

APPENDIX C
NATURAL RESOURCES

APPENDIX C-1
NATURAL RESOURCES AGENCY CORRESPONDENCE

New York State Department of Environmental Conservation

Division of Fish, Wildlife & Marine Resources

New York Natural Heritage Program

625 Broadway, Albany, New York 12233-4757

Phone: (518) 402-8935 • FAX: (518) 402-8925

Website: www.dec.state.ny.us



Alexander B. Grannis
Commissioner

November 14, 2008

Lucinda Kalin
A K R F Engineering
440 Park Avenue South
New York City, NY 10016

Dear Ms. Kalin:

In response to your recent request, we have reviewed the New York Natural Heritage Program databases with respect to an Environmental Assessment for the proposed Riverside Center Site - 5 Buildings - 3.8-Acres, site as indicated on the map you provided, located at West End Avenue and Riverside Blvd., New York City.

Enclosed is a report of rare or state-listed animals and plants, significant natural communities, and other significant habitats, which our databases indicate occur, or may occur, on your site or in the immediate vicinity of your site. The information contained in this report is considered sensitive and should not be released to the public without permission from the New York Natural Heritage Program.

This project location is adjacent to a designated Significant Coastal Fish and Wildlife Habitat. This habitat is part of New York State's Coastal Management Program (CMP), which is administered by the NYS Department of State (DOS). Projects which may impact the habitat are reviewed by DOS for consistency with the CMP. For more information regarding this designated habitat and applicable consistency review requirements, please contact:

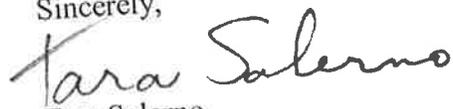
Jeff Zappieri - (518) 474-6000
NYS Department of State
Office Coastal, Local Government and Community Sustainability
1 Commerce Plaza, 99 Washington Avenue,
Albany, NY 12231

The presence of rare species may result in your project requiring additional permits, permit conditions, or review. For further guidance, and 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, at the enclosed address.

For most sites, comprehensive field surveys have not been conducted; the enclosed report only includes records from our databases. 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 impact 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.

Sincerely,


Tara Salerno
Information Services
NY Natural Heritage Program

cc: Reg. 2, Wildlife Mgr.
Reg. 2, Fisheries Mgr.
Shaun Keeler, Bureau of Fisheries, Albany

Natural Heritage Report on Rare Species and Ecological Communities



NY Natural Heritage Program, NYS DEC, 625 Broadway, 5th Floor,
Albany, NY 12233-4757
(518) 402-8935

~This report contains **SENSITIVE** information that should not be released to the public without permission from the NY Natural Heritage Program.
~Refer to the User's Guide for explanations of codes, ranks and fields.
~Location maps for certain species and communities may not be provided 1) if the species is vulnerable to disturbance, 2) if the location and/or extent is not precisely known, 3) if the location and/or extent is too large to display, and/or 4) if the animal is listed as Endangered or Threatened by New York State.



Natural Heritage Report on Rare Species and Ecological Communities

FISH

Acipenser brevirostrum

Shortnose
Sturgeon

Office Use
1091

NY Legal Status: Endangered
NYS Rank: S1 - Critically imperiled

Federal Listing: Endangered

Last Report: **

County: Columbia, Putnam, Rensselaer, Rockland, Orange, New York, Dutchess, Greene, Westchester,

Town: Mount Pleasant, Saugerties, Bethlehem, City Of New York, Fishkill, City Of New

Location: At, or in the vicinity of, the project site.

Directions: **

Global Rank: G3 - Vulnerable
EO Rank: **
General Quality and Habitat: Shortnose sturgeon are found in the long tidal portion of Hudson River. The river constitutes the lower part of a 315 mile stream system. It is fed upstream by two large main channel streams, which provide 80% of the freshwater input, and numerous other For more information, including management considerations, please contact the NYS DEC Hudson River Fisheries Unit at 845-256-3071.

HRF BOF
USFWS

1 Records Processed

More detailed information about many of the rare and listed animals and plants in New York, including biology, identification, habitat, conservation, and management, are available online in Natural Heritage's Conservation Guides at <http://www.natureserve.org/explorer>, from NYSEDEC at <http://www.dec.ny.gov/animals/7494.html> (for animals), and from USDA's Plants Database at <http://plants.usda.gov/index.html> (for plants).

More detailed information about many of the natural community types in New York, including identification, dominant and characteristic vegetation, distribution, conservation, and management, is available online in Natural Heritage's Conservation Guides at www.acris.nynhp.org. For descriptions of all community types, go to <http://www.dec.ny.gov/animals/29384.html> and click on DRAFT-Ecological Communities of New York State.

USERS GUIDE TO NY NATURAL HERITAGE DATA

New York Natural Heritage Program, 625 Broadway, 5th Floor, Albany, NY 12233-4757 phone: (518) 402-8935



NATURAL HERITAGE PROGRAM: The NY Natural Heritage Program is a partnership between the NYS Department of Environmental Conservation (NYS DEC) and The Nature Conservancy. Our mission is to enable and enhance conservation of rare animals, rare plants, and significant communities. We accomplish this mission by combining thorough field inventories, scientific analyses, expert interpretation, and the most comprehensive database on New York's distinctive biodiversity to deliver the highest quality information for natural resource planning, protection, and management.

DATA SENSITIVITY: The data provided in the report are ecologically sensitive and should be treated in a sensitive manner. The report is for your in-house use and should **not** be released, distributed or incorporated in a public document without prior permission from the Natural Heritage Program.

EO RANK: A letter code for the quality of the occurrence of the rare species or significant natural community, based on population size or area, condition, and landscape context.

- A-E = Extant: A=Excellent, B=Good, C=Fair, D=Poor, E=Extant but with insufficient data to assign a rank of A-D.
- F = Failed to find. Did not locate species during a limited search, but habitat is still there and further field work is justified.
- H = Historical. Historical occurrence without any recent field information.
- X = Extirpated. Field/other data indicates element/habitat is destroyed and the element no longer exists at this location.
- U = Extant/Historical status uncertain.
- Blank = Not assigned.

LAST REPORT: The date that the rare species or significant natural community was last observed at this location, as documented in the Natural Heritage databases. The format is most often YYYY-MM-DD.

NY LEGAL STATUS – Animals:

Categories of Endangered and Threatened species are defined in New York State Environmental Conservation Law section 11-0535. Endangered, Threatened, and Special Concern species are listed in regulation 6NYCRR 182.5.

- E - Endangered Species:** any species which meet one of the following criteria:
 - Any native species in imminent danger of extirpation or extinction in New York.
 - Any species listed as endangered by the United States Department of the Interior, as enumerated in the Code of Federal Regulations 50 CFR 17.11.
- T - Threatened Species:** any species which meet one of the following criteria:
 - Any native species likely to become an endangered species within the foreseeable future in NY.
 - Any species listed as threatened by the U.S. Department of the Interior, as enumerated in the Code of the Federal Regulations 50 CFR 17.11.
- SC - Special Concern Species:** those species which are not yet recognized as endangered or threatened, but for which documented concern exists for their continued welfare in New York. Unlike the first two categories, species of special concern receive no additional legal protection under Environmental Conservation Law section 11-0535 (Endangered and Threatened Species).
- P - Protected Wildlife** (defined in Environmental Conservation Law section 11-0103): wild game, protected wild birds, and endangered species of wildlife.
- U - Unprotected** (defined in Environmental Conservation Law section 11-0103): the species may be taken at any time without limit; however a license to take may be required.
- G - Game** (defined in Environmental Conservation Law section 11-0103): any of a variety of big game or small game species as stated in the Environmental Conservation Law; many normally have an open season for at least part of the year, and are protected at other times.

NY LEGAL STATUS – Plants:

The following categories are defined in regulation 6NYCRR part 193.3 and apply to NYS Environmental Conservation Law section 9-1503.

- E - Endangered Species:** listed species are those with:
 - 5 or fewer extant sites, or
 - fewer than 1,000 individuals, or
 - restricted to fewer than 4 U.S.G.S. 7 ½ minute topographical maps, or
 - species listed as endangered by U.S. Dept. of Interior, as enumerated in Code of Federal Regulations 50 CFR 17.11.
- T - Threatened:** listed species are those with:
 - 6 to fewer than 20 extant sites, or
 - 1,000 to fewer than 3,000 individuals, or
 - restricted to not less than 4 or more than 7 U.S.G.S. 7 and ½ minute topographical maps, or
 - listed as threatened by U.S. Department of Interior, as enumerated in Code of Federal Regulations 50 CFR 17.11.

R - Rare: listed species have:

- 20 to 35 extant sites, or
- 3,000 to 5,000 individuals statewide.

V - Exploitably vulnerable: listed species are likely to become threatened in the near future throughout all or a significant portion of their range within the state if causal factors continue unchecked.

U - Unprotected; no state status.

FEDERAL STATUS (PLANTS and ANIMALS): The categories of federal status are defined by the United States Department of the Interior as part of the 1974 Endangered Species Act (see Code of Federal Regulations 50 CFR 17). The species listed under this law are enumerated in the Federal Register vol. 50, no. 188, pp. 39526 - 39527. The codes below without parentheses are those used in the Federal Register. The codes below in parentheses are created by Heritage to deal with species which have different listings in different parts of their range, and/or different listings for different subspecies or varieties.

(blank) = No Federal Endangered Species Act status.

LE = Formally listed as endangered.

LT = Formally listed as threatened.

C = Candidate for listing.

LE,LT = Formally listed as endangered in part of its range, and as threatened in the other part; or, one or more subspecies or varieties is listed as endangered, and the others are listed as threatened.

LT,PDL = Populations of the species in New York are formally listed as threatened, and proposed for delisting.

GLOBAL AND STATE RANKS (animals, plants, ecological communities and others): Each element has a global and state rank as determined by the NY Natural Heritage Program. These ranks carry no legal weight. The global rank reflects the rarity of the element throughout the world and the state rank reflects the rarity within New York State. Intraspecific taxa are also assigned a taxon rank to reflect the infraspecific taxon's rank throughout the world. ? = Indicates a question exists about the rank. Range ranks, e.g. S1S2, indicate not enough information is available to distinguish between two ranks.

GLOBAL RANK:

G1 - Critically imperiled globally because of extreme rarity (5 or fewer occurrences), or very few remaining acres, or miles of stream) or especially vulnerable to extinction because of some factor of its biology.

G2 - Imperiled globally because of rarity (6 - 20 occurrences, or few remaining acres, or miles of stream) or very vulnerable to extinction throughout its range because of other factors.

G3 - Vulnerable: Either rare and local throughout its range (21 to 100 occurrences), or found locally (even abundantly at some of its locations) in a restricted range (e.g. a physiographic region), or vulnerable to extinction throughout its range because of other factors.

G4 - Apparently secure globally, though it may be quite rare in parts of its range, especially at the periphery.

G5 - Demonstrably secure globally, though it may be quite rare in parts of its range, especially at the periphery.

GH - Historically known, with the expectation that it might be rediscovered.

GX - Species believed to be extinct.

NYS RANK:

S1 - Critically imperiled: Typically 5 or fewer occurrences, very few remaining individuals, acres, or miles of stream, or some factor of its biology making it especially vulnerable in New York State.

S2 - Imperiled: Typically 6 to 20 occurrences, few remaining individuals, acres, or miles of stream, or factors demonstrably making it very vulnerable in New York State.

S3 - Vulnerable: Typically 21 to 100 occurrences, limited acreage, or miles of stream in New York State.

S4 - Apparently secure in New York State.

S5 - Demonstrably secure in New York State.

SH - Historically known from New York State, but not seen in the past 15 years.

SX - Apparently extirpated from New York State.

SxB and SxN, where Sx is one of the codes above, are used for migratory animals, and refer to the rarity within New York State of the breeding (B)populations and the non-breeding populations (N), respectively, of the species.

TAXON (T) RANK: The T-ranks (T1 - T5) are defined the same way as the Global ranks (G1 - G5), but the T-rank refers only to the rarity of the subspecific taxon.

T1 through T5 - See Global Rank definitions above.

Q - Indicates a question exists whether or not the taxon is a good taxonomic entity.

Revised April,



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

Lucinda Kalin
AKRF
440 Park Avenue South
New York, NY 10016

NOV 18 2008

Dear Ms.Kalin,

This is in response to your information request dated October 23, 2008 regarding the proposed construction of the Riverside Center located along the Hudson River in Manhattan, New York. Your letter requested information on the presence of any species listed as threatened or endangered by NOAA's National Marine Fisheries Service (NMFS).

The federally endangered shortnose sturgeon (*Acipenser brevirostrum*) is known to exist in the Hudson River. Shortnose sturgeon have been documented in the Hudson River from New York Harbor (rkm -5.6) to the Troy Dam (rkm 248). From late fall to early spring, adult shortnose sturgeon concentrate in a few overwintering areas. Spawning adults concentrate near Kingston (rkm 140) while one group of non-spawning adults concentrates near Kingston and the other near Haverstraw Bay (rkm 54-61). When water temperatures reach 8°C, typically in mid-April, reproductively active adults begin their migration upstream to the spawning grounds that extend from below the Federal Dam at Troy to about Coxsackie (rkm 239-190). Spawning typically occurs until water temperatures reach 15°C (generally from late April through May) after which adults disperse quickly down river into their summer range. The broad summer range occupied by adult shortnose sturgeon extends from approximately rkm 38 to rkm 152. Similar to non-spawning adults, most juveniles occupy the broad region of Haverstraw Bay (rkm 55-63) by late fall and early winter. Juveniles are distributed throughout the mid-river region during the summer (rkm 38-152) and move back into the Haverstraw Bay region during the late fall. In recent years (since 2000), shortnose sturgeon have been documented below the Tappan Zee Bridge from July through December. Since 2003, shortnose sturgeon have been caught in the Manhattan area during an annual striped bass survey (Dynergy 2003, 2005, 2006). This survey is conducted from November through April of each year. In 2005 and 2006, a total of 25 shortnose sturgeon were captured below rkm 14 during all months the survey was ongoing. There is currently not enough information to determine whether these fish are transient or are overwintering in this area of the river.

Atlantic sturgeon (*Acipenser oxyrinchus oxyrinchus*) are also present in the Hudson River and surrounding coastal waters. Atlantic sturgeon are considered a Candidate Species as NMFS has initiated a status review for this species to determine if listing as threatened or endangered under the ESA is warranted. A status review report was completed by the status review team in



February 2007. NMFS is currently reviewing the report and other available information to determine if listing is warranted. As a candidate species Atlantic sturgeon receive no substantive protection under the ESA; however, NMFS recommends that project proponents implement measures to reduce effects on this species.

The best available information indicates that listed species may at least occasionally occur in the project area. It is unclear from your letter whether in water work will occur in association with the construction of the Riverside Center. If no in-water work is proposed, no further coordination with NMFS' Protected Resources Division (PRD) is necessary. However, if in-water work is proposed and the work has the potential to affect listed species and it is being approved, permitted or funded by a Federal agency, the lead Federal agency, or their designated non-Federal representative, is responsible for determining whether the proposed action is likely to affect listed species. The Federal agency would submit their determination along with justification for their determination and a request for concurrence, to the attention of the Endangered Species Coordinator, NMFS Northeast Regional Office, Protected Resources Division, 55 Great Republic Drive, Gloucester, MA 01930. After reviewing this information, NMFS would then be able to conduct a consultation under section 7 of the ESA. Should you have any questions about these comments or about the section 7 consultation process in general, please contact Danielle Palmer at (978)281-9300 ext. 6518 or by e-mail (Danielle.Palmer@noaa.gov).

Sincerely,

A handwritten signature in cursive script that reads "Mary Colligan". The signature is written in black ink and has a long, sweeping tail that extends to the right.

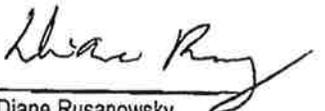
Mary A. Colligan
Assistant Regional Administrator for Protected Resources

**National Marine Fisheries Service
Habitat Conservation Division
Milford Field Office, 212 Rogers Avenue
Milford, Connecticut 06460**

TO: Lucinda Kallin
Environmental Analyst
AKRF, Inc.
440 Park Avenue South
New York, NY 10016

DATE: 7 April 2009

SUBJECT: **EFH and Fish and Wildlife Coordination Act Species Information Request;
Riverside Center, Borough of Manhattan, New York County, New York**


Diane Rusanowsky
(Reviewing Biologist)

We have completed our review of the subject information request and offer the following preliminary comments pursuant to the Endangered Species Act, the Fish and Wildlife Coordination Act and the Magnuson-Stevens Fishery Conservation and Management Act:

Endangered and Threatened Species

- No endangered or threatened species under the jurisdiction of NOAA Fisheries Service in the immediate project area
- Endangered or threatened species under the jurisdiction of NOAA Fisheries Service's jurisdiction may be present in the general project area.

For details regarding what coordination may be necessary, please contact:

Ms. Mary Colligan
ARA for Protected Resources
55 Great Republic Drive
Gloucester, MA 01930

Fish and Wildlife Coordination Act Species

- The following may be present in the *general* project area: Diadromous and resident fish, forage and benthic species.

Habitat use by some species or life stages may be seasonal (e.g. over-wintering.)

Essential Fish Habitat

- Aquatic habitats in the project vicinity have been designated as Essential Fish Habitat (EFH) for one or more species. When details of the project are made available and permit applications have been made, conservation recommendations may be given. For a listing of EFH and further information, please go to our website at: <http://www.nero.nmfs.gov/ro/doc/webintro.html>. Based on the information provided to date, it is not possible to determine whether or not an EFH assessment will be necessary.
- No EFH presently designated in the *immediate* project area



New York 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.

<u>Common Name</u>	<u>Scientific Name</u>	<u>Status</u>
Shortnose sturgeon ¹	<i>Acipenser brevirostrum</i>	E

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

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

Please visit the following website for more information <http://www.nmfs.noaa.gov/pr/species/esa.htm>.

Information current as of: 2/26/109

Print Species List

APPENDIX C-2
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