APPENDIX B
PROJECT CORRESPONDENCE

David A. Paterson
Governor

Carol Ash
Commissioner

New York State Office of Parks, Recreation and Historic Preservation

Historic Preservation Field Services Bureau • Peebles Island, PO Box 189, Waterford, New York 12188-0189
518-237-8643
www.nysparks.com

September 08, 2010

Alan L. Pilch
Evans Associates
205 Amity Road
Bethany, Connecticut 06524

Re: DEC
Subdivision of 5.169-acre property
1000 Taylors Lane/MAMARONECK,
Westchester County
10PR05604

Dear Mr. Pilch:

Thank you for requesting the comments of the Office of Parks, Recreation and Historic Preservation (OPRHP) concerning your project's potential impact/effect upon historic and/or prehistoric cultural resources. Our staff has reviewed the documentation that you provided on your project. Preliminary comments and/or requests for additional information are noted on separate enclosures accompanying this letter. A determination of impact/effect will be provided only after ALL documentation requirements noted on any enclosures have been met. Any questions concerning our preliminary comments and/or requests for additional information should be directed to the appropriate staff person identified on each enclosure.

In cases where a state agency is involved in this undertaking, it is appropriate for that agency to determine whether consultation should take place with OPRHP under Section 14.09 of the New York State Parks, Recreation and Historic Preservation Law. In addition, if there is any federal agency involvement, Advisory Council on Historic Preservation's regulations, "Protection of Historic and Cultural Properties" 36 CFR 800 requires that agency to initiate Section 106 consultation with the State Historic Preservation Officer (SHPO).

When responding, please be sure to refer to the OPRHP Project Review (PR) number noted above.

Sincerely,

Ruth L. Pierpont

Ruth L. Pierpont
Director

Enclosure

ARCHEOLOGY COMMENTS
10PR05604

Based on reported resources, there is an archeological site in or adjacent to your project area. Therefore the Office of Parks, Recreation and Historic Preservation (OPRHP) recommends that a Phase 1 archeological survey is warranted for all portions of the project to involve ground disturbance, unless substantial prior ground disturbance can be documented. If you consider the project area to be disturbed, documentation of the disturbance will need to be reviewed by OPRHP. Examples of disturbance include mining activities and multiple episodes of building construction and demolition.

A Phase 1 survey is designed to determine the presence or absence of archeological sites or other cultural resources in the project's area of potential effect. The OPRHP can provide standards for conducting cultural resource investigations upon request. Cultural resource surveys and survey reports that meet these standards will be accepted and approved by the OPRHP.

Our office does not conduct cultural resources surveys. A 36 CFR 61 qualified archeologist should be retained to conduct the Phase 1 survey. Many archeological consulting firms advertise their availability in the yellow pages. The services of qualified archeologists can also be obtained by contacting local, regional, or statewide professional archeological organizations. Phase 1 surveys can be expected to vary in cost per mile of right-of-way or by the number of acres impacted. We encourage you to contact a number of consulting firms and compare examples of each firm's work to obtain the best product.

Documentation of ground disturbance should include a description of the disturbance with confirming evidence. Confirmation can include current photographs and/or older photographs of the project area which illustrate the disturbance (approximately keyed to a project area map), past maps or site plans that accurately record previous disturbances, or current soil borings that verify past disruptions to the land. Agricultural activity is not considered to be substantial ground disturbance and many sites have been identified in previously cultivated land.

Please also be aware that a Section 233 permit from the New York State Education Department (SED) may be necessary before any archeological survey activities are conducted on State-owned land.If any portion of the project includes the lands of New York State you should contact the SED before initiating survey activities.The SED contact is Christina B. Rieth and she can be reached at (518) 402-5975. Section 233 permits are not required for projects on private lands.

If you have any questions concerning archeology, please contact Daniel A. Bagrow at 518-237-8643. ext 3254

OFFICE OF PARKS · RECREATION · HISTORIC PRESERVATION
NEW YORK STATE

New York State Office of Parks, Recreation and Historic Preservation

Historic Preservation Field Services Bureau • Peebles Island, PO Box 189, Waterford, New York 12188-0189
518-237-8643
www.nysparks.com

David A. Paterson
Governor

Carol Ash
Commissioner

October 07, 2010

Rebecca Crist
NYS Department of Environmental Conservation
21 South Putt Corners Road
New Paltz, New York 12561

Re: DEC
Subdivision of 5.169-acre property
1000 Taylors Lane/MAMARONECK,
Westchester County
10PR05604

Dear Ms. Crist:

Thank you for requesting the comments of the Field Services Bureau of the Office of Parks, Recreation and Historic Preservation (OPRHP). We have reviewed the project in accordance with the New York State Historic Preservation Act of 1980 (Section 14.09 of the New York Parks, Recreation and Historic Preservation Law). These comments are those of the Field Services Bureau and relate only to Historic/Cultural resources. They do not include potential environmental impacts to New York State Parkland that may be involved in or near your project. Such impacts must be considered as part of the environmental review of the project pursuant to the State Environmental Quality Review Act (New York Environmental Conservation Law Article 8) and its implementing regulations (6 NYCRR Part 617).

OPRHP is aware that the proposed subdivision does not require any ground disturbing activity at this time. Based upon this review, it is OPRHP's opinion that the project will have **No Impact** upon cultural resources in or eligible for inclusion in the State and National Register of Historic Places **on the condition** that the provided permits include a stipulation requiring consultation with OPRHP if/when the site is developed.

If further correspondence is required regarding this project, please be sure to refer to the OPRHP Project Review (PR) number noted above.

Sincerely,

Ruth L. Pierpont

Ruth L. Pierpont
Acting Deputy Commissioner for Historic Preservation

OFFICE OF PARKS · RECREATION · HISTORIC PRESERVATION
NEW YORK STATE

New York State Office of Parks, Recreation and Historic Preservation

Historic Preservation Field Services Bureau • Peebles Island, PO Box 189, Waterford, New York 12188-0189
518-237-8643
www.nysparks.com

David A. Paterson
Governor

Carol Ash
Commissioner

November 22, 2010

Rebecca Crist
NYS Department of Environmental Conservation
21 South Putt Corners Road
New Paltz, New York 12561

Re: DEC
Subdivision of 5.169-acre property
1000 Taylors Lane/MAMARONECK,
Westchester County
10PR05604

Dear Ms. Crist:

Thank you for requesting the comments of the Office of Parks, Recreation and Historic Preservation (OPRHP) concerning your project's potential impact/effect upon historic and/or prehistoric cultural resources. Our staff has reviewed the documentation that you provided on your project. Preliminary comments and/or requests for additional information are noted on separate enclosures accompanying this letter. A determination of impact/effect will be provided only after ALL documentation requirements noted on any enclosures have been met. Any questions concerning our preliminary comments and/or requests for additional information should be directed to the appropriate staff person identified on each enclosure.

In cases where a state agency is involved in this undertaking, it is appropriate for that agency to determine whether consultation should take place with OPRHP under Section 14.09 of the New York State Parks, Recreation and Historic Preservation Law. In addition, if there is any federal agency involvement, Advisory Council on Historic Preservation's regulations, "Protection of Historic and Cultural Properties" 36 CFR 800 requires that agency to initiate Section 106 consultation with the State Historic Preservation Officer (SHPO).

When responding, please be sure to refer to the OPRHP Project Review (PR) number noted above.

Sincerely,

Ruth L. Pierpont

Ruth L. Pierpont
Acting Deputy Commissioner for Historic Preservation

Enclosure

ARCHEOLOGY COMMENTS
10PR05604

Based on reported resources, there is an archeological site in or adjacent to your project area. Therefore the Office of Parks, Recreation and Historic Preservation (OPRHP) recommends that a Phase 1 archeological survey is warranted for all portions of the project to involve ground disturbance, unless substantial prior ground disturbance can be documented. If you consider the project area to be disturbed, documentation of the disturbance will need to be reviewed by OPRHP. Examples of disturbance include mining activities and multiple episodes of building construction and demolition.

A Phase 1 survey is designed to determine the presence or absence of archeological sites or other cultural resources in the project's area of potential effect. The OPRHP can provide standards for conducting cultural resource investigations upon request. Cultural resource surveys and survey reports that meet these standards will be accepted and approved by the OPRHP.

Our office does not conduct cultural resources surveys. A 36 CFR 61 qualified archeologist should be retained to conduct the Phase 1 survey. Many archeological consulting firms advertise their availability in the yellow pages. The services of qualified archeologists can also be obtained by contacting local, regional, or statewide professional archeological organizations: Phase 1 surveys can be expected to vary in cost per mile of right-of-way or by the number of acres impacted. We encourage you to contact a number of consulting firms and compare examples of each firm's work to obtain the best product.

Documentation of ground disturbance should include a description of the disturbance with confirming evidence. Confirmation can include current photographs and/or older photographs of the project area which illustrate the disturbance (approximately keyed to a project area map), past maps or site plans that accurately record previous disturbances, or current soil borings that verify past disruptions to the land. Agricultural activity is not considered to be substantial ground disturbance and many sites have been identified in previously cultivated land.

Please also be aware that a Section 233 permit from the New York State Education Department (SED) may be necessary before any archeological survey activities are conducted on State-owned land.If any portion of the project includes the lands of New York State you should contact the SED before initiating survey activities.The SED contact is Christina B. Rieth and she can be reached at (518) 402-5975. Section 233 permits are not required for projects on private lands.

If you have any questions concerning archeology, please contact Daniel A. Bagrow at 518-237-8643. ext 3254

New York State Department of Environmental Conservation
Division of Environmental Permits, Region 3
21 South Putt Corners Road, New Paltz, New York 12561-1620
Phone: (845) 256-3054 FAX: (845) 255-4659
Website: www.dec.ny.gov

Alexander B. Grannis
Commissioner

July 30, 2010

Alan L. Pilch
Evans Associates
205 Amity Road
Bethany, CT 06524

RE: Alter Property, 1000 Taylors Lane Subdivision
DEC Tracking Id # 3-5548-00289/00001
Village of Mamaroneck, Westchester County
Determination of Jurisdiction

Dear Mr. Pilch

In response to your request, Department staff have visited this site and reviewed the proposed subdivision plans. Based upon our review, it appears that the Department jurisdiction is as follows:

Department Jurisdiction

Article 15, Protection of Waters: The nearby stream, Otter Creek, NYS Waters Index # LIS-10, is a Class C stream. No permits are required.

Article 25, Tidal Wetlands and Article 24, Freshwater Wetlands: This parcel contains bother freshwater wetland J-2, Class 2 and tidal wetland categorized as high marsh. The locations of these wetlands and their respective adjacent areas have been field-verified by Department staff. The entire wetland on the property meets the requirements for regulation under Article 24 with the associated 100-foot adjacent area. The tidal portion of the wetland, which extended slightly north of the proposed lot 1 and 2 boundary, has an adjacent area which extends only to the 10-foot elevation line per 6 NYCRR Part 661.4(b)(1)(iii). Staff have verified that this area does not meet the criteria required for extension of jurisdiction above the 10-foot contour – presence of a "bluff or cliff, or … a hill on which the slope equals or exceeds the natural angle of repose of the soil".

The clearing/grading shown on the plan (dated October 14, 2009 and revised November 24, 2009) is in close proximity (~2-3 feet) to the freshwater wetland adjacent area. It is unlikely this work can be undertaken without disturbing this adjacent area. A reasonable separation to ensure no disturbance is necessary prior to the Department making a determination that a permit not required for freshwater wetlands.

No disturbance within or near the tidal wetland adjacent area is show on the plan. However regardless of proposed areas of disturbance, subdivision of a parcel containing tidal wetland and/or adjacent area requires a permit. It does not appear that this action requires any variances

40 years of stewardship 1970-2010

from restrictions, as described in 6 NYCRR Part 661.6. This is a minor action under Uniform Procedures and therefore the $200.00 application fee will apply.

Please see 6 NYCRR Part 621.4(k)(1) for the requirements of a complete application for tidal wetlands; available on the DEC website at http://www.dec.ny.gov/regs/4486.html#18132.

Compliance with the State Pollutant Discharge Elimination System (SPDES) General Permit for Stormwater Discharges from Construction Activities (GP-0-08-001): For proposed disturbance of 1 acre or more of land outside the NYC DEP Watershed. This site is within an MS4 area (Municipal Separate Storm Sewer System), so the SWPPP must be reviewed and accepted by the municipality and the MS-4 Acceptance Form must be submitted to the Department. Authorization for coverage under the SPDES General Permit is not granted until the Department issues any other necessary DEC permits.

Other: This site is within the NYS Department of State Coastal Management Area. A Coastal Consistency determination is required. See the DOS Division of Coastal Resources website for additional information - http://nyswaterfronts.com/consistency.asp

Cultural Resources: This site is within an area identified by NYS as having the potential for archeological resources. An archeological resources assessment and the review by the New York State Office of Parks, Recreation and Historic Preservation is required.

Questions pertaining to the Department's jurisdiction or related matters should be directed to the undersigned analyst assigned to the project. Please refer to the DEC project number identified above in all correspondence to the Department. Thank you.

Sincerely,

Rebecca Crist
Environmental Analyst
Division of Environmental Permits
(845) 256-3014

Cc: Richard and Caroline Alter
Village of Mamaroneck Planning Board

Ecc: Heather Gierloff, DEC Bureau of Habitat
Betsy Blair, NYSDEC Bureau of Marine Resources

New York State Department of Environmental Conservation
Division of Environmental Permits, Region 3
21 South Putt Corners Road, New Paltz, New York 12561-1620
Phone: (845) 256-3054 FAX: (845) 255-4659
Website: www.dec.ny.gov

Alexander B. Grannis
Commissioner

September 14, 2010

Daniel S. Natchez
916 East Boston Post Road
Mamaroneck, NY 10543-4109

Re: 1000 Taylors Lane, Alter Subdivision
DEC Tracking ID #: 3-5532-00381/00001
Village of Mamaroneck, Town of Rye, Westchester County

Dear Mr. Natchez:

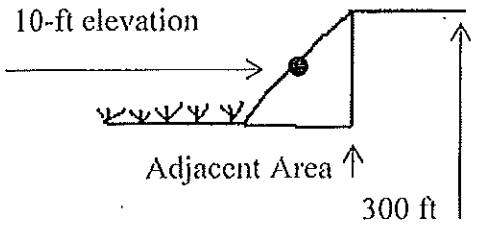
The Department of Environmental Conservation (DEC) has reviewed your letter dated September 7, 2010 regarding this proposed subdivision of lands regulated under Article 24 of the Environmental Conservation Law, Freshwater Wetlands and Article 25, Tidal Wetlands. You have requested clarification of how DEC made the determination that the site does not meet the criteria for extension of the tidal wetlands adjacent area jurisdiction above the 10-foot contour line.

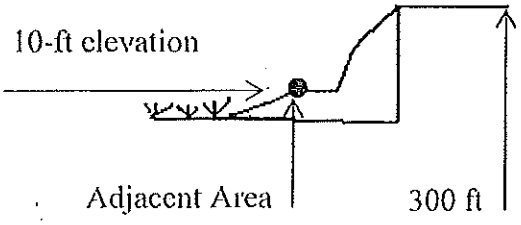
Please note, your letter and accompanying map make reference to 75 feet and a "75 foot offset". There is no such offset in the definition of adjacent area. There is a 75-foot minimum setback in the "Development restrictions" section, but this is unrelated to the definition of adjacent area.

Regarding the definition of tidal wetland adjacent area, per 6 NYCRR Part 661.4(b) the adjacent area extends landward of the tidal wetland boundary within the following limits:

- 300 feet landward of the boundary or
- to the seaward edge of an existing (as of August 20, 1977) functional barrier (i.e. street, seawall, bulkhead)
- to the elevation contour of 10 feet above mean sea level (per NAVD88) except "where such contour **crosses the seaward face** of a bluff or cliff" (emphasis added)

While it is true that there are areas where steep slopes exist which could be considered bluffs or cliffs, those areas occur above the 10-foot contour and are not **crossed** by it. See below.





years of stewardship 1970-2010

Re: 1000 Taylors Lane, Alter Subdivision
DEC Tracking ID #: 3-5532-00381/00001
Village of Mamaroneck, Town of Rye, Westchester County

Your letter and map suggest that the 10-foot contour crosses the slope of the retaining wall associated with the existing house, however the applicant's plans show the existing retaining wall beginning just above the 11-foot contour. Even if the 10-foot contour did cross the wall, the adjacent area would only extend to the top of the wall and would not affect any determinations on the proposed development.

The Department is still awaiting a State Environmental Quality Review (SEQR) determination from the Village of Mamaroneck and has not yet received an application from the Alters. If you have any questions, please contact me at (845) 256-3014 or the above address.

Sincerely yours

Rebecca Crist
Environmental Analyst

Cc: Village of Mamaroneck Planning Board
Alan Pilch, Evans Associates

New York State Department of Environmental Conservation

Notice of Incomplete Application - This is NOT a Permit

Application ID: 3-5548-00289/00001 *Batch Number*: 625619

Facility: ALTER PROPERTY
1000 TAYLORS LN
MAMARONECK, NY

Contact: ALAN L PILCH *Owner ID*: 1492805
EVANS ASSOCIATES
205 AMITY RD
BETHANY, CT 06524

Permit(s) Applied for: 1 - Article 25 Tidal Wetlands

Project Location: in RYE in WESTCHESTER COUNTY

Your application for Permit is incomplete. The following items are required:

The following items are required for a complete application:

1. Satisfaction of the State Environmental Quality Review Act through either a Negative Declaration by the Lead Agency, the Village of Mamaroneck, or acceptance of a Draft Environmental Impact Statement for public review.
2. A determination of impact from the State Historic Preservation Office on cultural resources.
3. Joint application and Permission to Inspect Property Form signed by the owner of the property or a signed letter of authorization by the owner allowing the agent (Alan L. Pilch) to act on their behalf.
4. A map showing the locations of the parcels in the "Abutting Property Owners" list submitted.
5. A determination of jurisdiction by the Department regarding the need for a Freshwater Wetland permit. As stated in the determination of jurisdiction dated July 30, 2010, the clearing/grading shown on the plans are in close proximity (~2-3 feet) to the freshwater wetland adjacent area and the silt fence is directly on top of the boundary line. It is unlikely this work can be undertaken without disturbing this adjacent area. A reasonable separation to ensure no disturbance is necessary prior to the Department making a determination that a permit not required for freshwater wetlands.

In addition, prior to a final determination on permit issuance an MS-4 Acceptance form signed by the MS-4 permittee (i.e. the Village) must be submitted to DEC to demonstrate compliance with the stormwater construction permit. Please note that your cover letter stated that subdivision is a "Presumptively Incompatible Use". This is incorrect. It is listed as "P" which is "Permit Required" and is considered a compatible use if no other defined actions are proposed.

---

cc: Richard & Caroline Alter
Village of Mamaroneck
Betsy Blair, DEC Bur of Marine Res, via email
James Pinheiro, DEC Bur of Habitat, via email

Please submit requested information by __NA_____
No further action can be taken until all of these materials are received.

Contact Person:
REBECCA S CRIST
NYSDEC
21 SOUTH PUTT CORNERS RD
NEW PALTZ, NY 12561

Telephone Number: (845) 256-3014

Signature: _____

Date: October 04, 2010

New York State Department of Environmental Conservation
Notice of Incomplete Application - This is NOT a Permit

Application ID: 3-5548-00289/00001 *Batch Number*: 625619

Facility: ALTER SUBDIVISION
1000 TAYLORS LN
MAMARONECK, NY

Contact: ALAN L PILCH *Owner ID*: 1492805
EVANS ASSOCIATES
205 AMITY RD
BETHANY, CT 06524

Permit(s) Applied for: 1 - Article 25 Tidal Wetlands

Project Location: in RYE in WESTCHESTER COUNTY

Your application for Permit is incomplete. The following items are required:

The following items are still required for a complete application:

1. Satisfaction of the State Environmental Quality Review Act through either a Negative Declaration by the Lead Agency, the Village of Mamaroneck, or acceptance of a Draft Environmental Impact Statement for public review. As the Department has received the Village's Positive Declaration, acceptance by the Village of Draft EIS is required.
2. A determination of impact from the State Historic Preservation Office on cultural resources. Although SHPO initially indicated in their letter of October 7, 2010 that a conditional determination of no impact was given, their subsequent letter of November 22, 2010 requested submisssion of a Phase 1 survey.
3. The letter of authorization was submitted but was not signed by the owner. A signed letter is required.

In addition please note that, prior to a final permit decision, submission of a Tidal Wetlands application fee of $200.00 is required.

---

cc: Richard & Caroline Alter
Village of Mamaroneck Planning Board
Betsy Blair, DEC Bur of Marine Res, via email
James Pinheiro, DEC Bur of Habitat, via email

Please submit requested information by _____
No further action can be taken until all of these materials are received.

Contact Person:
REBECCA S CRIST
NYSDEC
21 SOUTH PUTT CORNERS RD
NEW PALTZ, NY 12561

Telephone Number: (845) 256-3014

Signature: [illegible]

Date: February 22, 2011

STATE OF NEW YORK
DEPARTMENT OF STATE
ONE COMMERCE PLAZA
99 WASHINGTON AVENUE
ALBANY, NY 12231-0001

ANDREW M. CUOMO
GOVERNOR

RUTH NOEMÍ COLÓN
ACTING SECRETARY OF STATE

March 4, 2011

Mr. Alan L. Pilch
Evans Associates Environmental Consulting
205 Amity Road
Bethany, Connecticut 06524

Re: F-2010-0909
Caroline & Richard Alter
Subdivide 5.169 acres of an existing residentially zoned lot into 3 lots
Otter Creek, Village of Mamaroneck, Westchester County
No Jurisdiction

Dear Mr. Pilch:

The Department of State has reviewed your Federal Consistency Assessment Form and supporting information on September 30, 2010.

The proposed activity does not appear to require a federal permit, license, or other form of authorization. Therefore, further review of this project by the Department of State, and concurrence with your consistency certification, are not necessary.

If you have any questions or need any additional information regarding this matter, please contact me at (518) 474-6000.

Sincerely,

Jeffrey Zappieri
Supervisor of Consistency Review
Office of Coastal, Local Government
and Community Sustainability

JZ/dc

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION
Division of Fish, Wildlife & Marine Resources
625 Broadway, 5th Floor, Albany, New York 12233-4757
Phone: (518) 402-8935 • **Fax:** (518) 402-8925
Website: www.dec.ny.gov

Joe Martens
Commissioner

June 9, 2011

Eva Szigeti
Evans Associates
205 Amity Road
Bethany, CT 06524

Dear Ms. Szigeti:

In response to your recent request, we have reviewed the New York Natural Heritage Program database, with respect to an Environmental Assessment for the proposed 3-Lot Subdivision, site as indicated on the map you provided, located at 1000 Taylors Lane, Village of Mamaroneck, Westchester County.

We have no records of rare or state listed animals or plants, significant natural communities or other significant habitats, on or in the immediate vicinity of your site.

The absence of data does not necessarily mean that rare or state-listed species, natural communities or other significant habitats do not exist on or adjacent to the proposed site. Rather, our files currently do not contain information which indicates their presence. For most sites, comprehensive field surveys have not been conducted. We cannot provide a definitive statement on the presence or absence of all rare or state-listed species or significant natural communities. This information should not be substituted for on-site surveys that may be required for environmental assessment.

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

This response applies only to known occurrences of rare or state-listed animals and plants, significant natural communities and other significant habitats maintained in the Natural Heritage Data bases. Your project may require additional review or permits; for information regarding other permits that may be required under state law for regulated areas or activities (e.g., regulated wetlands), please contact the appropriate NYS DEC Regional Office, Division of Environmental Permits, as listed at www.dec.ny.gov/about/39381.html.

Sincerely,

Jean Pietrusiak, Information Services
NYS Department Environmental Conservation

cc: Region 3

529

Westchester County

Federally Listed Endangered and Threatened Species and Candidate Species

This list represents the best available information regarding known or likely County occurrences of Federally-listed and candidate species and is subject to change as new information becomes available.

Common Name	Scientific Name	Status
Bald eagle [2]	*Haliaeetus leucocephalus*	D
Bog turtle	*Clemmys [=Glyptemys] muhlenbergii*	T
Indiana bat (S)	*Myotis sodalis*	E
New England cottontail	*Sylvilagus transitionalis*	C

Status Codes: E=Endangered, T=Threatened, P=Proposed, C=Candidate, D=Delisted.

W=Winter S=Summer

[1] Primarily occurs in Hudson River. Principal responsibility for this species is vested with the National Oceanic and Atmospheric Administration/Fisheries.

[2] The bald eagle was delisted on August 8, 2007. While there are no ESA requirements for bald eagles after this date, the eagles continue to receive protection under the Bald and Golden Eagle Protection Act (BGEPA). Please follow the Service's May 2007 Bald Eagle Management Guidelines to determine whether you can avoid impacts under the BGEPA for your projects. If you have any questions, please contact the endangered species branch in our office.

Information current as of: 5/25/2012

United States Department of the Interior

FISH AND WILDLIFE SERVICE

New York Field Office
3817 Luker Road, Cortland, NY 13045
Phone: (607) 753-9334
Fax: (607) 753-9699

Long Island Field Office
340 Smith Road, Shirley, NY 11967
Phone: (631) 286-0485
Fax: (631) 286-4003

Endangered Species Act List Request Response Cover Sheet

This cover sheet is provided in response to a search of our website* for information regarding the potential presence of species under jurisdiction of the U.S. Fish and Wildlife Service (Service) within a proposed project area.

Attached is a copy of the New York State County List of Threatened, Endangered, and Candidate Species for the appropriate county(ies). The database that we use to respond to list requests was developed primarily to assist Federal agencies that are consulting with us under Section 7(a)(2) of the Endangered Species Act (ESA) (87 Stat. 884, as amended; 16 U.S.C. 1531 *et seq.*). Our lists include all Federally-listed, proposed, and candidate species known to occur, as well as those likely to occur, in specific counties.

The attached information is designed to assist project sponsors or applicants through the process of determining whether a Federally-listed, proposed, or candidate species and/or "critical habitat" may occur within their proposed project area and when it is appropriate to contact our offices for additional coordination or consultation. You may be aware that our offices have provided much of this information in the past in project-specific letters. However, due to increasing project review workloads and decreasing staff, we are now providing as much information as possible through our website. We encourage anyone requesting species list information to print out all materials used in any analyses of effects on listed, proposed, or candidate species.

The Service routinely updates this database as species are proposed, listed, and delisted, or as we obtain new biological information or specific presence/absence information for listed species. If project proponents coordinate with the Service to address proposed and candidate species in early stages of planning, this should not be a problem if these species are eventually listed. However, we recommend that both project proponents and reviewing agencies retrieve from our online database an *updated* list every 90 days to append to this document to ensure that listed species presence/absence information for the proposed project is *current.*

Reminder: Section 9 of the ESA prohibits unauthorized taking** of listed species and applies to Federal and non-Federal activities. For projects not authorized, funded, or carried out by a Federal agency, consultation with the Service pursuant to Section 7(a)(2) of the ESA is not required. However, no person is authorized to "take**" any listed species without appropriate authorizations from the Service. Therefore, we provide technical assistance to individuals and agencies to assist with project planning to avoid the potential for "take**," or when appropriate, to provide assistance with their application for an incidental take permit pursuant to Section 10(a)(1)(B) of the ESA.

Additionally, endangered species and their habitats are protected by Section 7(a)(2) of the ESA, which requires Federal agencies, in consultation with the Service, to ensure that any action it authorizes, funds, or carries out is not likely to jeopardize the continued existence of listed species or result in the destruction or adverse modification of critical habitat. An assessment of the potential direct, indirect, and cumulative impacts is required for all Federal actions that may affect listed species.

For instance, work in certain waters of the United States, including wetlands and streams, may require a permit from the U.S. Army Corps of Engineers (Corps). If a permit is required, in reviewing the application pursuant to the Fish and Wildlife Coordination Act (48 Stat. 401, as amended;16 U.S.C. 661 *et seq.*), the Service may concur, with or without recommending additional permit conditions, or recommend denial of the permit depending upon potential adverse impacts on fish and wildlife resources associated with project construction or implementation. The need for a Corps permit may be determined by contacting the appropriate Corps office(s).*

For additional information on fish and wildlife resources or State-listed species, we suggest contacting the appropriate New York State Department of Environmental Conservation regional office(s) and the New York Natural Heritage Program Information Services.*

Since wetlands, ponds, streams, or open or sheltered coastal waters may be present in the project area, it may be helpful to utilize the National Wetlands Inventory (NWI) maps as an initial screening tool. However, they may or may not be available for the project area. Please note that while the NWI maps are reasonably accurate, they should not be used in lieu of field surveys for determining the presence of wetlands or delineating wetland boundaries for Federal regulatory purposes. Online information on the NWI program and digital data can be downloaded from Wetlands Mapper, http://wetlands.fws.gov/mapper_tool.htm.

Project construction or implementation should not commence until all requirements of the ESA have been fulfilled. After reviewing our website and following the steps outlined, we encourage both project proponents and reviewing agencies to contact our office to determine whether an accurate determination of species impacts has been made. If there are any questions about our county lists or agency or project proponent responsibilities under the ESA, please contact the New York or Long Island Field Office Endangered Species Program at the numbers listed above.

Attachment (county list of species)

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

** Under the Act and regulations, it is illegal for any person subject to the jurisdiction of the United States to ***take*** (includes harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect; or to attempt any of these), import or export, ship in interstate or foreign commerce in the course of commercial activity, or sell or offer for sale in interstate or foreign commerce any endangered fish or wildlife species and most threatened fish and wildlife species. It is also illegal to possess, sell, deliver, carry, transport, or ship any such wildlife that has been taken illegally. "Harm" includes any act which actually kills or injures fish or wildlife, and case law has clarified that such acts may include significant habitat modification or degradation that significantly impairs essential behavioral patterns of fish or wildlife.