith Pond Rehabilitation Project. The proposed improvements at Smith Pond include installation and construction of a floodwalls and floodgates, an access road to the existing pond's weir, rehabilitation of the pond's weir, a fish ladder, porous pavement parking lots, greenway path enhancements, improvements at the northern overlook and the culvert headwall, and removal of invasive plant species and planting of native vegetation. All these improvements provide various types of resiliency improvements within the watershed as described:
>
> — The floodwalls and floodgates are designed to keep the 100-year flood elevation of the pond within the park property.
>
> — The access road will provide improved access to the existing weir for routine maintenance.
>
> — The weir improvements will repair areas of weakness to increase the life and longevity of the structure.
>
> — The fish ladder at the south end of Smith Pond will improve fish habitat in the river by allowing for migration of American eel and herring.
>
> — The porous pavement in the existing parking lots will provide water quality treatment and groundwater infiltration.
>
> — The greenway will allow for a continuous pedestrian passage from north to south

in the park along the pond and to the fish ladder for public viewing.

— Removal of nuisance aquatic plants and invasive plants species to improve the ecological health of the pond, forested wetlands, and the adjoining Adjacent Areas (buffers), allowing existing native plantings to thrive. Areas with dense growth of invasive species will be replanted with native species.

The weir at the south end of Smith Pond serves as the divide in the Mill River between the upstream freshwater system and the downstream tidal saltwater system. Since the fish ladder component of the project will affect tidal waters below the existing weir structure on the Mill River, this email is requesting information regarding the presence of Endangered Species Act (ESA) listed threatened or endangered species under the jurisdiction of NOAA's National Marine Fisheries Service (NMFS) with the subject project site.

Thank you for your assistance,

Tara Stewart

Tara Stewart, CE, ENV SP

Sr. Environmental Scientist

Louis Berger U.S., Inc.

A WSP Company

Please note the new email address.

Email: tara.stewart@wsp.com

Phone: +1 973 407 1473

WSP USA

412 Mount Kemble Avenue

Morristown, NJ 07962

ATTACHMENT 3

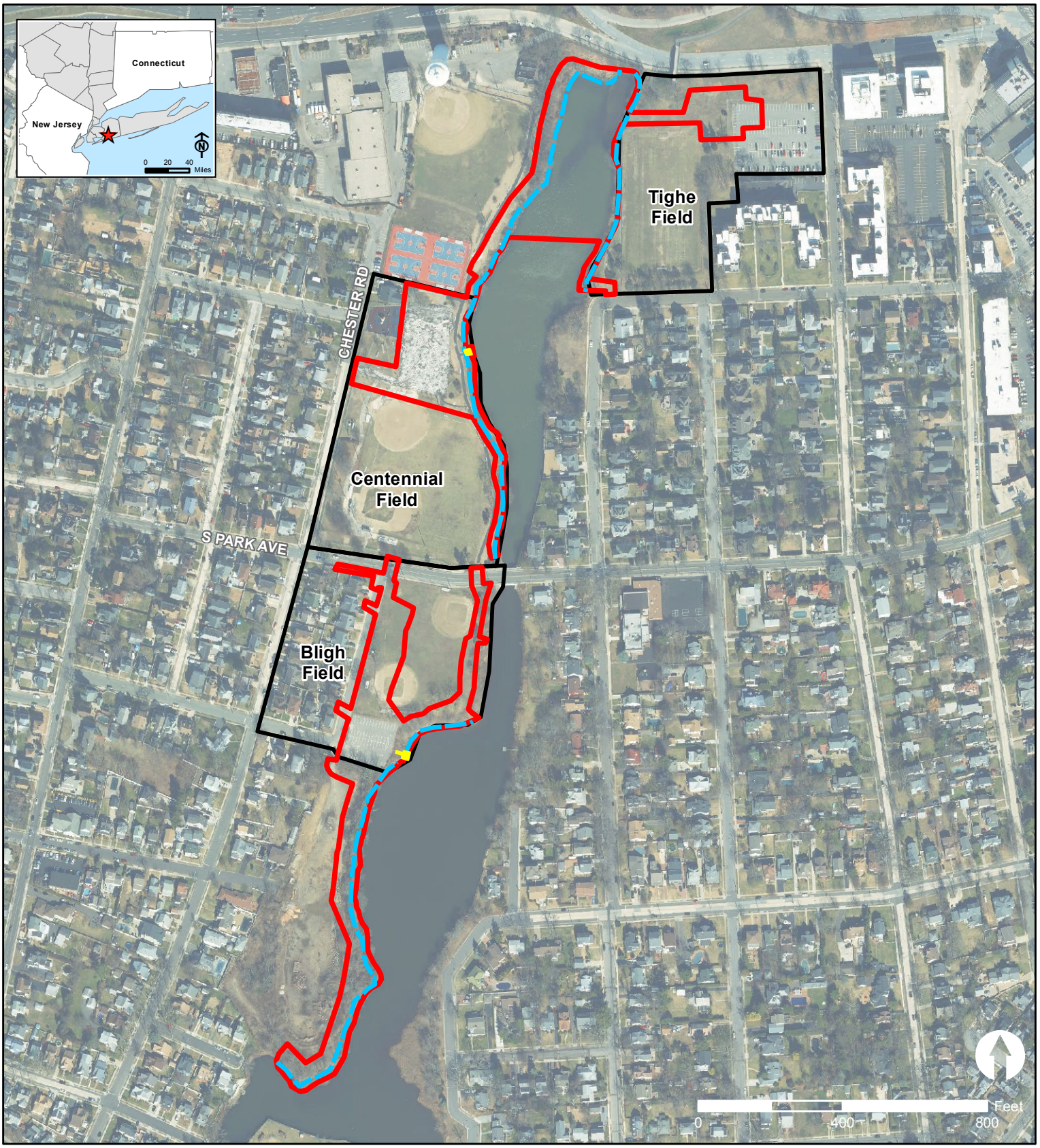
Shoreline Type

- Bulkhead
- Concrete End Wall
- Natural Shoreline
- Outlook

Living Shoreline Existing Conditions

Living with the Bay Stormwater Infrastructure Upgrades Projects

Source: NY Orthoimagery 2016



Area of Work
Project Area
Proposed Lister Park Living Shoreline
Outlook

Lister Park

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

Living with the Bay Stormwater Projects

Source: NY Orthoimagery 2016

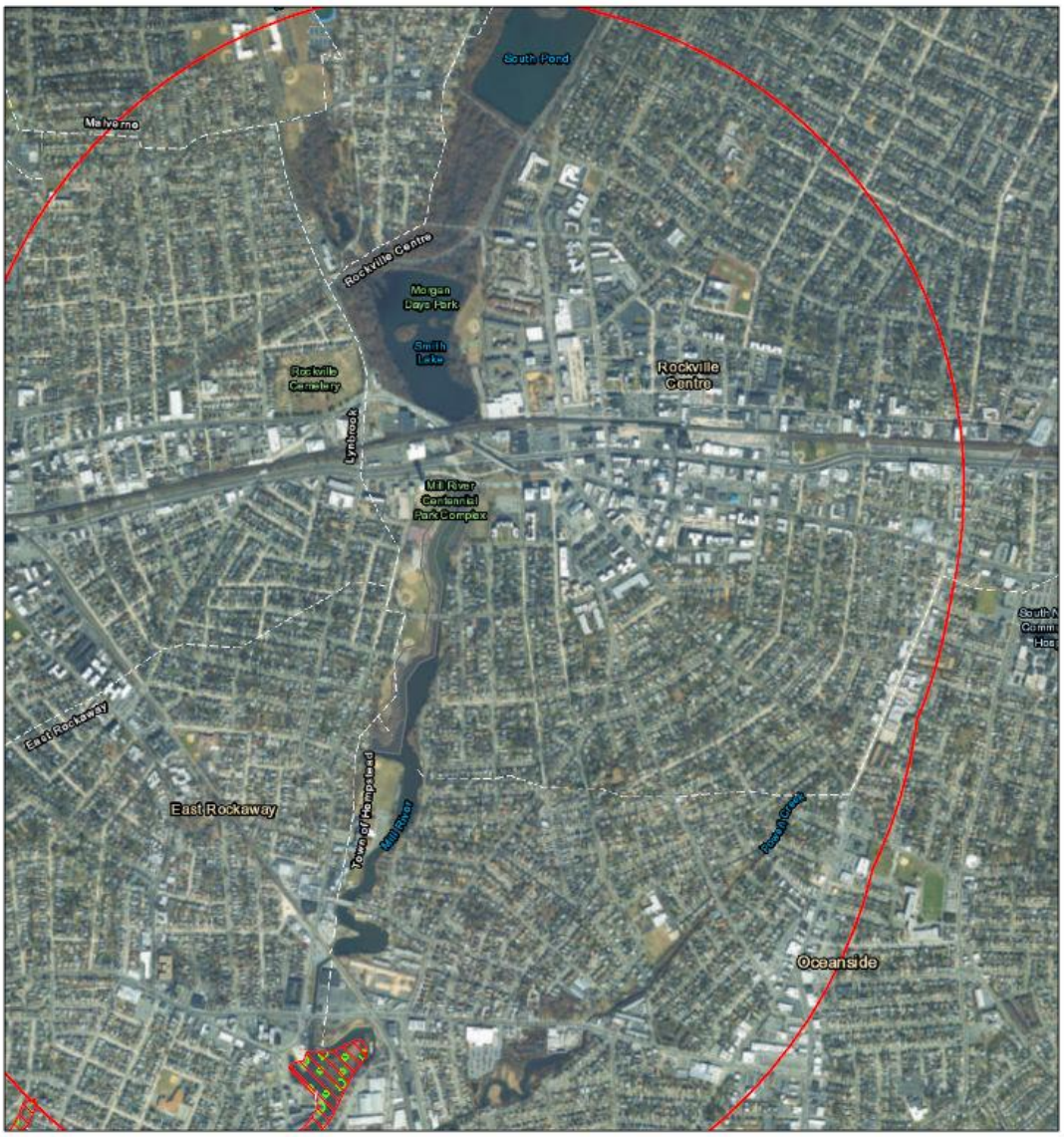
ATTACHMENT 4

Drawn Action Area & Overlapping S7 Consultation Areas

Area of Interest (AOI) Information

Area : 2,851.55 acres

May 15 2020 16:15:46 Eastern Daylight Time



Atlantic Sturgeon

Sea Turtles

1:24,075

0 0.15 0.3 0.6 mi

0 0.25 0.5 1 km

Esri, HERE, Garmin, (c) OpenStreetMap contributors, and the GIS user community, Source: Esri, DigitalGlobe, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community

Living with the Bay Stormwater Infrastructure Upgrades - Lister Park Living Shoreline

Summary

Name	Count	Area(acres)	Length(mi)
Atlantic Sturgeon	2	38.46	N/A
Shortnose Sturgeon	0	0	N/A
Atlantic Salmon	0	0	N/A
Sea Turtles	4	76.91	N/A
Atlantic Large Whales	0	0	N/A
In or Near Critical Habitat	0	0	N/A

Atlantic Sturgeon

#	Feature ID	Species	Life Stage	Behavior	Zone
1	ANS_C50_ADU_MAF	Atlantic sturgeon	Adult	Migrating & Foraging	N/A
2	ANS_C50_SUB_MAF	Atlantic sturgeon	Subadult	Migrating & Foraging	N/A

#	From	Until	From (2)	Until (2)	Area(acres)
1	01/01	12/31	N/A	N/A	19.23
2	01/01	12/31	N/A	N/A	19.23

Sea Turtles

#	Feature ID	Species	Life Stage	Behavior	Zone
1	GRN_STS_AJV_MAF	Green sea turtle	Adults and juveniles	Migrating & Foraging	Massachusetts (S of Cape Cod) through Virginia
2	KMP_STS_AJV_MAF	Kemp's ridley sea turtle	Adults and juveniles	Migrating & Foraging	Massachusetts (S of Cape Cod) through Virginia
3	LTR_STS_AJV_MAF	Leatherback sea turtle	Adults and juveniles	Migrating & Foraging	Massachusetts (S of Cape Cod) through Virginia
4	LOG_STS_AJV_MAF	Loggerhead sea turtle	Adults and juveniles	Migrating & Foraging	Massachusetts (S of Cape Cod) through Virginia

#	From	Until	From (2)	Until (2)	Area(acres)
1	5/1	11/30	*No Data*	*No Data*	19.23
2	5/1	11/30	*No Data*	*No Data*	19.23
3	5/1	11/30	*No Data*	*No Data*	19.23
4	5/1	11/30	*No Data*	*No Data*	19.23

DISCLAIMER: Use of this App does NOT replace the Endangered Species Act (ESA) Section 7 consultation process; it is a first step in determining if a proposed Federal action overlaps with listed species or critical habitat presence. Because the data provided through this App are updated regularly, reporting results must include the date they were generated. The report outputs (map/tables) depend on the options picked by the user, including the shape and size of the action area drawn, the layers marked as visible or selectable, and the buffer distance specified when using the "Draw your Action Area" function. Area calculations represent the size of overlap between the user-drawn Area of Interest (with buffer) and the specified S7 Consultation Area. Summary table areas represent the sum of these overlapping areas for each species group.

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Governor's Office of
Storm Recovery

ANDREW M. CUOMO
Governor

May 29, 2020

Ms. Karen Greene
Mid-Atlantic Field Office Supervisor and EFH Coordinator
NOAA Fisheries
Via email: Karen.Greene@noaa.gov

Re: Essential Fish Habitat Assessment
Living with the Bay Stormwater Infrastructure Upgrades Projects
Villages of Rockville Centre and East Rockaway, and the Town of Hempstead,
Nassau County, New York

Dear Ms. Greene:

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 Rebuild by Design, a competition lead by the U.S. Department of Housing and Urban Development which responds 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 submit Essential Fish Habitat (EFH) Worksheets for the Project components that involve in-water work to the National Oceanic and Atmospheric Administration (NOAA) Fisheries Greater Atlantic Regional Fisheries Office to document compliance with the Magnuson-Stevens Fishery Conservation and Management Act (MSA) and the Fish and Wildlife Coordination Act (FWCA). As per the attached Worksheets and discussed below, we have reviewed the Project and found that the Project does not result in a substantial adverse effect to EFH. This letter requests an abbreviated consultation and acknowledgement from NOAA that they have received our determination regarding the Project, and that NOAA has no objections to the determination. GOSR also hereby requests any EFH conservation recommendations and recommendations under the FWCA.

1.0 INTRODUCTION

Attachment 1 includes figures depicting the five Project component locations. Three Project components, East Rockaway High School Improvements; East, West, and North Boulevards Stormwater Drainage Improvements; and Mill River Greenway, do not involve in-water work. These three components are described briefly in Section

2.0 but are not considered further in the assessment. The remaining two components, Smith Pond Rehabilitation and Lister Park Improvements, involve in-water work and are discussed in Sections 3.0 - 6.0.

2.0 PROJECT COMPONENTS NOT ASSESSED FOR EFFECTS ON EFH OR NOAA TRUST RESOURCES

2.1 East Rockaway High School Improvements

Located along the west bank of the Mill River, the East Rockaway High School component would involve bulkhead improvements, green infrastructure, improved drainage from athletic fields, and installation of an emergency generator. For the bulkhead improvements, the existing bulkhead would be elevated by 2 feet above the current grade, and approximately 705 linear feet of proposed bulkhead would be built along the east side of the site, connecting to existing bulkheads. Bulkhead construction for this component does not involve in-water work since the bulkhead would be installed above mean high water. Therefore, the East Rockaway High School Improvements component would have no effect on EFH or NOAA trust resources and is not considered further in this analysis

2.2 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. The proposed improvements would comprise installation of conventional storm sewer structures, such as catch basins, manholes, and storm drainpipes; roadway enhancements; and installation of two bioretention basins. All improvements would be constructed within existing roadway rights-of-way and would not involve in-water work. Therefore, the East, West, and North Boulevards Stormwater Drainage Improvements component would have no effect on EFH or NOAA trust resources and is not considered further in this analysis.

2.3 Mill River Greenway:

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 five miles from Hempstead Lake State Park and Tanglewood Preserve south to Bay Park and Hewlett Bay. This component does not involve in-water work. Therefore, the Mill River Greenway component would have no effect on EFH or NOAA trust resources and is not considered further in this analysis.

3.0 PROJECT COMPONENTS ASSESSED FOR EFFECTS ON EFH AND NOAA TRUST RESOURCES

3.1 Smith Pond Rehabilitation

Smith Pond is a 22-acre freshwater pond located along the Mill River within Morgan Days Park, north of Sunrise Highway, in the Village of Rockville Centre. The proposed improvements at Smith Pond consist of the following components: installation and construction of floodwalls and a floodgate; existing weir enhancements and access road construction; installation of a fish ladder; installation of a porous pavement parking lot; structural repair of a culvert head wall and wing walls; greenway and pedestrian outlook enhancements; and invasive vegetation removal.

Based upon *The Classification of Wetlands and Deepwater Habitats of the United States* (Cowardin et al. 1979), Smith Pond is designated as Lacustrine, Limnetic, Unconsolidated Bottom, Permanently Flooded, Diked/Impounded (L1UBHh). Downstream of the existing weir at the south end of the pond is classified as Riverine, Lower Perennial, Unconsolidated Bottom, Permanently Flooded (R2UBH). Surface water enters Smith Pond from the north through Mill River and Pines Brook and discharges at the weir to a concrete bottom channel/basin to the south. The channel is then culverted to the tidal portion of Mill River which begins approximately 750 feet downstream of the weir, south of Sunrise Highway and Merrick Road. Under existing conditions, the weir at the south end of Smith Pond does not allow fish passage from the downstream portions of the Mill River. Therefore, only in-water activities within the concrete lined channel/basin downstream of the weir were analyzed for potential impacts adverse effects to EFH and NOAA trust resources in this analysis. The introduction of diadromous fish passage into Smith Pond as a result of the fish ladder installation is also considered.

Photographs of the area are included as Attachment 2 and figures depicted the proposed components of Smith Pond Improvements are included in Attachment 3. Weir enhancements proposed include structural reinforcement along the face of the weir with a new concrete block to convert the timber pile facade. Additionally, the adjacent timber bulkheads and piles would be replaced with a new concrete bulkhead and h-piles tied into the weir and receiving channel concrete slab. Cracks and splits in the receiving concrete slab would also be repaired to prevent the expression of groundwater into the concrete lined channel.

A fish ladder would be constructed at the weir to allow migration of diadromous fish into Smith Pond. The primary target species is alewife (*Alosa pseudoharengus*) because these fish have been observed trapped downstream of the weir. The fish ladder was designed in coordination with a United States Fish and Wildlife Service (USFWS) fishway engineer and a United States Geological Survey (USGS) eel expert. The proposed fish ladder is a pool and chute fishway which will operate at a range of streamflows that occur during the spring months at Smith Pond. Each pool would have dimensions of 6-feet-long by 6-feet-wide, with a minimum depth of 2.5-feet and a drop per pool of 0.5-feet. The fishway also includes design elements that would allow the upstream passage of juvenile (glass) American eels (*Anguilla rostrata*), which may use Smith Pond as rearing habitat during their period of freshwater residence. The fishway may also be used by other fish species that currently are blocked from upstream movement by the Smith Pond weir. The fishway would be located next to the greenway trail, which would allow the public to observe fish moving through the ladder when operational. A metal grate would overtop the fish ladder structure to prevent debris from entering from above, and a weir control gate at the upstream end of the ladder would allow for maintenance of the structure.

Weir enhancements and fish ladder installation would result in temporary impact to approximately 0.146 acre of open water within the nontidal, concrete lined channel/basin. Project implementation is conditioned upon issuance of applicable federal and state permits and would therefore be constructed in accordance with federal and state permit conditions. Temporary cofferdams would be installed downstream of the weir (at the existing culvert) and upstream of the weir to prevent fish from entering the basin. Construction of the weir enhancements and fish ladder installation would begin in November 2020 and be completed in January 2021, prior to spring fish migration.

3.2 Lister Park Improvements

The Lister Park Improvements component is located in a highly developed urban area along the Mill River, approximately 2.3 miles upstream of Hempstead Bay. South of Smith Pond, just north of East Rockaway High School, the Lister Park Improvements project would entail the proposed improvements: construction of a

bioretention basin at Tighe Field; reconstruction and repaving of the existing parking lot and bioretention basin at Centennial Field; construction of porous asphalt greenway at Bligh Park; construction of an earthen berm and knee walls for flood protection at Bligh Field; in-kind replacement of overlooks at Bligh Field and Centennial Field; and installation of a living shoreline and bank stabilization along the Mill River, adjacent to Tighe, Centennial, and Bligh Fields.

Installation of the living shoreline and replacement of the overlooks would involve activity above and below mean high water (MHW) along the shoreline of the Mill River. Photographs of this area are included as Attachment 2. Attachment 4 includes figures showing Existing and Proposed Conditions along the shoreline. The existing shoreline is predominantly natural eroding shoreline, with small segments of bulkhead and concreate wall. Intertidal wetland vegetation, where present, is predominantly common reed (*Phragmites australis*). Flow restrictions from a culvert contribute to lower MHW levels (+2.0 FT NAVD) in the north section of action area compared to the southern section (+2.7 FT NAVD). Mean Low Water (+1.3 FT NAVD) is consistent throughout the action area.

Approximately 15,711 square feet (sf) (0.36 acre) of living shoreline would be constructed along approximately 3,550 linear feet of the existing river bank. Installation of living shorelines involves soils excavation, filling and grading, placement of rock sills for protection, and installing plantings. Installation of rock sills and lining for the living shoreline would result in temporary impact to 6,270 sf (0.144 acre) of intertidal wetland, permanent impact to 535 sf (0.012 acre) of intertidal wetland, and the conversion of 6,032 sf (0.138 acre) of open water to intertidal wetlands. Temporary disturbance in open waters is limited to installation of coir logs near the MLW elevation. The shallow slopes of the living shoreline sections would be primarily comprised of filter fabric and native plantings while the steep slope sections are comprised of terraced rock sills with filter fabric, coir logs, and native tidal and upland vegetation. Some grading of the existing slope and clean fill material is required to stabilize the shoreline. The purpose of the living shoreline is to enhance habitat quality and eliminate the erosion and bank instability that currently exists.

Replacement of the overlooks at Bligh Field and Centennial Field would not result in a loss of resource since they are in-kind replacements of the decking only. The existing footings of both overlook structures would remain in place. In-water activity is limited to temporary disturbance from the installation of turbidity barriers around both work areas for erosion control. The Bligh Field overlook sits on top of an existing stormwater outfall pipe which would be fitted with backflow prevention.

Construction of the Lister Park Improvement component is anticipated to begin in the fall of 2020 and be completed in the fall of 2021. Project implementation is conditioned upon issuance of applicable federal and state permits and would therefore be constructed in accordance with federal and state permit conditions. Proposed BMPs include working during low tide, turbidity barrier installations around the overlook work areas, and the installation of 12" coir logs staked and vegetated with saltmarsh bulrush (*Schoenoplectus robustus*) on 36" centers along the length of the living shoreline. Due the nature of the proposed activities, most construction would occur during low tides within areas above mean low water, avoiding in-water disturbance.

4.0 ESSENTIAL FISH HABITAT ASSESSMENT

Completed *NOAA Fisheries Greater Atlantic Regional Fisheries Office Essential Fish Habitat Assessment & Fish and Wildlife Coordination Act Worksheets* for the Smith Pond Rehabilitation component and the Lister Park Improvements components are provided as Attachment 5 and Attachment 6, respectively. The worksheets provide an analysis of

the potential adverse effects on EFH and federally managed species and GOSR's conclusions regarding the effects of the action on EFH.

4.1 Smith Pond Rehabilitation

According to NOAA's EFH Mapper, Smith Pond and the concrete-lined basin immediately downstream of the weir are designated as EFH for various life stages of 17 species. The EFH mapper query results are provided as Attachment 7. However, under existing conditions the weir at the south end of Smith Pond does not allow fish passage from the downstream of the Mill River, and the tidal portion of the Mill River begins approximately 750 feet downstream of the weir. The concrete-lined basin is nontidal and is not expected to contain EFH, but does contain diadromous fish habitat. Anadromous fish, specifically alewife, are known to occur in the basin, blocked from passage into Smith Pond by the weir. The action area is not mapped as a Habitat Area of Particular Concern (HAPC) or EFH Area Protected (EFHA) from fishing.

Weir enhancements and fish ladder installation would result in temporary impact to approximately 0.146 acre of open water within a nontidal, concrete lined basin. Turbidity increases during construction would be temporary and localized. Temporary cofferdams would prevent fish from entering the action area, avoiding fish exposure to stressors during construction. Silt fencing would be installed to prevent sediment and debris from discharging into waters during land-based activities. The installation of a fish ladder would provide a route for migrating fish to swim upstream and downstream of the existing weir, supporting historic fish migration in the upper section of the Mill River. The Smith Pond Rehabilitation component would have no effect on EFH. There would be temporary disturbance in known diadromous fish habitat, but the project would result in beneficial effects on diadromous fish migration.

4.2 Lister Park Improvements

According to NOAA's EFH Mapper, the action area is designated as EFH for various life stages of 17 species. The EFH mapper query results are provided as Attachment 8. The probability for various life stages of each species to occur within the action area for in-water work at Lister Park was evaluated based on each species preferences for water quality parameters (i.e. temperature and salinity), habitat preferences (i.e., sediment type, shelter, structure), seasonal migrations, and geographic ranges as described in the NMFS EFH Source Documents, EFH Designations, and Text Descriptions. Based on the low salinity and shallow water depths within the action area, EFH for various life stages of four species is expected to occur within the intertidal and shallow open habitats that are present within the action area: winter flounder (*Pseudopleuronectes americanus*), windowpane flounder (*Scophthalmus aquosus*), bluefish (*Pomatamus saltatrix*), and summer flounder (*Paralichthys dentatus*). The action area may also support forage species which are an important resource for EFH-designated fish species. The action area is not a HAPC or EFHA.

Installation of the living shoreline and replacement of the overlooks would result in a total of approximately 24,566 sf (0.564 acre) of impacts to open waters of the Mill River. Of these impacts, approximately 18,534 sf (0.425 acre) would be temporary disturbance during installation of the coir logs and turbidity barriers. Approximately 6,032 sf (0.138 acre) of open waters would be converted to intertidal wetland as a result of living shoreline installation.

Installation of the living shoreline would result in a total of approximately 6,805 sf (0.156 acre) of impact to intertidal wetland. Of these impacts, approximately 6,270 sf (0.144 acre) are temporary and include wetland enhancement (native plantings). Approximately and 535 sf (0.012 acre) of intertidal wetland would be permanently impacted due

to placement of rock sills and lining for the living shoreline.

Turbidity increases during construction would be temporary and localized, and activity would be conducted at low tide, minimizing in-water disturbance. Disturbance to sediments and benthic infauna prey organisms from installation and removal of the turbidity barriers would be temporary and considered negligible. Installation of the living shoreline would mitigate shoreline erosion and enhance habitat quality along the Mill River, providing numerous benefits, including nutrient pollution remediation, essential fish habitat structure, and buffering of shorelines from waves and storms. The Lister Park Improvements component would not result in substantial adverse effect on EFH-designated species or habitat, or forage species.

5.0 FISH AND WILDLIFE COORDINATION ACT

The FWCA requires that federal agencies consult with NOAA for activities that affect, control or modify waters of any stream or bodies of water, in order to minimize the adverse impacts of such actions on fish and wildlife resources and habitat. GOSR hereby requests NOAA's recommendations regarding the activities described above pursuant to the FWCA.

6.0 CONCLUSION

The LWTB Stormwater 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. Three components, East Rockaway High School Improvements, Mill River Greenway, and East, West, and North Boulevards Stormwater Drainage Improvements do not involve in-water work and were not considered in this analysis. Conclusions regarding potential effects on EFH and NOAA trust resourcse species from implementation of the Smith Pond Rehabilitation and Lister Park Improvements components are summarized below.

For purposes of consultation under the MSA, GOSR has determined that the Smith Pond Rehabilitation component would have no effect on EFH. There would be temporary disturbance in diadromous fish habitat, but the installation of the fish ladder would result in beneficial effects on diadromous fish migration.

The Lister Park Improvements component would not result in substantial adverse effect on EFH-designated species or habitat, or forage species. Impacts to EFH during construction would be temporary and localized. While the installation of the living shoreline would result in the conversion of 6,032 sf of open water to intertidal shoreline and the minor loss of 535 sf of wetland, there would be no net loss of EFH as a result of the project. The project would result in enhancement of existing intertidal habitat, as well as downstream water quality benefits.

Cumulative impacts of the LWTB Stormwater Project on EFH would not result in substantial adverse effect on EFH-designated species or habitat, or forage species. Any adverse effects are anticipated to be no more than minimal or temporary, and minimization measures and mitigation are proposed. The Project is designed to help mitigate and control stormwater runoff and would have beneficial impacts on water quality and fish habitat. Implementation of all Project components is conditioned upon issuance of applicable federal and state permits and would be constructed in accordance with federal and state permit conditions.

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.

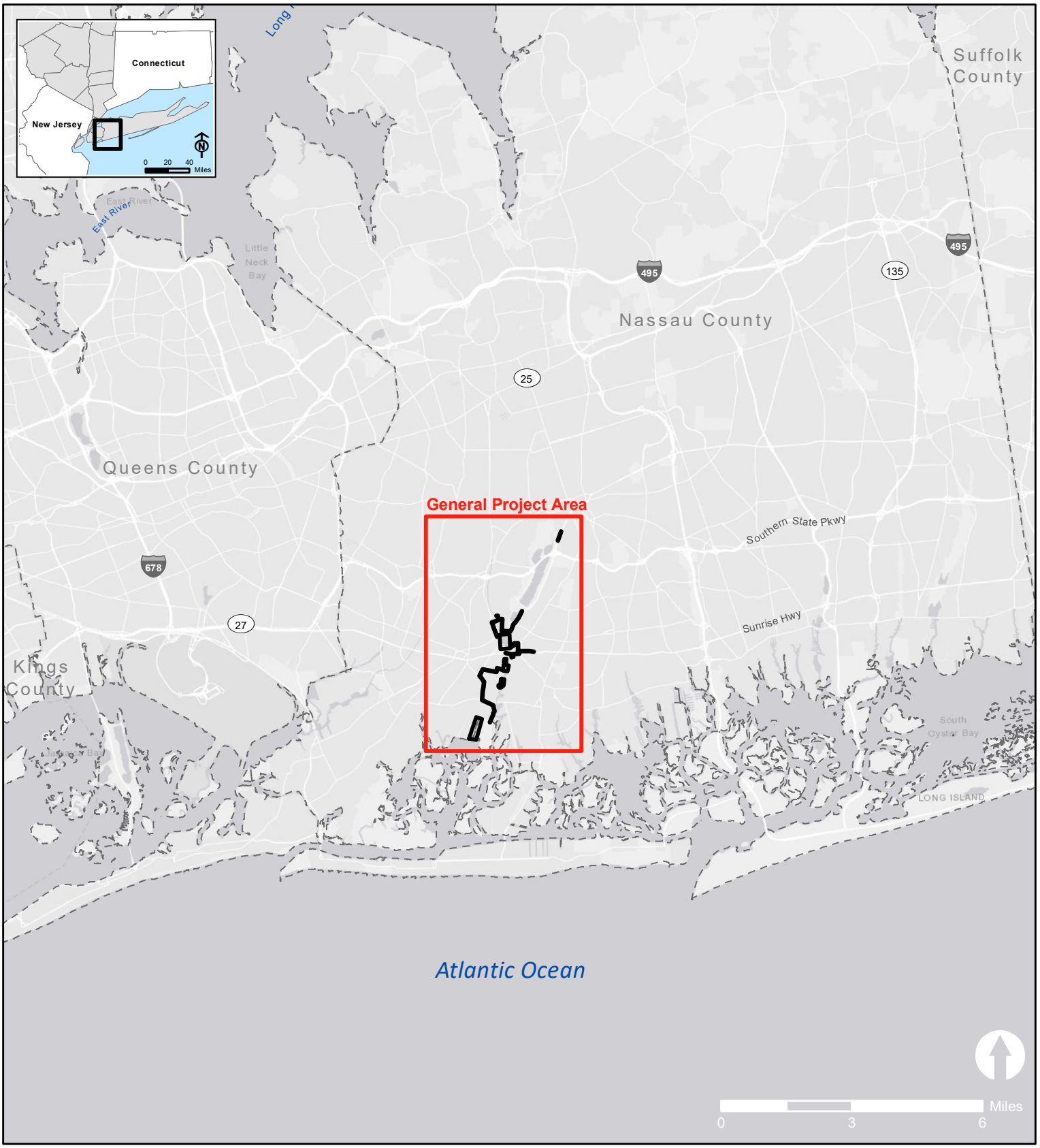
Sincerely,

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) Project Area Photographs
3) Smith Pond Rehabilitation Figures
4) Lister Park Improvements Figures
5) Smith Pond Rehabilitation - NOAA Fisheries Greater Atlantic Regional Fisheries Office Essential Fish Habitat Assessment & Fish and Wildlife Coordination Act Worksheets
6) Lister Park Improvements - NOAA Fisheries Greater Atlantic Regional Fisheries Office Essential Fish Habitat Assessment & Fish and Wildlife Coordination Act Worksheets
7) Smith Pond Rehabilitation EFH Mapper Results
8) Lister Park Improvements EFH Mapper Results

ATTACHMENTS

ATTACHMENT 1



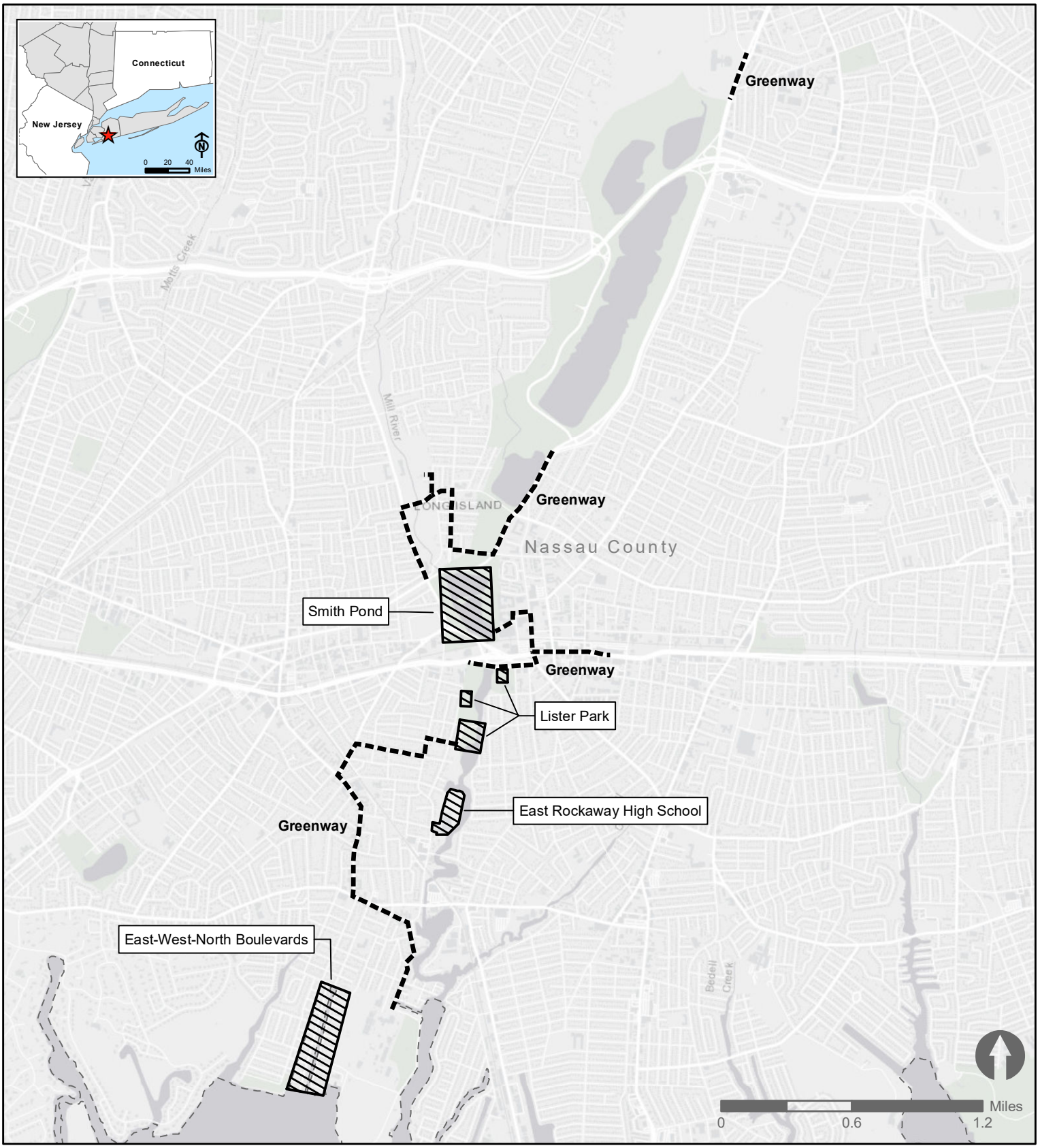
Project Component

County Boundary

Regional Location

Living with the Bay Stormwater Project

Source: ESRI World Light Gray Canvas Base



Project Centerline
Project Boundary
County Boundary

Project Location

Living with the Bay Stormwater Project

Source: ESRI World Light Gray Canvas Base

ATTACHMENT 2

Photographs

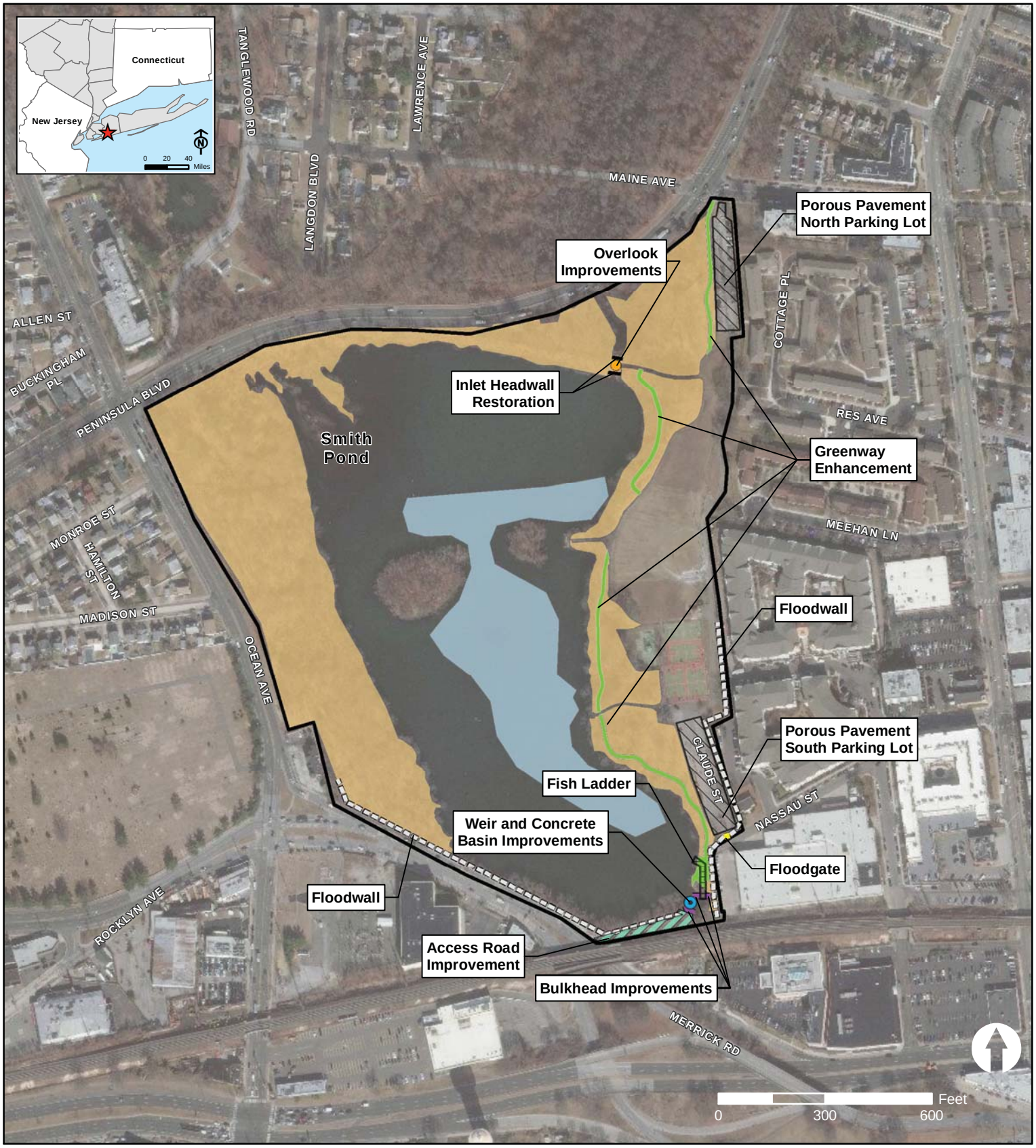
Photo 1 – View looking southwest at concrete basin from existing weir (in foreground) at south end of Smith Pond.

Photo 2 – View looking south across Smith Pond from the north end of the pond.

Photo 3 – Lister Park shoreline adjacent to Centennial Field, view looking north.

Photo 4 – Lister Park shoreline adjacent to Bligh Field.

ATTACHMENT 3



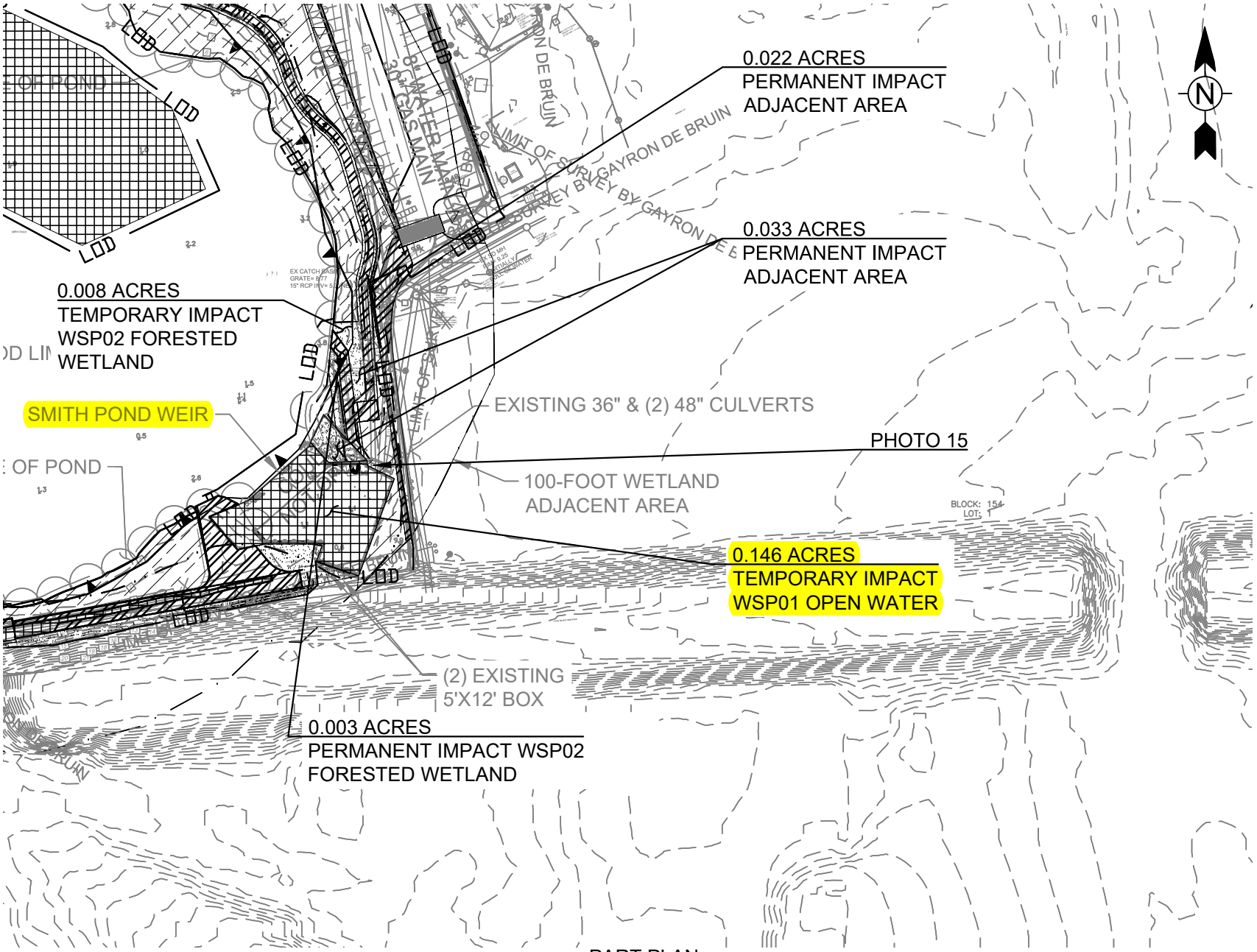
Project Area
Invasive Plant Treatment Area and Revegetation
Aquatic Plant Treatment Area
Access Road Improvement
Fish Ladder
Parking Lot
Pathway

Overlook Enhancement
Wier Improvement
Bulkhead
Flood Gate
Flood Wall
Stone Headwall

Source: NY Orthoimagery 2016

Smith Pond

Living with the Bay
Stormwater Project



PART PLAN:
WEIR IMPROVEMENT, RECEIVING PAD, BULKHEAD AND FISH LADDER OVERLOOK
SCALE: 1" = 100'

FUNDING AGENCY

Governor's Office of Storm Recovery

CONSULTANTS:

wsp

412 Mount Kemble Avenue
PO Box 1946
Morristown, NJ 07962

SACHIN V. APTE
N.Y. Professional Engineer Lic. No. 096758

No.	Date	Revision

SUBRECIPIENT

Village of Rockville Centre

PROJECT TITLE

SMITH POND
REHABILITATION PROJECT
(PROJECT L)

VILLAGE OF
ROCKVILLE CENTRE,
LONG ISLAND, NEW YORK

GOSR PROJECT NO.	VGOSR000155
WSP Project No.	2042969.001
Designed by	MH
Drawn by	SL
Checked by	RM
Date	3/5/2020

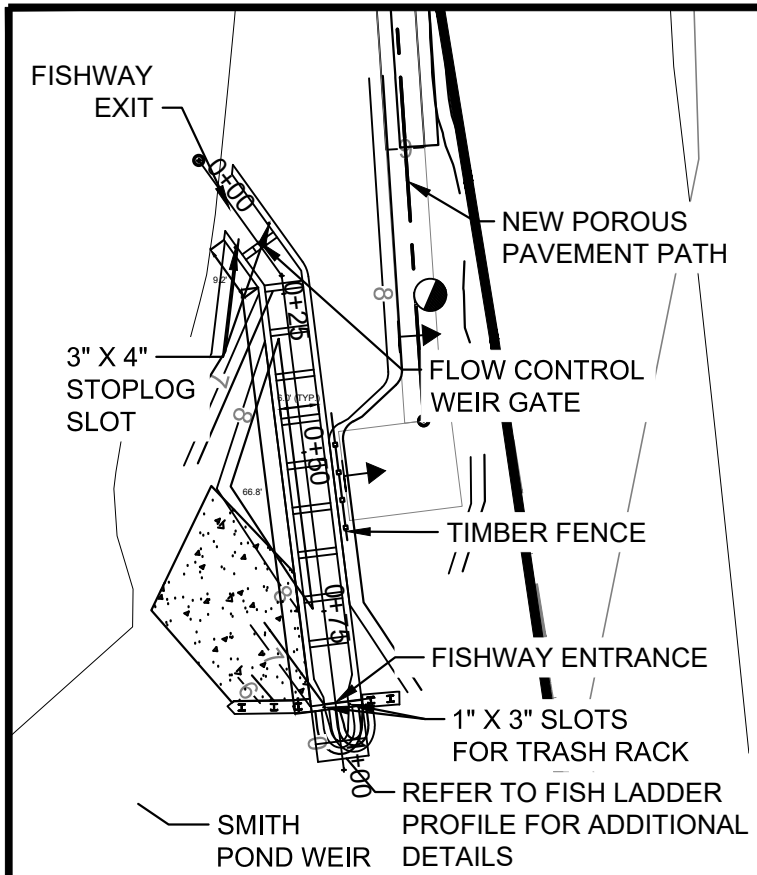
Drawing Title

PERMIT IMPACT
PLAN (5 OF 5)

Drawing Number P-106

Sheet 96 of 99

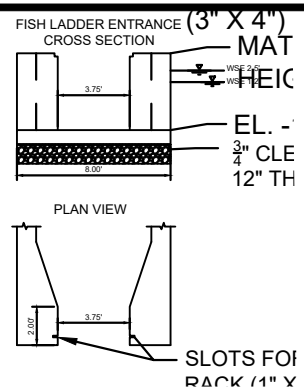
LOUIS BERGER, MORRISTOWN, NJ CADD FILE: V:\Operations\NYS GOSR\Smith Pond-Covert St-Nichols St\08 - Drawings\Smith Pond\PLOTSHEETS\Permit Plot\SMITH POND-Permit 8x11.dwg May 14, 2020



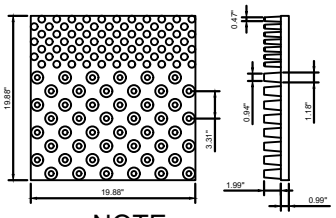
PLAN VIEW OF FISH LADDER

0 15 30

SCALE: 1:30



WEIR ELEVATIONS	
WEIR	WEIR CREST ELEVATION (FEET)
1	0.87
2	1.37
3	1.87
4	2.37
5	2.87
6	3.37
7	3.87
8	4.37
9	4.87

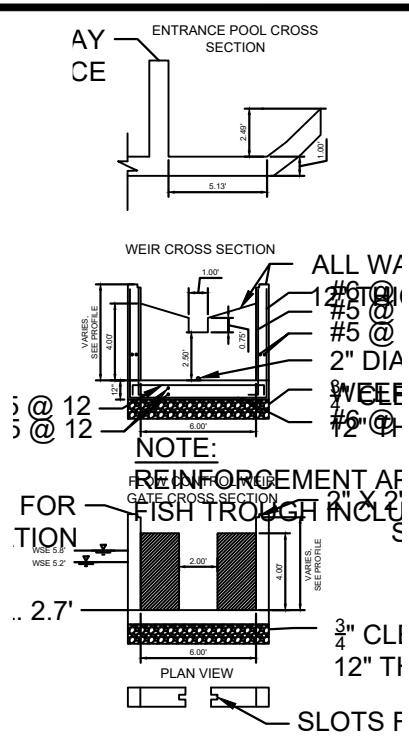


NOTE:

1. EEL TILE SHALL BE ENGINEERING SER

EEL TILE DETAILS

SCALE: NTS

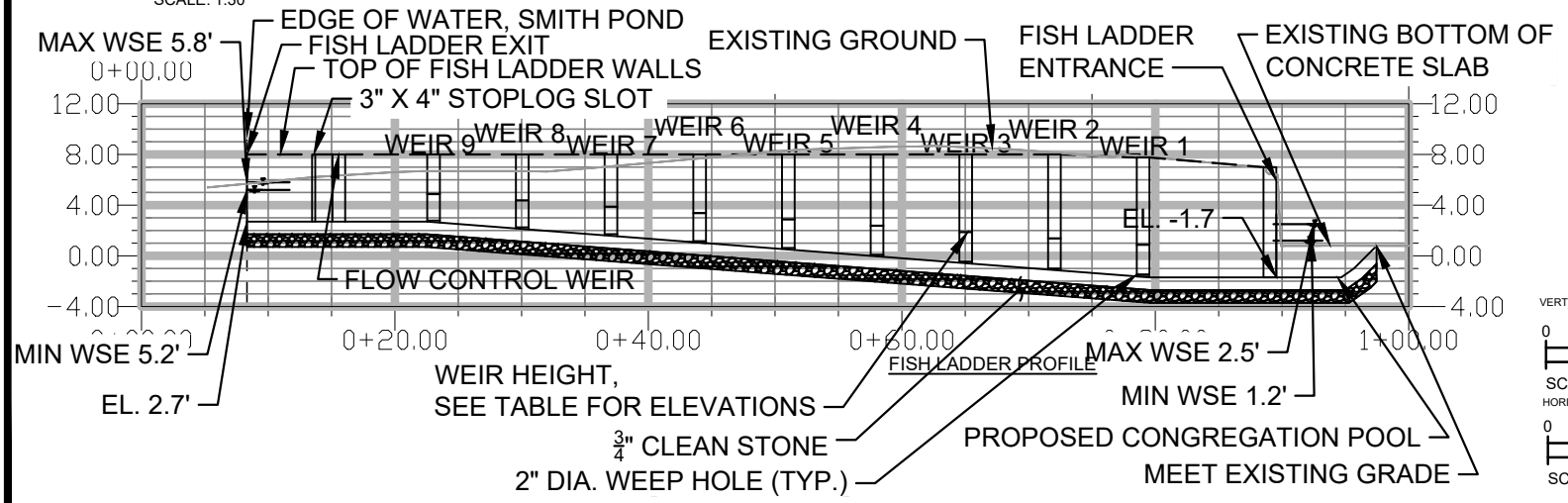


FISH LADDER DETAILS

SCALE: 1" = 10'

NOTES:

1. TOP OF WEIRS WILL BE SLOPED DOWNWARD AT A 20-DEGREE ANGLE AND COVERED WITH "EEL TITLES" TO PROVIDE UPSTREAM EEL PASSAGE. SMALL EELS WILL WORK THEIR WAY THROUGH LOW-VELOCITY AREAS BETWEEN THE CYLINDERS.
2. FLOOR OF EACH POOL BETWEEN THE WEIRS WILL BE COVERED WITH "EEL TITLE" OR COARSE 2-INCH STONE TO ALLOW UPSTREAM EEL PASSAGE.
3. DIMENSIONS OF EXIT AND ENTRANCE CHANNELS WILL DEPEND ON SITE SURVEYS AND ACTUAL LOCATION OF SHORELINE.
4. THE BOTTOM OF EACH WEIR WILL HAVE A 2-INCH "WEEP HOLE" TO ALLOW POOLS TO BE DRAINED.
5. FISH LADDER ENTRANCE WILL BE EQUIPPED WITH COARSE TRASHRACK.
6. THE FISH LADDER CONCRETE SLAB AND WALLS WILL BE STRUCTURAL REINFORCED WITH #5 REBAR AT 12-INCH ON CENTER FOR INTERIOR FACES AND #6 REBAR AT 12-INCH ON CENTER FOR OUTER FACES.
7. STANDARD 2" STEEL GRATE WILL BE ADDED TO TOP OF STRUCTURE.



FISH LADDER PROFILE

VERTICAL SCALE:

0 5 10

SCALE: 1:10

HORIZONTAL SCALE:

0 5 10

SCALE: 1:10

FUNDING AGENCY

Governor's Office of Storm Recovery

CONSULTANTS:

wsp

412 Mount Kemble Avenue
PO Box 1946
Morristown, NJ 07962

SACHIN V. APTE
N.Y. Professional Engineer Lic. No. 096758

No.	Date	Revision

SUBRECIPIENT

Village of Rockville Centre

PROJECT TITLE

SMITH POND REHABILITATION PROJECT (PROJECT L)

VILLAGE OF ROCKVILLE CENTRE, LONG ISLAND, NEW YORK

GOSR PROJECT NO.	VGOSR000155
WSP Project No.	2042969.001
Designed by	MH
Drawn by	SL
Checked by	RM
Date	3/5/2020

Drawing Title

FISH LADDER PLAN AND DETAILS

Drawing Number CD-201

Sheet 46 of 99

LOUIS BERGER, MORRISTOWN, NJ CADD FILE: V:\Operations\NYS GOSR\Smith Pond-Covert St-Nichols St\08 - Drawings\Smith Pond\PLOTSHEETS\SMITH POND-CD201 Fish Ladder Details -8x11.dwg May 14, 2020

ATTACHMENT 4

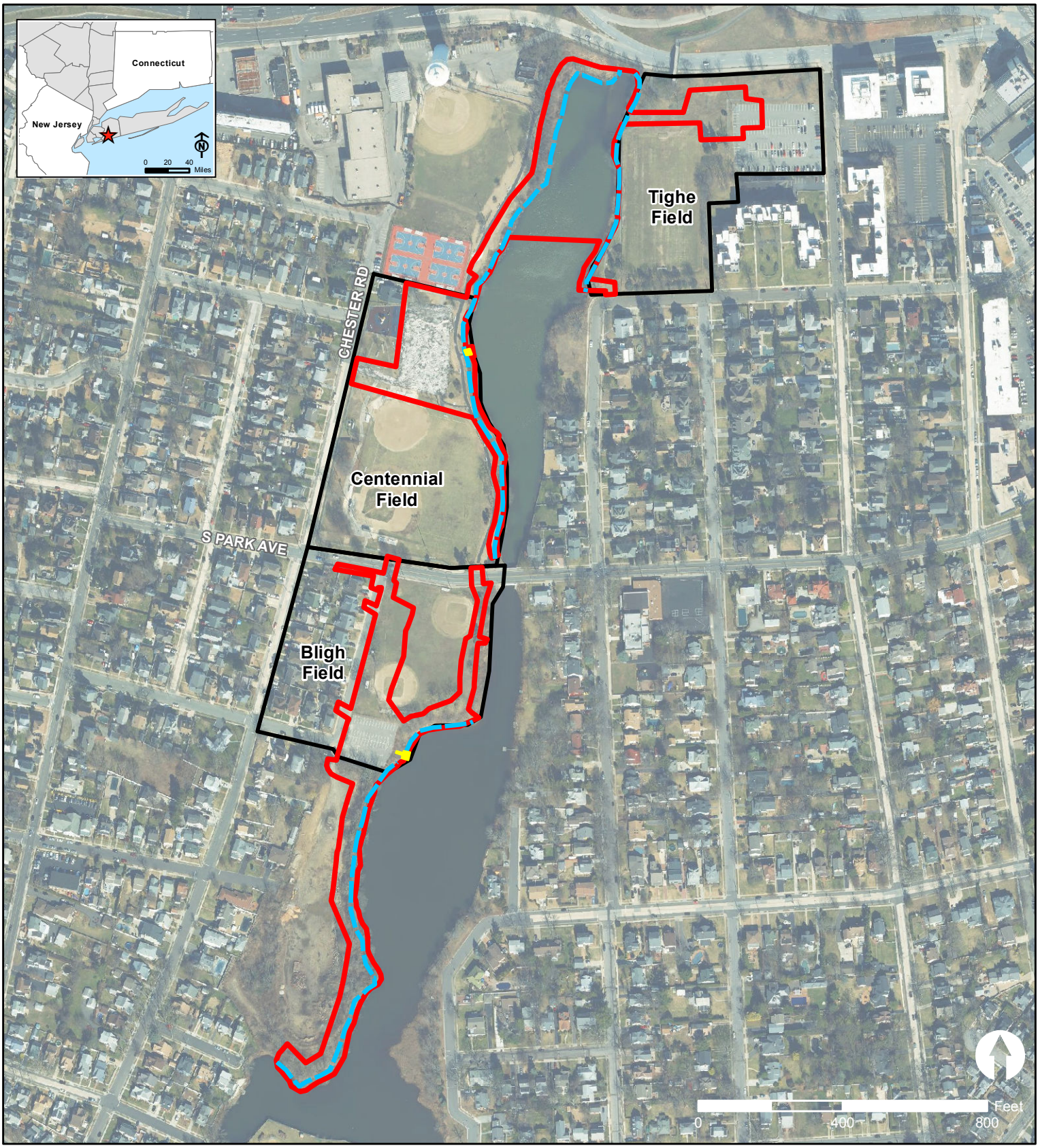
Shoreline Type

- Bulkhead
- Concrete End Wall
- Natural Shoreline
- Outlook

Living Shoreline Existing Conditions

Living with the Bay Stormwater Infrastructure Upgrades Projects

Source: NY Orthoimagery 2016



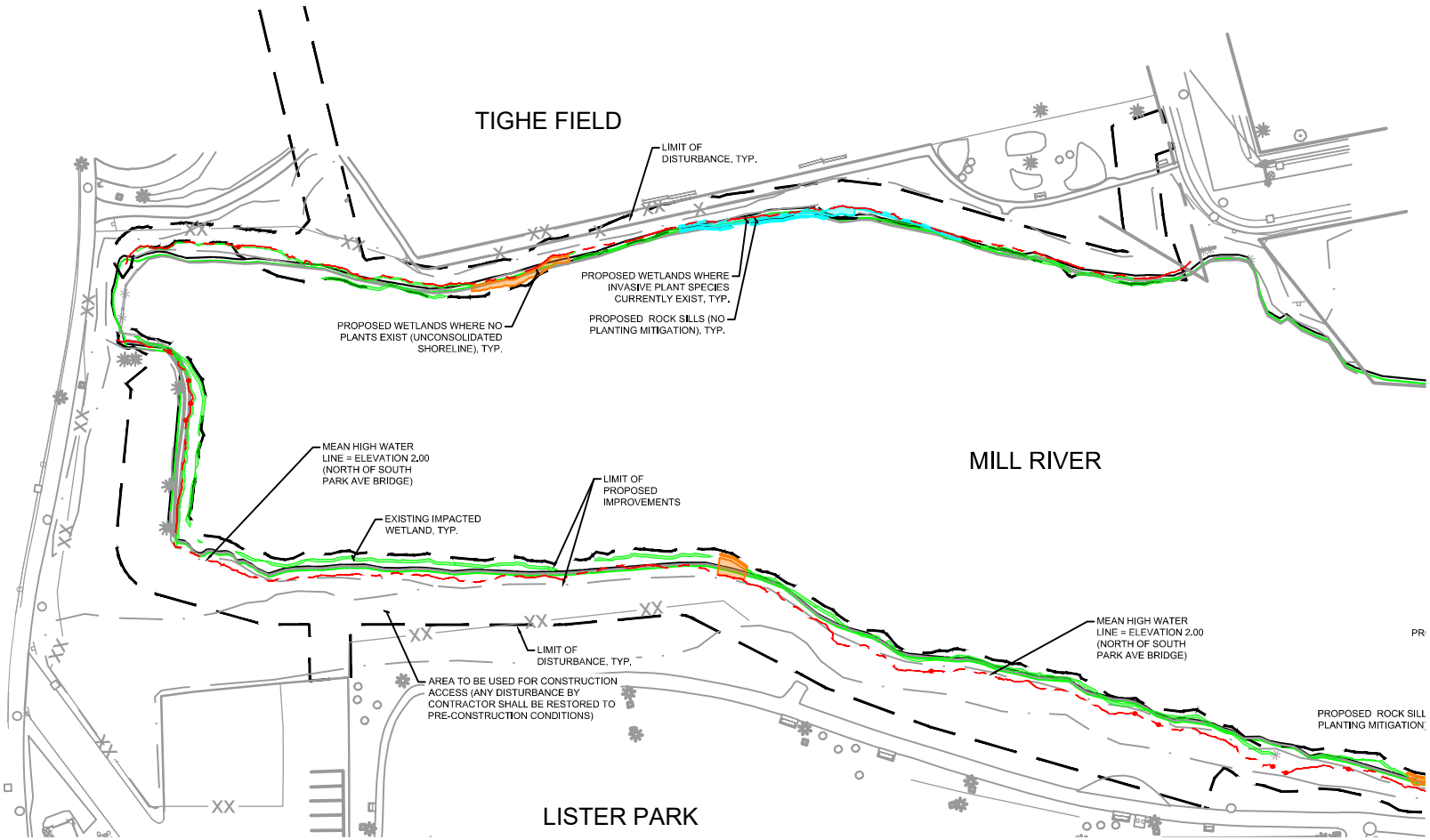
Area of Work
Project Area
Proposed Lister Park Living Shoreline
Outlook

Lister Park

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

Living with the Bay Stormwater Projects

Source: NY Orthoimagery 2016



CIVIL LEGEND

- MEAN HIGH WATER LINE
- LIMITS OF DISTURBANCE
- EXISTING IMPACTED WETLANDS
- PROPOSED WETLANDS WHERE INVASIVE SPECIES CURRENTLY EXIST
- PROPOSED WETLANDS WHERE NO PLANTS EXIST (UNCONSOLIDATED SHORELINE)

NOTES:

1. THE TOPOGRAPHIC AND BOUNDARY INFORMATION WAS OBTAINED FROM A SURVEY PREPARED BY GAYRON de BRUIN, DATED NOVEMBER 27, 2018.
2. THE VERTICAL DATUM IS NORTH AMERICAN VERTICAL DATUM 1988.
3. THE WETLAND BOUNDARY WAS DETERMINED AS PER THE EAST ROCKAWAY HIGH SCHOOL/LISTER PARK PROJECT M WETLAND DELINEATION REPORT BY TETRA TECH.
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0 50 100 200
SCALE: 1"=100'

APPLICANT: TETRA TECH
WATERWAY: MILL RIVER
TOWNSHIP: VILLAGE OF ROCKVILLE CENTRE, NY
COUNTY: NASSAU COUNTY, NEW YORK
NUMBER OF SHEETS: 27 OF 30

TETRA TECH
www.tetratech.com
5 HANOVER SQUARE, SUITE 1003
NEW YORK, NY 10004
PHONE: (646)576-4034

GOSR - VILLAGE OF ROCKVILLE CENTRE, EAST ROCKAWAY, NY
LISTER PARK PROJECT

WETLANDS IMPACT
PLAN - NORTH (1 OF 2)

PROJ: 200-89763-18003
DATE: 02/14/2020
DESN: ES

FIGURE 10A

Bar Measures 1 inch

Copyright: Tetra Tech

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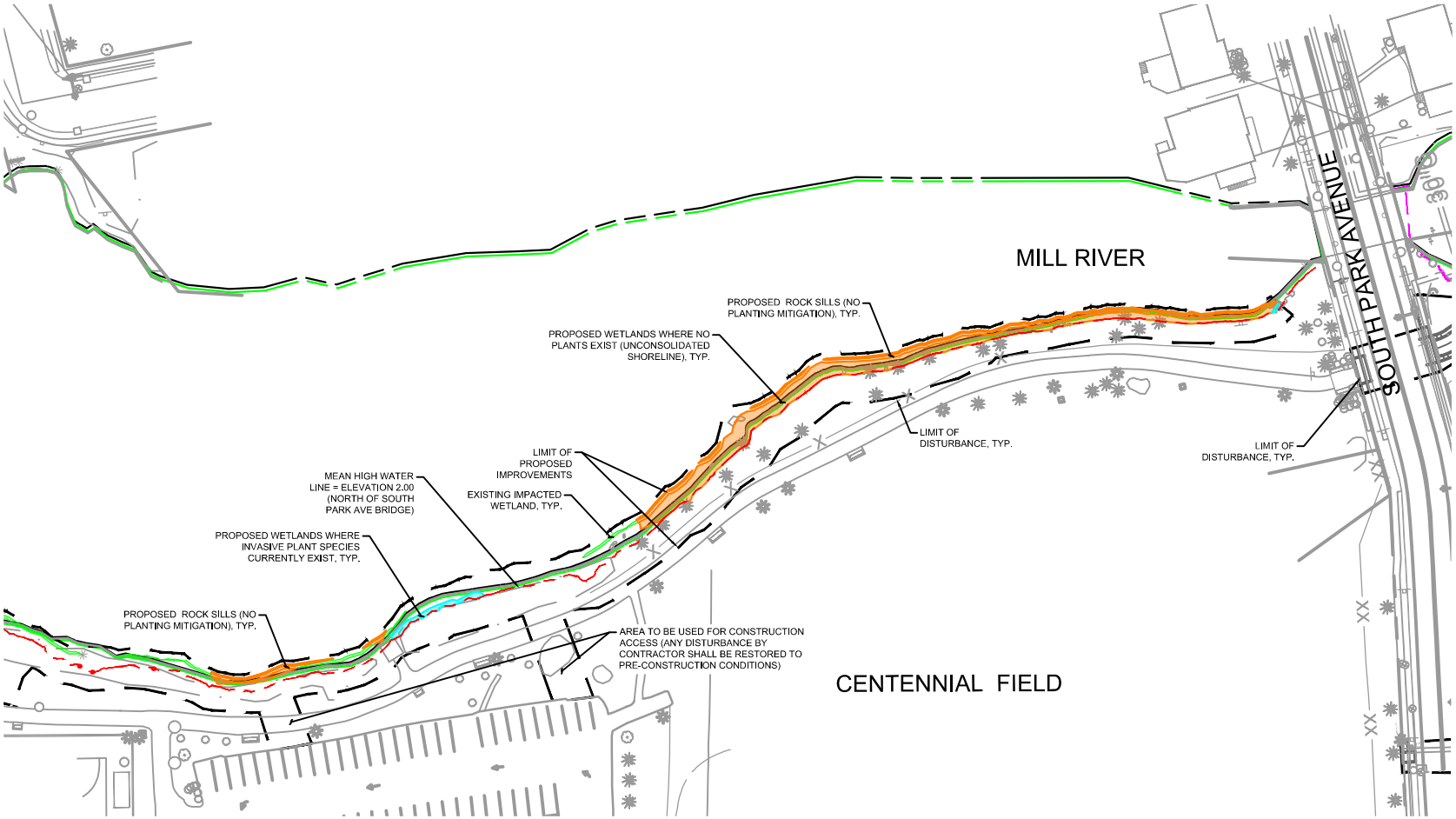

CIVIL LEGEND

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SCALE: 1"=100'

APPLICANT: TETRA TECH	TETRA TECH www.tetratech.com	GOSR - VILLAGE OF ROCKVILLE CENTRE, EAST ROCKAWAY, NY	PROJ: 200-89763-18003
WATERWAY: MILL RIVER	5 HANOVER SQUARE, SUITE 1003 NEW YORK, NY 10004 PHONE: (646)576-4034	LISTER PARK PROJECT	DATE: 02/14/2020
TOWNSHIP: VILLAGE OF ROCKVILLE CENTRE, NY		WETLANDS IMPACT PLAN - NORTH (2 OF 2)	DESN: ES
COUNTY: NASSAU COUNTY, NEW YORK			FIGURE 10B
NUMBER OF SHEETS: 28 OF 30			

Bar Measures 1 inch

Copyright: Tetra Tech

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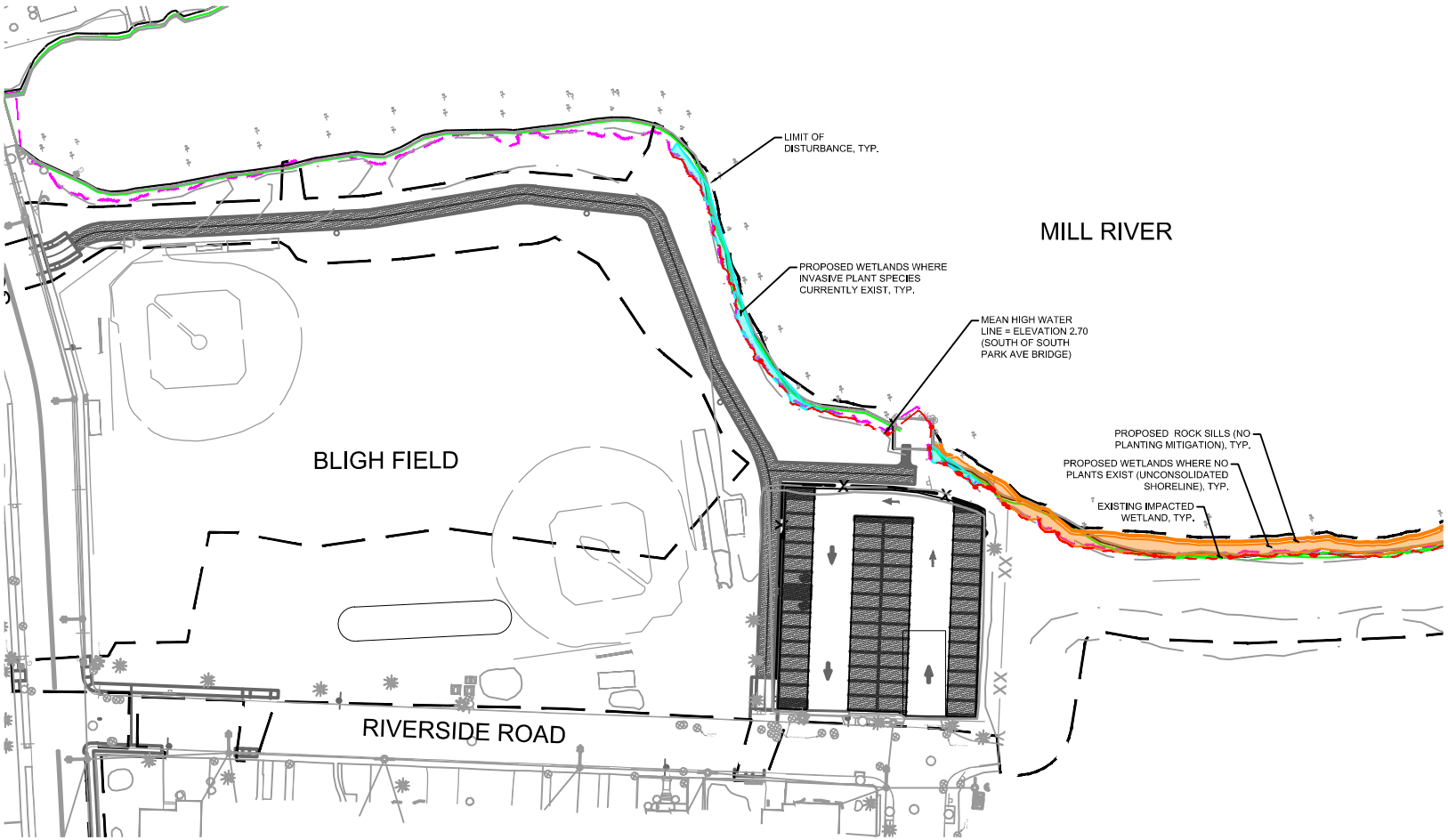

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APPLICANT: TETRA TECH	TETRA TECH www.tetratech.com	GOSR - VILLAGE OF ROCKVILLE CENTRE, EAST ROCKAWAY, NY	PROJ: 200-89763-18003
WATERWAY: MILL RIVER		LISTER PARK PROJECT	DATE: 02/14/2020
TOWNSHIP: VILLAGE OF ROCKVILLE CENTRE, NY			DESN: ES
COUNTY: NASSAU COUNTY, NEW YORK	5 HANOVER SQUARE, SUITE 1003 NEW YORK, NY 10004 PHONE: (646)576-4034	WETLANDS IMPACT PLAN - SOUTH (1 OF 2)	FIGURE 11A
NUMBER OF SHEETS: 29 OF 30			

Bar Measures 1 inch

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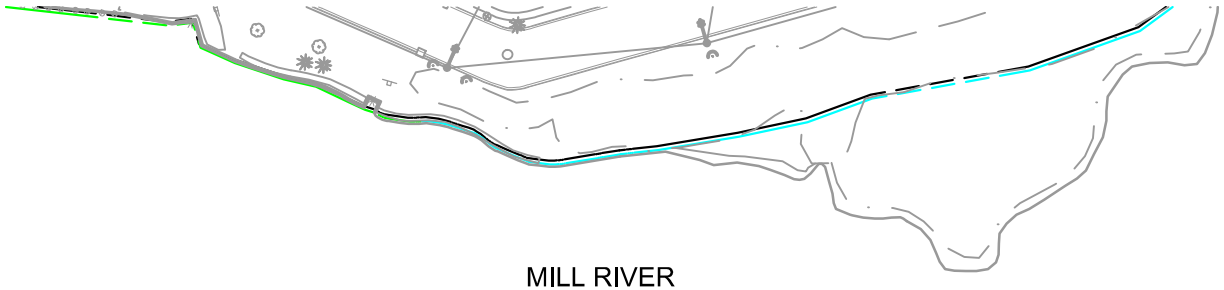

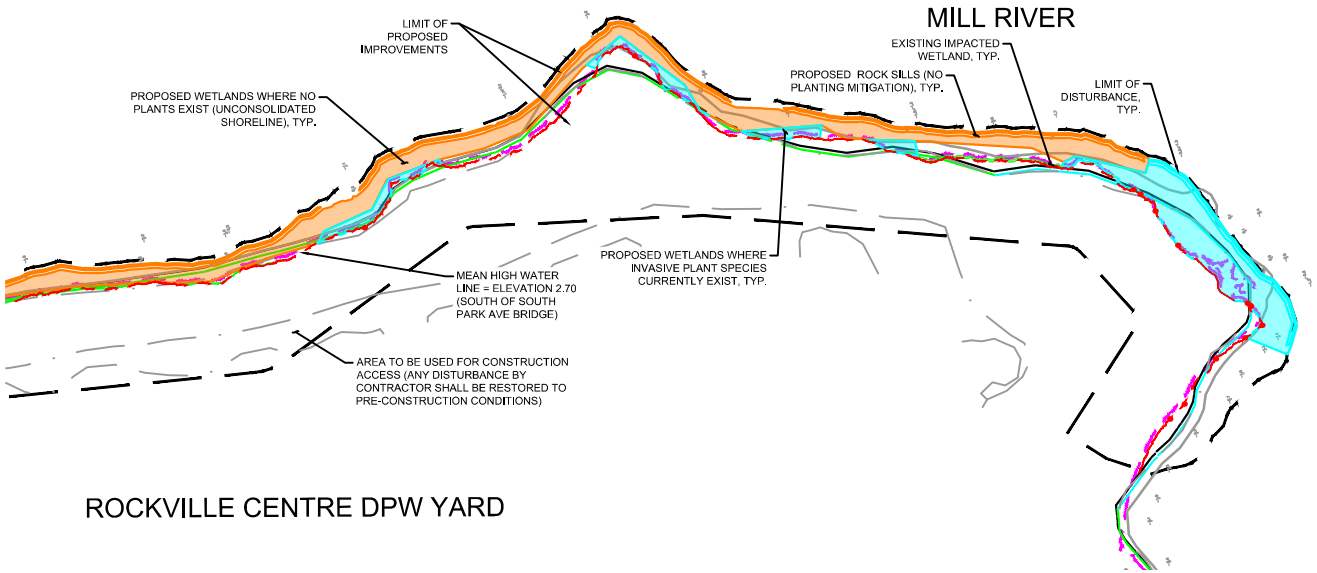

CIVIL LEGEND

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APPLICANT: TETRA TECH
WATERWAY: MILL RIVER
TOWNSHIP: VILLAGE OF ROCKVILLE CENTRE, NY
COUNTY: NASSAU COUNTY, NEW YORK
NUMBER OF SHEETS: 30 OF 30

TETRA TECH
www.tetratech.com
5 HANOVER SQUARE, SUITE 1003
NEW YORK, NY 10004
PHONE: (646)576-4034

GOSR - VILLAGE OF ROCKVILLE CENTRE, EAST ROCKAWAY, NY
LISTER PARK PROJECT

WETLANDS IMPACT
PLAN - SOUTH (2 OF 2)

PROJ: 200-89763-18003
DATE: 02/14/2020
DESN: ES

FIGURE 11B

Bar Measures 1 inch

Copyright: Tetra Tech

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ATTACHMENT 5

NOAA Fisheries Greater Atlantic Regional Fisheries Office
Essential Fish Habitat (EFH) Assessment & Fish and Wildlife Coordination Act (FWCA) Worksheet

This worksheet is your essential fish habitat (EFH) assessment. It provides us with the information necessary to assess the effects of your action on EFH under the Magnuson Stevens Fishery Conservation and Management Act and on NOAA trust resources under the Fish and Wildlife Coordination Act (FWCA). Consultation is not required if:

1. there is no adverse effect on EFH or NOAA trust resources (see page 10 for more info).
2. no EFH is designated and no trust resources may be present at the project site.

Instructions

Federal agencies or their non-federal designated lead agency should email the completed worksheet and necessary attachments to nmfs.gar.efh.consultation@noaa.gov. Include the public notice (if applicable) or project application and project plans showing:

- location map of the project site with area of impact.
- existing and proposed conditions.
- all waters of the U.S. on the project site with mean low water (MLW), mean high water (MHW), high tide line (HTL), and water depths clearly marked.
- sensitive habitats mapped, including special aquatic sites (submerged aquatic vegetation, saltmarsh, mudflats, riffles and pools, coral reefs, and sanctuaries and refuges), hard bottom or natural rocky habitat areas, and shellfish beds.
- site photographs, if available.

We will provide our EFH conservation recommendations and recommendations under the FWCA, as appropriate, within 30 days of receipt of a complete EFH assessment (60 days if an expanded consultation is necessary). Please submit complete information to minimize delays in completing the consultation.

This worksheet provides us with the information required[1] in an EFH assessment:

1. A description of the proposed action.
2. An analysis of the potential adverse effects on EFH and the federally managed species.
3. The federal agency's conclusions regarding the effects of the action on EFH.
4. Proposed mitigation, if applicable.

Your analysis **should focus on impacts that reduce the quality and/or quantity of the habitat or result in conversion to a different habitat type** for all life stages of species with designated EFH within the action area.

Use the information on the HCD website and NOAA's EFH Mapper to complete this worksheet. If you have questions, please contact the appropriate HCD staff member to assist you.

[1] The EFH consultation process is guided by the requirements of our EFH regulation at 50 CFR 600.905.

EFH ASSESSMENT WORKSHEET

General Project Information

Date Submitted: May 29, 2020

Project/Application Number:

Project Name: Living with the Bay Stormwater Projects - Smith Pond Rehabilitation

Project Sponsor/Applicant: Governor's Office of Storm Recovery

Federal Action Agency (if state agency acting as delegated): U.S. Department of Housing

Fast-41 or One Federal Decision Project: ☐ Yes ☑ No

Action Agency Contact Name: Matt Accardi

Contact Phone: (212) 480-6265 Contact Email: Matt.Accardi@stormrecovery.ny.gov

Latitude: 40.659 Longitude: -73.653

Address, City/Town, State:

Smith Pond is located along the Mill River within Morgan Days Park, north of Merrick Road and the LIRR in Rockville Centre, Nassau County, New York (see attached map)

Body of Water: Smith Pond/Mill River

Project Purpose:

The purpose of the proposed Smith Pond Rehabilitation Project, as a component of the LWTB Project and Resiliency Strategy, is to provide resiliency interventions, such

Project Description:

The Project includes installation and construction of floodwalls and a floodgate, improvements to the access road to the existing weir, rehabilitation of the weir and surrounding area, installation of a fish ladder, porous pavement parking lots, greenway path enhancements, invasive plant removal, and improvements at the northern overlook and the culvert headwall. After invasive plant species are removed, native vegetation would be planted.

The deteriorated timber sheeting and wall 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 for various cracks and splits to prevent the expression of groundwater into the concrete-lined channel.

A fish ladder would be installed at the weir to allow the upstream migration of

Anticipated Duration of In-Water Work or Start/End Dates:

November 2020 - January 2021

Habitat Description

EFH includes the biological, chemical, and physical components of the habitat. This includes the substrate and associated biological resources (e.g., benthic organisms, submerged aquatic vegetation, shellfish beds, salt marsh wetlands), the water column, and prey species.

Is the project in designated EFH[2]? ☑ Yes ☐ No

Is the project in designated HAPC[2]? ☐ Yes ☑ No

Is this coordination under FWCA only? ☑ Yes ☐ No

Total area of impact to EFH (indicate sq ft or acres): 0

Total area of impact to HAPC (indicate sq ft or acres): 0

Current water depths: 1 ft Salinity: 0-0.5 ppt Water temperature range: 28 - 85 °F

Sediment characteristics[3]: concrete lined channel

What habitat types are in or adjacent to the project area and will they be permanently impacted? Select all that apply. Indicate if impacts will be temporary, if site will be restored, or if permanent conversion of habitat will occur. A project may occur in overlapping habitat types.

	Habitat Type	**Total impact (sq ft/acres)**	**Impacts are temporary**	**Restored to pre-existing conditions**	**Permanent conversion of all or part of habitat**
☐	Marine				
☐	Estuarine				
☐	Riverine (tidal)				
☑	Riverine (non-tidal)	6,360 sq ft/ 0.146 ac	yes	yes	no
☐	Intertidal				
☐	Subtidal				
☑	Water column	6,360 sq ft/ 0.146 ac	yes	yes	no
☐	Salt marsh/ Wetland (tidal)				
☐	Wetland (non-tidal)				

[2] Use the tables on pages 7-9 to list species with designated EFH or the type of designated HAPC present.
[3] The level of detail is dependent on your project – e.g., a grain size analysis may be necessary for dredging.

	Habitat Type	Total impact (sq ft/acres)	Impacts are temporary	Restored to pre-existing conditions	Permanent conversion of all or part of habitat
☐	Rocky/hard bottom[4]:				
☐	Sand				
☐	Shellfish beds or oyster reefs				
☐	Mudflats				
☐	Submerged aquatic vegetation (SAV)[5], macroalgae, epifauna				
☑	Diadromous fish (migratory or spawning habitat)	6,360 sq ft / 0.146 ac	yes	yes	fish ladder to allow passage into Smith Pond

Indicate type(s) of rocky/hard bottom habitat (pebble, cobble, boulder, bedrock outcrop/ledge) and species of SAV:

Project Effects

Select all that apply	Project Type/Category
☐	Hatchery or Aquaculture
☐	Agriculture
☐	Forestry
☐	Military (e.g., acoustic testing, training exercises)
☐	Mining (e.g., sand, gravel)
☑	Restoration or fish/wildlife enhancement (e.g., fish passage, wetlands, beach renourishment, mitigation bank/ILF creation)

[4] Indicate type(s). The type(s) of rocky habitat will help you determine if the area is cod HAPC.
[5] Indicate species. Provide a copy of the SAV report and survey conducted at the site, if applicable.

Select all that apply	Project Type/Category
☐	Infrastructure/transportation (e.g., culvert construction, bridge repair, highway, port)
☐	Energy development/use
☐	Water quality (e.g., TMDL, wastewater, sediment remediation)
☐	Dredging/excavation and disposal
☐	Piers, ramps, floats, and other structures
☐	Bank/shoreline stabilization (e.g., living shoreline, groin, breakwater, bulkhead)
☐	Survey (e.g., geotechnical, geophysical, habitat, fisheries)
☐	Other

Select all that apply	Potential Stressors Caused by the Activity	Select all that apply and if temporary or permanent		Habitat alterations caused by the activity
		Temp	Perm	
☐	Underwater noise			
☑	Water quality/turbidity/ contaminant release	☐	☐	Water depth change
☐	Vessel traffic/barge grounding	☐	☐	Tidal flow change
☐	Impingement/entrainment[6]	☐	☐	Fill
☐	Prevent fish passage/spawning	☐	☐	Habitat type conversion
☐	Benthic community disturbance		☑	Other: fish passage into Smith Pond
☐	Impacts to prey species			Other:

[6] Entrainment is the voluntary or involuntary movement of aquatic organisms from a water body into a surface diversion or through, under, or around screens and results in the loss of the organisms from the population. Impingement is the involuntary contact and entrapment of aquatic organisms on the surface of intake screens caused when the approach velocity exceeds the swimming capability of the organism.

Details: project impacts and mitigation

The level of detail that you provide should be commensurate with the magnitude of impacts associated with the proposed project. Attach supplemental information if necessary.

Describe how the project would impact each of the habitat types selected above. Include temporary and permanent impact descriptions and direct and indirect impacts.

The project would result in temporary disturbance to 0.146 acre of open water in a concrete-lined basin downstream of an existing weir at the south end of Smith Pond. This portion of the Mill River between the existing weir and downstream culverts beneath the Long Island Railroad is nontidal. The tidal portion of the Mill River begins approximately 750 feet downstream of the weir. The Smith Pond Rehabilitation component would have no effect on EFH. There would be temporary disturbance in known diadromous fish habitat, but the project would result result in beneficial effects on diadromous fish migration through installation of a fish ladder.

What specific measures will be used to avoid impacts, including project design, turbidity controls, acoustic controls, and time of year restrictions? If impacts cannot be avoided, why not?

Activity associated with the fish ladder installation and weir rehabilitation will be completed in late fall/winter, prior to spring anadromous fish migration and spawning. Temporary cofferdams would be installed downstream and upstream of the weir to prevent fish from entering the basin. The temporary cofferdam would be installed and removed outside of March 1 to June 30 window anadromous migration window.

What specific measures will be used to minimize impacts?

Temporary cofferdams and in-water work during fall/winter. All erosion and sediment control and stormwater management practices would be designed, installed and maintained in accordance with the latest version of the “New York Standards and Specifications for Erosion and Sediment Control” and the “New York State Stormwater Management Design Manual”.

Is compensatory mitigation proposed? ☐ Yes ☑ No

If no, why not? If yes, describe plans for mitigation and how this will offset impacts to EFH. Include a conceptual compensatory mitigation and monitoring plan, if applicable.

There would be no impact to EFH as a result of the project. There would be temporary disturbance in diadromous fish habitat, but the installation of a fish ladder would provide a route for migrating fish to swim upstream and downstream of the existing weir, supporting historic fish migration in the upper section of the Mill River. Therefore, the project would result in beneficial effects on diadromous fish migration.

Federal Action Agency's EFH determination (select one)	
☑	There is no adverse effect[7] on EFH or EFH is not designated at the project site. EFH Consultation is not required. This is a FWCA-only request.
☐	The adverse effect[7] on EFH is not substantial. This means that the adverse effects are no more than minimal, temporary, or can be alleviated with minor project modifications or conservation recommendations. This is a request for an abbreviated EFH consultation.
☐	The adverse effect[7] on EFH is substantial. This is a request for an expanded EFH consultation. We will provide more detailed information, including an alternatives analysis and NEPA document, if applicable.

EFH and HAPC designations[8]

Use the EFH mapper to determine if EFH may be present in the project area and enter all species and lifestages that have designated EFH. Optionally, you may review the EFH text descriptions linked to each species in the EFH mapper and use them to determine if the described habitat is present. We recommend this for larger projects to help you determine what your impacts are.

Species	EFH is designated/mapped for:				Habitat present based on text description (optional)
	EFH: eggs	EFH: larvae	EFH: juvenile	EFH: adults/ spawning adults	
Winter flounder	☑	☑	☑	☑	☐
Little skate	☐	☐	☑	☑	☐
Ocean pout	☑	☐	☐	☑	☐
Atlantic herring	☐	☐	☑	☑	☐

[7] An **adverse effect** is any impact that reduces the quality and/or quantity of EFH. Adverse effects may include direct or indirect physical, chemical, or biological alterations of the waters or substrate and loss of, or injury to, benthic organisms, prey species and their habitat, and other ecosystem components. Adverse effects to EFH may result from actions occurring within EFH or outside of EFH and may include site-specific or habitat-wide impacts, including individual, cumulative, or synergistic consequences of actions.

[8] Within the Greater Atlantic Region, EFH has been designated by the New England, Mid-Atlantic, and South Atlantic Fisheries Management Councils and NOAA Fisheries.

Species	EFH is designated/mapped for:				Habitat present based on text description (optional)
	EFH: eggs	EFH: larvae	EFH: juvenile	EFH: adults/ spawning adults	
Atlantic cod	☐	☐	☐	✔	☐
Pollock	☐	☐	✔	☐	☐
Yellowtail flounder	☐	☐	☐	✔	☐
Monkfish	✔	✔	☐	☐	☐
Windowpane flounder	✔	✔	✔	✔	☐
Winter skate	☐	☐	✔	✔	☐
White hake	☐	☐	✔	☐	☐
Longfin inshore squid	✔	☐	✔	☐	☐
Atlantic mackeral	✔	✔	✔	✔	☐
Bluefish	☐	☐	✔	✔	☐
Scup	☐	☐	✔	✔	☐
Summer flounder	☐	☐	✔	✔	☐
Black sea bass	☐	☐	✔	✔	☐
	☐	☐	☐	☐	☐
	☐	☐	☐	☐	☐
	☐	☐	☐	☐	☐
	☐	☐	☐	☐	☐
	☐	☐	☐	☐	☐
	☐	☐	☐	☐	☐
	☐	☐	☐	☐	☐
	☐	☐	☐	☐	☐
	☐	☐	☐	☐	☐

HAPCs

Select all that are in your action area.

☐	Summer flounder: SAV[9]	☐	Alvin & Atlantis Canyons
☐	Sandbar shark	☐	Baltimore Canyon
☐	Sand Tiger Shark (Delaware Bay)	☐	Bear Seamount
☐	Sand Tiger Shark (Plymouth-Duxbury-Kingston Bay)	☐	Heezen Canyon
☐	Inshore 20m Juvenile Cod	☐	Hudson Canyon
☐	Great South Channel Juvenile Cod	☐	Hydrographer Canyon
☐	Northern Edge Juvenile Cod	☐	Jeffreys & Stellwagen
☐	Lydonia Canyon	☐	Lydonia, Gilbert & Oceanographer Canyons
☐	Norfolk Canyon (Mid-Atlantic)	☐	Norfolk Canyon (New England)
☐	Oceanographer Canyon	☐	Retriever Seamount
☐	Veatch Canyon (Mid-Atlantic)	☐	Toms, Middle Toms & Hendrickson Canyons
☐	Veatch Canyon (New England)	☐	Washington Canyon
☐	Cashes Ledge	☐	Wilmington Canyon

[9] Summer flounder HAPC is defined as all native species of macroalgae, seagrasses, and freshwater and tidal macrophytes in any size bed, as well as loose aggregations, within adult and juvenile summer flounder EFH. In locations where native species have been eliminated from an area, then exotic species are included. Use local information to determine the locations of HAPC.

More information

The Magnuson-Stevens Fishery Conservation and Management Act (MSA) mandates that federal agencies conduct an essential fish habitat (EFH) consultation with NOAA Fisheries on any actions they authorize, fund, or undertake that may adversely affect EFH. An **adverse effect** is any impact that reduces the quality and/or quantity of EFH. Adverse effects may include direct or indirect physical, chemical, or biological alterations of the waters or substrate and loss of, or injury to, benthic organisms, prey species and their habitat, and other ecosystem components. Adverse effects to EFH may result from actions occurring within EFH or outside of EFH and may include site-specific or habitat-wide impacts, including individual, cumulative, or synergistic consequences of actions.

We designed this worksheet to help you to prepare EFH assessments. It is important to remember that an adverse effect determination is a trigger to consult with us. It does not mean that a project cannot proceed as proposed, or that project modifications are necessary. It means that the effects of the proposed action on EFH must be evaluated to determine if there are ways to avoid, minimize, or offset adverse effects.

This worksheet should be used as your EFH assessment or as a guide to develop your EFH assessment. At a minimum, you should include all the information required to complete this worksheet in your EFH assessment. The level of detail that you provide should be commensurate with the magnitude of impacts associated with the proposed project. If your answers in the worksheet and supplemental information you attach do not fully evaluate the adverse effects to EFH, we may request additional information to complete the consultation.

You may need to prepare an expanded EFH assessment for more complex projects to fully characterize the effects of the project and the avoidance and minimization of impacts to EFH. While the EFH assessment worksheet may be used for larger projects, the format may not be sufficient to incorporate the extent of detail required, and a separate EFH assessment may be developed. However, regardless of format, you should include an analysis as outlined in this worksheet for an expanded EFH assessment, along with any additional necessary information. This additional information includes:

- the results of on-site inspections to evaluate the habitat and site-specific effects.
- the views of recognized experts on the habitat or the species that may be affected.
- a review of pertinent literature and related information.
- an analysis of alternatives that could avoid or minimize the adverse effects on EFH.

Please contact our Greater Atlantic Regional Fisheries Office, Protected Resources Division regarding potential impacts to marine mammals or threatened and endangered species.

Useful Links
National Wetland Inventory Maps
https://www.fws.gov/wetlands/
EPA's National Estuary Program (NEP)
https://www.epa.gov/nep/local-estuary-programs
Northeast Regional Ocean Council (NROC) Data Portal
https://www.northeastoceandata.org/
Mid-Atlantic Regional Council on the Ocean (MARCO) Data Portal
http://portal.midatlanticocean.org/

Resources by State

Maine
Maine Office of GIS Data Catalog
https://geolibrary-maine.opendata.arcgis.com/datasets#data
Town shellfish information including shellfish conservation area maps
https://www.maine.gov/dmr/shellfish-sanitation-management/programs/municipal/ordinances/towninfo.html
State of Maine Shellfish Sanitation and Management
https://www.maine.gov/dmr/shellfish-sanitation-management/index.html
Eelgrass maps
https://www.maine.gov/dmr/science-research/species/eelgrass/index.html
Casco Bay Estuary Partnership
https://www.cascobayestuary.org/
Maine GIS Stream Habitat Viewer
https://www.arcgis.com/home/item.html?id=5869c2d20f0b4c3a9742bdd8abef42cb

New Hampshire
NH's Statewide GIS Clearinghouse, NH GRANIT
http://www.granit.unh.edu/
NH Coastal Viewer
http://www.granit.unh.edu/nhcoastalviewer/
State of NH Shellfish Program
https://www.des.nh.gov/organization/divisions/water/wmb/shellfish/

Massachusetts
MA Shellfish Sanitation and Management Program
https://www.mass.gov/shellfish-sanitation-and-management
MassGIS Data, Including Eelgrass Maps
http://maps.massgis.state.ma.us/map_ol/oliver.php
MA DMF Recommended TOY Restrictions Document
https://www.mass.gov/files/documents/2016/08/ry/tr-47.pdf
Massachusetts Bays National Estuary Program
https://www.mass.gov/orgs/massachusetts-bays-national-estuary-program
Buzzards Bay National Estuary Program
http://buzzardsbay.org/
Massachusetts Division of Marine Fisheries

https://www.mass.gov/orgs/division-of-marine-fisheries
Massachusetts Office of Coastal Zone Management
https://www.mass.gov/orgs/massachusetts-office-of-coastal-zone-management

Rhode Island
RI Shellfish and Aquaculture
http://www.dem.ri.gov/programs/fish-wildlife/marine-fisheries/shellfish-aquaculture.php
RI Shellfish Management Plan
http://www.shellfishri.com/
Eelgrass Maps
http://edc.maps.arcgis.com/apps/View/index.html?appid=db52bb689c1e44259c06e11fd24895f8
RI GIS Data
http://ridemgis.maps.arcgis.com/apps/webappviewer/index.html?id=87e104c8adb449eb9f905e5f18020de5
Narragansett Bay Estuary Program
http://nbep.org/
Rhode Island Division of Marine Fisheries
http://www.dem.ri.gov/programs/fish-wildlife/marine-fisheries/index.php
Rhode Island Coastal Resources Management Council
http://www.crmc.ri.gov/

Connecticut
CT Bureau of Aquaculture
https://www.ct.gov/doag/cwp/view.asp?a=3768&q=451508&doagNav=
CT GIS Resources
https://www.ct.gov/deep/cwp/view.asp?a=2698&q=323342&deepNav_GID=1707
Natural Shellfish Beds in CT
https://cteco.uconn.edu/viewer/index.html?viewer=aquaculture
Eelgrass Maps
https://www.fws.gov/northeast/ecologicalservices/pdf/wetlands/2012_CT_Eelgrass_Final_Report_11_26_2013.pdf
Long Island Sound Study
http://longislandsoundstudy.net/
CT GIS Resources
http://cteco.maps.arcgis.com/home/index.html
CT DEEP Office of Long Island Sound Programs and Fisheries
https://www.ct.gov/deep/site/default.asp
CT River Watershed Council
https://www.ctriver.org/

New York
Eelgrass Report
http://www.dec.ny.gov/docs/fish_marine_pdf/finalseagrassreport.pdf
Peconic Estuary Program
https://www.peconicestuary.org/
NY/NJ Harbor Estuary
https://www.hudsonriver.org/estuary-program

New York GIS Clearinghouse
https://gis.ny.gov/

New Jersey
Submerged Aquatic Vegetation Mapping
http://www.crssa.rutgers.edu/projects/sav/
Barnegat Bay Partnership
https://www.barnegatbaypartnership.org/
NJ GeoWeb
https://www.nj.gov/dep/gis/geowebsplash.htm
NJ DEP Shellfish Maps
https://www.nj.gov/dep/landuse/shellfish.html

Pennsylvania
Delaware River Management Plan
https://www.fishandboat.com/Fish/Fisheries/DelawareRiver/Documents/delaware_river_plan_exec_draft.pdf
PA DEP Coastal Resources Management Program
https://www.dep.pa.gov/Business/Water/Compacts%20and%20Commissions/Coastal%20Resources%20Management%20Program/Pages/default.aspx
PA DEP GIS Mapping Tools
https://www.dep.pa.gov/DataandTools/Pages/GIS.aspx

Delaware
Partnership for the Delaware Estuary
http://www.delawareestuary.org/
Center for Delaware Inland Bays
http://www.inlandbays.org/
Delaware FirstMap
http://delaware.maps.arcgis.com/home/index.html

Maryland
Submerged Aquatic Vegetation Mapping
http://web.vims.edu/bio/sav/
MERLIN
http://dnrweb.dnr.state.md.us/MERLIN/
Maryland Coastal Bays Program
https://mdcoastalbays.org/

Virginia
Submerged Aquatic Vegetation mapping
http://www.mrc.virginia.gov/regulations/Guidance_for_SAV_beds_and_restoration_final_approved_by_Commission_7-22-17.pdf
VDGIF Time of Year Restrictions (TOYR) and Other Guidance
https://www.dgif.virginia.gov/wp-content/uploads/VDGIF-Time-of-Year-Restrictions-Table.pdf

ATTACHMENT 6

NOAA Fisheries Greater Atlantic Regional Fisheries Office
Essential Fish Habitat (EFH) Assessment & Fish and Wildlife Coordination Act (FWCA) Worksheet

This worksheet is your essential fish habitat (EFH) assessment. It provides us with the information necessary to assess the effects of your action on EFH under the Magnuson Stevens Fishery Conservation and Management Act and on NOAA trust resources under the Fish and Wildlife Coordination Act (FWCA). Consultation is not required if:

1. there is no adverse effect on EFH or NOAA trust resources (see page 10 for more info).
2. no EFH is designated and no trust resources may be present at the project site.

Instructions

Federal agencies or their non-federal designated lead agency should email the completed worksheet and necessary attachments to nmfs.gar.efh.consultation@noaa.gov. Include the public notice (if applicable) or project application and project plans showing:

- location map of the project site with area of impact.
- existing and proposed conditions.
- all waters of the U.S. on the project site with mean low water (MLW), mean high water (MHW), high tide line (HTL), and water depths clearly marked.
- sensitive habitats mapped, including special aquatic sites (submerged aquatic vegetation, saltmarsh, mudflats, riffles and pools, coral reefs, and sanctuaries and refuges), hard bottom or natural rocky habitat areas, and shellfish beds.
- site photographs, if available.

We will provide our EFH conservation recommendations and recommendations under the FWCA, as appropriate, within 30 days of receipt of a complete EFH assessment (60 days if an expanded consultation is necessary). Please submit complete information to minimize delays in completing the consultation.

This worksheet provides us with the information required[1] in an EFH assessment:

1. A description of the proposed action.
2. An analysis of the potential adverse effects on EFH and the federally managed species.
3. The federal agency's conclusions regarding the effects of the action on EFH.
4. Proposed mitigation, if applicable.

Your analysis **should focus on impacts that reduce the quality and/or quantity of the habitat or result in conversion to a different habitat type** for all life stages of species with designated EFH within the action area.

Use the information on the HCD website and NOAA's EFH Mapper to complete this worksheet. If you have questions, please contact the appropriate HCD staff member to assist you.

[1] The EFH consultation process is guided by the requirements of our EFH regulation at 50 CFR 600.905.

EFH ASSESSMENT WORKSHEET

General Project Information

Date Submitted: May 29, 2020

Project/Application Number:

Project Name: Living with the Bay Stormwater Projects - Lister Park Improvements

Project Sponsor/Applicant: Governor's Office of Storm Recovery

Federal Action Agency (if state agency acting as delegated): U.S. Department of Housing

Fast-41 or One Federal Decision Project: ☐ Yes ☑ No

Action Agency Contact Name: Matt Accardi

Contact Phone: (212) 480-6265 Contact Email: Matt.Accardi@stormrecovery.ny.gov

Latitude: 40.652 Longitude: -73.655

Address, City/Town, State:

Along Mill River south of Sunrise Highway, Village of Rockville Centre, Nassau County, New York (see attached map)

Body of Water: Mill River

Project Purpose:

The purpose of the proposed Lister Park Improvements, as a component of the LWTB Project and Resiliency Strategy, is to address flooding in the park during heavy rainfall events and tidal backup. The project would also address erosion issues along the

Project Description:

The Lister Park Improvements component would entail the proposed improvements: construction of a bioretention basin at Tighe Field; reconstruction and repaving of the existing parking lot and bioretention basin at Centennial Field; construction of porous asphalt greenway at Bligh Field; construction of an earthen berm and knee walls for flood protection at Bligh Field; in-kind replacement of overlooks at Bligh Field and Centennial Field; and installation of a living shoreline and bank stabilization along the Mill River adjacent to Tighe, Centennial, and Bligh Fields. Installation of the living shoreline and replacement of the overlooks would involve activity above and below MHW along the shoreline of the Mill River.

Anticipated Duration of In-Water Work or Start/End Dates:

Construction would begin in fall of 2020 and end in fall 2021.

Habitat Description

EFH includes the biological, chemical, and physical components of the habitat. This includes the substrate and associated biological resources (e.g., benthic organisms, submerged aquatic vegetation, shellfish beds, salt marsh wetlands), the water column, and prey species.

Is the project in designated EFH[2]? ☑ Yes ☐ No

Is the project in designated HAPC[2]? ☑ Yes ☐ No

Is this coordination under FWCA only? ☐ Yes ☑ No

Total area of impact to EFH (indicate sq ft or acres): 31,371 sq ft (0.72 acre)

Total area of impact to HAPC (indicate sq ft or acres): 0

Current water depths: 0-3 feet Salinity: 5-10 ppt Water temperature range: 28 - 85 °F

Sediment characteristics[3]: sandy clay/sandy gravel

What habitat types are in or adjacent to the project area and will they be permanently impacted? Select all that apply. Indicate if impacts will be temporary, if site will be restored, or if permanent conversion of habitat will occur. A project may occur in overlapping habitat types.

	Habitat Type	**Total impact (sq ft/acres)**	**Impacts are temporary**	**Restored to pre-existing conditions**	**Permanent conversion of all or part of habitat**
☐	Marine				
☑	Estuarine	31,371 sq ft / 0.72 acre	24,804 sq ft of these impacts are temporary	24,804 sq ft would be restored or enhanced	6,567 sq ft of permanent habitat conversion
☑	Riverine (tidal)	24,566 sq ft / 0.564 acre	18,534 sq ft of these impacts are temporary	18,534 sq ft restored to pre-existing	6,032 sq ft of open water converted to intertidal wetland
☐	Riverine (non-tidal)				
☑	Intertidal	6,805 sq ft / 0.156 acre	6,270 sq ft of these impacts are temporary	6,270 sq ft of wetland enhancement	535 sq ft of permanent impact/fill
☐	Subtidal				
☑	Water column	24,566 sq ft / 0.564 acre	18,534 sq ft of these impacts are temporary	18,534 sq ft restored to pre-existing	6,032 sq ft of open water converted to intertidal wetland
☑	Salt marsh/ Wetland (tidal)	6,805 sq ft / 0.156 acre	6,270 sq ft of these impacts are temporary	6,270 sq ft of wetlands enhancement	535 sq ft of permanent impact/fill
☐	Wetland (non-tidal)				

[2] Use the tables on pages 7-9 to list species with designated EFH or the type of designated HAPC present.
[3] The level of detail is dependent on your project – e.g., a grain size analysis may be necessary for dredging.

	Habitat Type	Total impact (sq ft/acres)	Impacts are temporary	Restored to pre-existing conditions	Permanent conversion of all or part of habitat
☐	Rocky/hard bottom[4]:				
☐	Sand				
☐	Shellfish beds or oyster reefs				
☐	Mudflats				
☐	Submerged aquatic vegetation (SAV)[5], macroalgae, epifauna				
☑	Diadromous fish (migratory or spawning habitat)	31,371 sq ft / 0.72 acre	24,804 sq ft of these impacts are temporary	24,804 sq ft would be restored or enhanced	6,567 sq ft of permanent habitat conversion

Indicate type(s) of rocky/hard bottom habitat (pebble, cobble, boulder, bedrock outcrop/ledge) and species of SAV:

Project Effects

Select all that apply	Project Type/Category
☐	Hatchery or Aquaculture
☐	Agriculture
☐	Forestry
☐	Military (e.g., acoustic testing, training exercises)
☐	Mining (e.g., sand, gravel)
☐	Restoration or fish/wildlife enhancement (e.g., fish passage, wetlands, beach renourishment, mitigation bank/ILF creation)

[4] Indicate type(s). The type(s) of rocky habitat will help you determine if the area is cod HAPC.
[5] Indicate species. Provide a copy of the SAV report and survey conducted at the site, if applicable.

Select all that apply	Project Type/Category
☐	Infrastructure/transportation (e.g., culvert construction, bridge repair, highway, port)
☐	Energy development/use
☐	Water quality (e.g., TMDL, wastewater, sediment remediation)
☐	Dredging/excavation and disposal
☐	Piers, ramps, floats, and other structures
☑	Bank/shoreline stabilization (e.g., living shoreline, groin, breakwater, bulkhead)
☐	Survey (e.g., geotechnical, geophysical, habitat, fisheries)
☐	Other

Select all that apply	Potential Stressors Caused by the Activity
☐	Underwater noise
☑	Water quality/turbidity/ contaminant release
☐	Vessel traffic/barge grounding
☐	Impingement/entrainment[6]
☐	Prevent fish passage/spawning
☑	Benthic community disturbance
☑	Impacts to prey species

Select all that apply and if temporary or permanent		Habitat alterations caused by the activity
Temp	Perm	
☐	☐	Water depth change
☐	☐	Tidal flow change
☐	☑	Fill
☐	☑	Habitat type conversion
☐	☐	Other:
☐	☐	Other:

[6] Entrainment is the voluntary or involuntary movement of aquatic organisms from a water body into a surface diversion or through, under, or around screens and results in the loss of the organisms from the population. Impingement is the involuntary contact and entrapment of aquatic organisms on the surface of intake screens caused when the approach velocity exceeds the swimming capability of the organism.

Details: project impacts and mitigation

The level of detail that you provide should be commensurate with the magnitude of impacts associated with the proposed project. Attach supplemental information if necessary.

Describe how the project would impact each of the habitat types selected above. Include temporary and permanent impact descriptions and direct and indirect impacts.

Installation of the living shoreline and replacement of the overlooks would result in a total of approximately 24,566 sf of impact to open waters. Of these impacts, approximately 18,534 sf would be temporary disturbance during installation of the coir logs and turbidity barriers. Approximately 6,032 sf of open waters would be converted to intertidal wetland as a result of living shoreline installation.
Installation of the living shoreline would also result in a total of approximately 6,805 sf of impact to intertidal wetland. Of these impacts, approximately 6,270 sf are temporary and include wetland enhancement (native plantings). Approximately 535 sf of intertidal wetland would be permanently impacted due to placement of rock sills and lining.

What specific measures will be used to avoid impacts, including project design, turbidity controls, acoustic controls, and time of year restrictions? If impacts cannot be avoided, why not?

Due the nature of the proposed activities, most construction would occur during low tides within areas above mean low water, avoiding in-water disturbance. The majority of the construction would occur during the fall and winter months, avoiding diadromous fish migration.

What specific measures will be used to minimize impacts?

Proposed BMPs include working during low tide, turbidity barrier installations around the overlook work areas, and the installation of 12” coir logs staked and vegetated with saltmarsh bulrush (Schoenoplectus robustus) on 36” centers along the length of the living shoreline. Silt fencing would be installed to prevent sediment and debris from discharging into the Mill River as part of stormwater runoff during land-based activities.

Is compensatory mitigation proposed? ☐ Yes ☑ No

If no, why not? If yes, describe plans for mitigation and how this will offset impacts to EFH. Include a conceptual compensatory mitigation and monitoring plan, if applicable.

Implementation of the living shoreline project is inherently designed to enhance habitat quality and diversity of the wetlands and the adjacent area. Therefore, compensatory mitigation for permanent losses are provided by the creation of the living shoreline. A total of 15,711 sf of tidal wetland (and 12,113 sf of adjacent upland area) would be enhanced, which exceeds the losses associated with the project.

Federal Action Agency's EFH determination (select one)	
☐	There is no adverse effect[7] on EFH or EFH is not designated at the project site. EFH Consultation is not required. This is a FWCA-only request.
☑	The adverse effect[7] on EFH is not substantial. This means that the adverse effects are no more than minimal, temporary, or can be alleviated with minor project modifications or conservation recommendations. This is a request for an abbreviated EFH consultation.
☐	The adverse effect[7] on EFH is substantial. This is a request for an expanded EFH consultation. We will provide more detailed information, including an alternatives analysis and NEPA document, if applicable.

EFH and HAPC designations[8]

Use the EFH mapper to determine if EFH may be present in the project area and enter all species and lifestages that have designated EFH. Optionally, you may review the EFH text descriptions linked to each species in the EFH mapper and use them to determine if the described habitat is present. We recommend this for larger projects to help you determine what your impacts are.

Species	EFH is designated/mapped for:				Habitat present based on text description (optional)
	EFH: eggs	EFH: larvae	EFH: juvenile	EFH: adults/ spawning adults	
Winter flounder	☑	☑	☑	☑	☑
Little skate	☐	☐	☑	☑	☐
Ocean pout	☑	☐	☐	☑	☐
Atlantic herring	☐	☐	☑	☑	☐

[7] An **adverse effect** is any impact that reduces the quality and/or quantity of EFH. Adverse effects may include direct or indirect physical, chemical, or biological alterations of the waters or substrate and loss of, or injury to, benthic organisms, prey species and their habitat, and other ecosystem components. Adverse effects to EFH may result from actions occurring within EFH or outside of EFH and may include site-specific or habitat-wide impacts, including individual, cumulative, or synergistic consequences of actions.

[8] Within the Greater Atlantic Region, EFH has been designated by the New England, Mid-Atlantic, and South Atlantic Fisheries Management Councils and NOAA Fisheries.

Species	EFH is designated/mapped for:				Habitat present based on text description (optional)
	EFH: eggs	EFH: larvae	EFH: juvenile	EFH: adults/ spawning adults	
Atlantic cod	☐	☐	☐	✓	☐
Pollock	☐	☐	✓	☐	☐
Yellowtail flounder	☐	☐	☐	✓	☐
Monkfish	✓	✓	☐	☐	☐
Windowpane flounder	✓	✓	✓	✓	✓
Winter skate	☐	☐	✓	✓	☐
White hake	☐	☐	✓	☐	☐
Longfin inshore squid	✓	☐	✓	☐	☐
Atlantic mackeral	✓	✓	✓	✓	☐
Bluefish	☐	☐	✓	✓	✓
Scup	☐	☐	✓	✓	☐
Summer flounder	☐	☐	✓	✓	✓
Black sea bass	☐	☐	✓	✓	☐
	☐	☐	☐	☐	☐
	☐	☐	☐	☐	☐
	☐	☐	☐	☐	☐
	☐	☐	☐	☐	☐
	☐	☐	☐	☐	☐
	☐	☐	☐	☐	☐
	☐	☐	☐	☐	☐
	☐	☐	☐	☐	☐
	☐	☐	☐	☐	☐

HAPCs

Select all that are in your action area.

☐	Summer flounder: SAV[9]	☐	Alvin & Atlantis Canyons
☐	Sandbar shark	☐	Baltimore Canyon
☐	Sand Tiger Shark (Delaware Bay)	☐	Bear Seamount
☐	Sand Tiger Shark (Plymouth-Duxbury-Kingston Bay)	☐	Heezen Canyon
☐	Inshore 20m Juvenile Cod	☐	Hudson Canyon
☐	Great South Channel Juvenile Cod	☐	Hydrographer Canyon
☐	Northern Edge Juvenile Cod	☐	Jeffreys & Stellwagen
☐	Lydonia Canyon	☐	Lydonia, Gilbert & Oceanographer Canyons
☐	Norfolk Canyon (Mid-Atlantic)	☐	Norfolk Canyon (New England)
☐	Oceanographer Canyon	☐	Retriever Seamount
☐	Veatch Canyon (Mid-Atlantic)	☐	Toms, Middle Toms & Hendrickson Canyons
☐	Veatch Canyon (New England)	☐	Washington Canyon
☐	Cashes Ledge	☐	Wilmington Canyon

[9] Summer flounder HAPC is defined as all native species of macroalgae, seagrasses, and freshwater and tidal macrophytes in any size bed, as well as loose aggregations, within adult and juvenile summer flounder EFH. In locations where native species have been eliminated from an area, then exotic species are included. Use local information to determine the locations of HAPC.

More information

The Magnuson-Stevens Fishery Conservation and Management Act (MSA) mandates that federal agencies conduct an essential fish habitat (EFH) consultation with NOAA Fisheries on any actions they authorize, fund, or undertake that may adversely affect EFH. An **adverse effect** is any impact that reduces the quality and/or quantity of EFH. Adverse effects may include direct or indirect physical, chemical, or biological alterations of the waters or substrate and loss of, or injury to, benthic organisms, prey species and their habitat, and other ecosystem components. Adverse effects to EFH may result from actions occurring within EFH or outside of EFH and may include site-specific or habitat-wide impacts, including individual, cumulative, or synergistic consequences of actions.

We designed this worksheet to help you to prepare EFH assessments. It is important to remember that an adverse effect determination is a trigger to consult with us. It does not mean that a project cannot proceed as proposed, or that project modifications are necessary. It means that the effects of the proposed action on EFH must be evaluated to determine if there are ways to avoid, minimize, or offset adverse effects.

This worksheet should be used as your EFH assessment or as a guide to develop your EFH assessment. At a minimum, you should include all the information required to complete this worksheet in your EFH assessment. The level of detail that you provide should be commensurate with the magnitude of impacts associated with the proposed project. If your answers in the worksheet and supplemental information you attach do not fully evaluate the adverse effects to EFH, we may request additional information to complete the consultation.

You may need to prepare an expanded EFH assessment for more complex projects to fully characterize the effects of the project and the avoidance and minimization of impacts to EFH. While the EFH assessment worksheet may be used for larger projects, the format may not be sufficient to incorporate the extent of detail required, and a separate EFH assessment may be developed. However, regardless of format, you should include an analysis as outlined in this worksheet for an expanded EFH assessment, along with any additional necessary information. This additional information includes:

- the results of on-site inspections to evaluate the habitat and site-specific effects.
- the views of recognized experts on the habitat or the species that may be affected.
- a review of pertinent literature and related information.
- an analysis of alternatives that could avoid or minimize the adverse effects on EFH.

Please contact our Greater Atlantic Regional Fisheries Office, Protected Resources Division regarding potential impacts to marine mammals or threatened and endangered species.

Useful Links
National Wetland Inventory Maps
https://www.fws.gov/wetlands/
EPA's National Estuary Program (NEP)
https://www.epa.gov/nep/local-estuary-programs
Northeast Regional Ocean Council (NROC) Data Portal
https://www.northeastoceandata.org/
Mid-Atlantic Regional Council on the Ocean (MARCO) Data Portal
http://portal.midatlanticocean.org/

Resources by State

Maine
Maine Office of GIS Data Catalog
https://geolibrary-maine.opendata.arcgis.com/datasets#data
Town shellfish information including shellfish conservation area maps
https://www.maine.gov/dmr/shellfish-sanitation-management/programs/municipal/ordinances/towninfo.html
State of Maine Shellfish Sanitation and Management
https://www.maine.gov/dmr/shellfish-sanitation-management/index.html
Eelgrass maps
https://www.maine.gov/dmr/science-research/species/eelgrass/index.html
Casco Bay Estuary Partnership
https://www.cascobayestuary.org/
Maine GIS Stream Habitat Viewer
https://www.arcgis.com/home/item.html?id=5869c2d20f0b4c3a9742bdd8abef42cb

New Hampshire
NH's Statewide GIS Clearinghouse, NH GRANIT
http://www.granit.unh.edu/
NH Coastal Viewer
http://www.granit.unh.edu/nhcoastalviewer/
State of NH Shellfish Program
https://www.des.nh.gov/organization/divisions/water/wmb/shellfish/

Massachusetts
MA Shellfish Sanitation and Management Program
https://www.mass.gov/shellfish-sanitation-and-management
MassGIS Data, Including Eelgrass Maps
http://maps.massgis.state.ma.us/map_ol/oliver.php
MA DMF Recommended TOY Restrictions Document
https://www.mass.gov/files/documents/2016/08/ry/tr-47.pdf
Massachusetts Bays National Estuary Program
https://www.mass.gov/orgs/massachusetts-bays-national-estuary-program
Buzzards Bay National Estuary Program
http://buzzardsbay.org/
Massachusetts Division of Marine Fisheries

https://www.mass.gov/orgs/division-of-marine-fisheries
Massachusetts Office of Coastal Zone Management
https://www.mass.gov/orgs/massachusetts-office-of-coastal-zone-management

Rhode Island
RI Shellfish and Aquaculture
http://www.dem.ri.gov/programs/fish-wildlife/marine-fisheries/shellfish-aquaculture.php
RI Shellfish Management Plan
http://www.shellfishri.com/
Eelgrass Maps
http://edc.maps.arcgis.com/apps/View/index.html?appid=db52bb689c1e44259c06e11fd24895f8
RI GIS Data
http://ridemgis.maps.arcgis.com/apps/webappviewer/index.html?id=87e104c8adb449eb9f905e5f18020de5
Narragansett Bay Estuary Program
http://nbep.org/
Rhode Island Division of Marine Fisheries
http://www.dem.ri.gov/programs/fish-wildlife/marine-fisheries/index.php
Rhode Island Coastal Resources Management Council
http://www.crmc.ri.gov/

Connecticut
CT Bureau of Aquaculture
https://www.ct.gov/doag/cwp/view.asp?a=3768&q=451508&doagNav=
CT GIS Resources
https://www.ct.gov/deep/cwp/view.asp?a=2698&q=323342&deepNav_GID=1707
Natural Shellfish Beds in CT
https://cteco.uconn.edu/viewer/index.html?viewer=aquaculture
Eelgrass Maps
https://www.fws.gov/northeast/ecologicalservices/pdf/wetlands/2012_CT_Eelgrass_Final_Report_11_26_2013.pdf
Long Island Sound Study
http://longislandsoundstudy.net/
CT GIS Resources
http://cteco.maps.arcgis.com/home/index.html
CT DEEP Office of Long Island Sound Programs and Fisheries
https://www.ct.gov/deep/site/default.asp
CT River Watershed Council
https://www.ctriver.org/

New York
Eelgrass Report
http://www.dec.ny.gov/docs/fish_marine_pdf/finalseagrassreport.pdf
Peconic Estuary Program
https://www.peconicestuary.org/
NY/NJ Harbor Estuary
https://www.hudsonriver.org/estuary-program

New York GIS Clearinghouse
https://gis.ny.gov/

New Jersey
Submerged Aquatic Vegetation Mapping
http://www.crssa.rutgers.edu/projects/sav/
Barnegat Bay Partnership
https://www.barnegatbaypartnership.org/
NJ GeoWeb
https://www.nj.gov/dep/gis/geowebsplash.htm
NJ DEP Shellfish Maps
https://www.nj.gov/dep/landuse/shellfish.html

Pennsylvania
Delaware River Management Plan
https://www.fishandboat.com/Fish/Fisheries/DelawareRiver/Documents/delaware_river_plan_exec_draft.pdf
PA DEP Coastal Resources Management Program
https://www.dep.pa.gov/Business/Water/Compacts%20and%20Commissions/Coastal%20Resources%20Management%20Program/Pages/default.aspx
PA DEP GIS Mapping Tools
https://www.dep.pa.gov/DataandTools/Pages/GIS.aspx

Delaware
Partnership for the Delaware Estuary
http://www.delawareestuary.org/
Center for Delaware Inland Bays
http://www.inlandbays.org/
Delaware FirstMap
http://delaware.maps.arcgis.com/home/index.html

Maryland
Submerged Aquatic Vegetation Mapping
http://web.vims.edu/bio/sav/
MERLIN
http://dnrweb.dnr.state.md.us/MERLIN/
Maryland Coastal Bays Program
https://mdcoastalbays.org/

Virginia
Submerged Aquatic Vegetation mapping
http://www.mrc.virginia.gov/regulations/Guidance_for_SAV_beds_and_restoration_final_approved_by_Commission_7-22-17.pdf
VDGIF Time of Year Restrictions (TOYR) and Other Guidance
https://www.dgif.virginia.gov/wp-content/uploads/VDGIF-Time-of-Year-Restrictions-Table.pdf

ATTACHMENT 7

EFH Data Notice: Essential Fish Habitat (EFH) is defined by textual descriptions contained in the fishery management plans developed by the regional Fishery Management Councils. In most cases mapping data can not fully represent the complexity of the habitats that make up EFH. This report should be used for general interest queries only and should not be interpreted as a definitive evaluation of EFH at this location. A location-specific evaluation of EFH for any official purposes must be performed by a regional expert. Please refer to the following links for the appropriate regional resources.

Greater Atlantic Regional Office
Atlantic Highly Migratory Species Management Division

Query Results

Degrees, Minutes, Seconds: Latitude = 40º39'33" N, Longitude = 74º20'47" W
Decimal Degrees: Latitude = 40.66, Longitude = -73.65

The query location intersects with spatial data representing EFH and/or HAPCs for the following species/management units.

*** W A R N I N G ***

Please note under "Life Stage(s) Found at Location" the category "ALL" indicates that all life stages of that species share the same map and are designated at the queried location.

EFH

Show	Link	Data Caveats	Species/Management Unit	Lifestage(s) Found at Location	Management Council	FMP
			Winter Flounder	Eggs Juvenile Larvae/Adult	New England	Amendment 14 to the Northeast Multispecies FMP
			Little Skate	Juvenile Adult	New England	Amendment 2 to the Northeast Skate Complex FMP
			Ocean Pout	Adult Eggs	New England	Amendment 14 to the Northeast Multispecies FMP
			Atlantic Herring	Juvenile Adult	New England	Amendment 3 to the Atlantic Herring FMP
			Atlantic Cod	Adult	New England	Amendment 14 to the Northeast Multispecies FMP

Show	Link	Data Caveats	Species/Management Unit	Lifestage(s) Found at Location	Management Council	FMP
			Pollock	Juvenile	New England	Amendment 14 to the Northeast Multispecies FMP
			Yellowtail Flounder	Adult	New England	Amendment 14 to the Northeast Multispecies FMP
			Monkfish	Eggs/Larvae	New England	Amendment 4 to the Monkfish FMP
			Windowpane Flounder	Adult Larvae Eggs Juvenile	New England	Amendment 14 to the Northeast Multispecies FMP
			Winter Skate	Adult Juvenile	New England	Amendment 2 to the Northeast Skate Complex FMP
			White Hake	Juvenile	New England	Amendment 14 to the Northeast Multispecies FMP
			Longfin Inshore Squid	Juvenile Eggs	Mid-Atlantic	Atlantic Mackerel, Squid,& Butterfish Amendment 11
			Atlantic Mackerel	Eggs Larvae Juvenile Adult	Mid-Atlantic	Atlantic Mackerel, Squid,& Butterfish Amendment 11
			Bluefish	Adult Juvenile	Mid-Atlantic	Bluefish
			Scup	Juvenile Adult	Mid-Atlantic	Summer Flounder, Scup, Black Sea Bass
			Summer Flounder	Juvenile Adult	Mid-Atlantic	Summer Flounder, Scup, Black Sea Bass
			Black Sea Bass	Juvenile Adult	Mid-Atlantic	Summer Flounder, Scup, Black Sea Bass

HAPCs

No Habitat Areas of Particular Concern (HAPC) were identified at the report location.

EFH Areas Protected from Fishing

No EFH Areas Protected from Fishing (EFHA) were identified at the report location.

Spatial data does not currently exist for all the managed species in this area. The following is a list of species or management units for which there is no spatial data. ****For links to all EFH text descriptions see the complete data inventory: open data inventory -->**
Mid-Atlantic Council HAPCs, No spatial data for summer flounder SAV HAPC.

ATTACHMENT 8

EFH Data Notice: Essential Fish Habitat (EFH) is defined by textual descriptions contained in the fishery management plans developed by the regional Fishery Management Councils. In most cases mapping data can not fully represent the complexity of the habitats that make up EFH. This report should be used for general interest queries only and should not be interpreted as a definitive evaluation of EFH at this location. A location-specific evaluation of EFH for any official purposes must be performed by a regional expert. Please refer to the following links for the appropriate regional resources.

Greater Atlantic Regional Office
Atlantic Highly Migratory Species Management Division

Query Results

Degrees, Minutes, Seconds: Latitude = 40º39'17" N, Longitude = 74º20'44" W
Decimal Degrees: Latitude = 40.65, Longitude = -73.65

The query location intersects with spatial data representing EFH and/or HAPCs for the following species/management units.

*** W A R N I N G ***

Please note under "Life Stage(s) Found at Location" the category "ALL" indicates that all life stages of that species share the same map and are designated at the queried location.

EFH

Show	Link	Data Caveats	Species/Management Unit	Lifestage(s) Found at Location	Management Council	FMP
			Winter Flounder	Eggs Juvenile Larvae/Adult	New England	Amendment 14 to the Northeast Multispecies FMP
			Little Skate	Juvenile Adult	New England	Amendment 2 to the Northeast Skate Complex FMP
			Ocean Pout	Adult Eggs	New England	Amendment 14 to the Northeast Multispecies FMP
			Atlantic Herring	Juvenile Adult	New England	Amendment 3 to the Atlantic Herring FMP
			Atlantic Cod	Adult	New England	Amendment 14 to the Northeast Multispecies FMP

Show	Link	Data Caveats	Species/Management Unit	Lifestage(s) Found at Location	Management Council	FMP
			Pollock	Juvenile	New England	Amendment 14 to the Northeast Multispecies FMP
			Yellowtail Flounder	Adult	New England	Amendment 14 to the Northeast Multispecies FMP
			Monkfish	Eggs/Larvae	New England	Amendment 4 to the Monkfish FMP
			Windowpane Flounder	Adult Larvae Eggs Juvenile	New England	Amendment 14 to the Northeast Multispecies FMP
			Winter Skate	Adult Juvenile	New England	Amendment 2 to the Northeast Skate Complex FMP
			White Hake	Juvenile	New England	Amendment 14 to the Northeast Multispecies FMP
			Longfin Inshore Squid	Juvenile Eggs	Mid-Atlantic	Atlantic Mackerel, Squid,& Butterfish Amendment 11
			Atlantic Mackerel	Eggs Larvae Juvenile Adult	Mid-Atlantic	Atlantic Mackerel, Squid,& Butterfish Amendment 11
			Bluefish	Adult Juvenile	Mid-Atlantic	Bluefish
			Scup	Juvenile Adult	Mid-Atlantic	Summer Flounder, Scup, Black Sea Bass
			Summer Flounder	Juvenile Adult	Mid-Atlantic	Summer Flounder, Scup, Black Sea Bass
			Black Sea Bass	Juvenile Adult	Mid-Atlantic	Summer Flounder, Scup, Black Sea Bass

HAPCs

No Habitat Areas of Particular Concern (HAPC) were identified at the report location.

EFH Areas Protected from Fishing

No EFH Areas Protected from Fishing (EFHA) were identified at the report location.

Spatial data does not currently exist for all the managed species in this area. The following is a list of species or management units for which there is no spatial data. ****For links to all EFH text descriptions see the complete data inventory: open data inventory -->**
Mid-Atlantic Council HAPCs, No spatial data for summer flounder SAV HAPC.

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

June 18, 2020

Matt Accardi
Assistant General Counsel and Certifying Environmental Officer
New York State Governor's Office of Storm Recovery
25 Beaver Street, 5th Fl.
New York, NY 10004

RE: Living with the Bay Stormwater Infrastructure Upgrades Projects, Nassau County, NY
Essential Fish Habitat Consultation

Dear Mr. Accardi:

We have reviewed the information provided in your May 29, 2020, letter and accompanying essential fish habitat assessment (EFH) for the Living with the Bay (LWTB) Stormwater Infrastructure Upgrades Projects in Nassau County, NY. In response to Hurricane Sandy's impacts in the region, the Villages of Rockville Centre and East Rockaway, and the Town of Hempstead propose to address flooding caused by storm surge and rainfall, improve coastal habitat and water quality, ease public access to the waterfront, and educate the public on stormwater and environmental management. Project components are driven by the Rebuild by Design competition, which is being implemented using US Department of Housing and Urban Development's (HUD) Community Development Block Grant-Disaster Recovery (CDBG-DR) funding. The Governor's Office of Storm Recovery (GOSR) in cooperation with the New York State Housing Trust Fund Cooperation (HTFC) is responsible for the direct administration of the HUD CDBG-DR program in the State and is HUD's non-federal representative for the purposes of environmental review of this project, including consultation with us under the Magnuson Stevens Fishery Conservation and Management Act.

The proposed project includes five components, two of which involve in-water work: 1) Smith Pond Rehabilitation: installation and construction of floodwalls and a floodgate, existing weir enhancement, installation of a fish ladder, and structural repair of a culvert headwall and wing walls; and 2) Lister Park improvements: installation of a living shoreline and bank stabilization along the Mill River. The installation of a fish ladder is intended to support historic fish migration in the upper section of the Mill River for alewife (*Alosa pseudoharengus*) and juvenile American eels (*Anguilla rostrata*), providing a route for migrating fish to swim upstream and downstream of the existing weir. Whereas the living shoreline aims to enhance habitat quality and eliminate the erosion and bank instability of an existing natural eroding shoreline lined with segments of bulkhead and concrete wall.

Weir enhancements and fish ladder installation would result in temporary impacts to approximately 0.146 acre of open water within a non-tidal, concrete lined channel/basin and the installation of the living shoreline would result in temporary impact to 0.144 acre of intertidal wetland, permanent impact to 0.012 acre of intertidal wetland, and the conversion of 0.138 acre of open water to intertidal wetlands. Proposed best management practices (BMPs) will include the installation of temporary cofferdams downstream and upstream of the weir to prevent fish from entering the basin during construction, installation of turbidity barriers around work areas, and working during low tide and generally above mean low water, avoiding in-water disturbance as practical. Construction is proposed to begin in the fall of 2020 and be complete by fall 2021, with weir enhancements and fish ladder completion by January 2021, prior to spring fish migration. No compensatory mitigation will be provided for the permanent impacts to intertidal wetlands and conversion of open water to intertidal wetlands, as the overall project intent is to enhance habitat quality, eliminate the erosion and bank instability that currently exists, and provide an overall net benefit to diadromous fish migration.

The Magnuson-Stevens Fishery Conservation and Management Act (MSA) and the Fish and Wildlife Coordination Act (FWCA) require federal agencies to consult with one another on projects such as this that may adversely affect EFH and other aquatic resources. In turn, we must provide recommendations to conserve EFH. These recommendations may include measures to avoid, minimize, mitigate, or otherwise offset adverse effects on EFH resulting from actions or proposed actions authorized, funded, or undertaken by that agency. This process is guided by the requirements of our EFH regulation at 50 CFR 600.905, which mandates the preparation of EFH assessments and generally outlines each agency's obligations in this consultation procedure. While our regulations also allow a federal agency such as HUD to designate a non-federal representative such as GOSR to conduct the EFH consultation, it is important to note that the HUD remains ultimately responsible for compliance with sections 305(b)(2) and 305(b)(4)(B) of the MSA.

Magnuson-Stevens Fishery Conservation and Management Act (MSA)

Hempstead Bay and the surrounding waters such as the Mill River have been designated as EFH for a number federally managed species including bluefish *(Pomatomus saltatrix),* summer flounder (*Paralichthys dentatus*), winter flounder (*Pseudopleuronectes americanus),* windowpane flounder (*Scophthalmus aquosus*)*,* and others.

We have reviewed the EFH assessment provided and agree with your conclusion that the adverse effects of this project on EFH will not be substantial. As discussed in the EFH assessment, Smith Pond is not designated as EFH and general in-water work within the Mill River will be avoided as practical using BMPs. Based upon all of the information provided, including the proposed schedule designating fish ladder completion by January 2021, we do not have any objections to the proposed project and additional EFH conservation recommendations are not warranted. Please note that further EFH consultation must be reinitiated pursuant to 50 CFR 600.920(j) should the schedule change (i.e., fish ladder will not be complete prior to March 1, 2021), if new information becomes available, or if the project is revised in such a manner that affects the basis for the above determination.

As always, we are available to coordinate with your staff so that this project can move forward efficiently and expeditiously as possible while still meeting our joint responsibilities to protect

and conserve aquatic resources. If you have any questions or need additional information, please contact Jessie Murray in our Highlands, NJ field office at (732) 872-3023 or jessie.murray@noaa.gov.

Sincerely,

GREENE.KAREN.M.1365830785 Digitally signed by GREENE.KAREN.M.1365830785 Date: 2020.06.18 12:14:31 -04'00'

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

cc: HUD – D. Mahon
NYD ACOE – S. Ryba
NMFS PRD – E. Carson-Supino
NYDEC – D. McReynolds
FWS – S. Papa

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