



In Reply Refer to:  
ES-04/715

# United States Department of the Interior

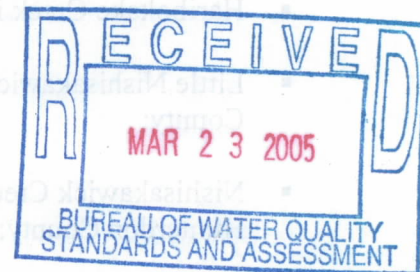
## FISH AND WILDLIFE SERVICE

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Pleasantville, New Jersey 08232  
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FEB 16 2005

Grace Musumeci, Chief  
Environmental Review Section  
Strategic Planning and Multi-Media Programs Branch  
U.S. Environmental Protection Agency, Region II  
290 Broadway  
New York, New York 10007-1866



Dear Ms. Musumeci:

This responds to your December 06, 2004 request to the U.S. Fish and Wildlife Service (Service) for concurrence with the U.S. Environmental Protection Agency's (EPA) determination that the proposed approval of revisions to Section 7:9B-1.15 of the New Jersey Surface Water Quality Standards (NJSWQS) in the New Jersey Administrative Code are not likely to adversely affect federally listed threatened and endangered species.

### AUTHORITY

This response is provided pursuant to Section 7 of the Endangered Species Act of 1973 (87 Stat. 884, as amended; 16 U.S.C. 1531 *et seq.*) to ensure the protection of endangered and threatened species and does not address all Service concerns for fish and wildlife resources or the implementation of the revisions to the NJSWQS.

### SUMMARY OF REVISIONS

Implementation of all proposed revisions to the NJSWQS will enhance and improve the affected waterbodies. The proposed revisions are as follows:

- upgrade of seven tributaries to the lower Delaware River, including both named and unnamed tributaries, to Category One (C1) based on exceptional ecological significance;
- upgrade of the antidegradation designation for significant drainage areas of the Manasquan River, Metedeconk River, and natural drainage to the Oradell Reservoir to C1 based upon exceptional water supply significance;



- Hackensack River in River Vale Township and Old Tappan, Harrington Park, Closter, Emerson, Haworth, and Oradell Boroughs, Bergen County;
- Fieldstone Brook, Mill Brook, Echo Glenn Brook, Laurel Brook, and Bear Brook in Montvale, Park Ridge, and Woodcliff Lake Boroughs, Bergen County;
- Pascack Brook in River Vale Township, and Montvale, Park Ridge, Woodcliff Lake, Hillsdale, Westwood, Harrington Park, and Emerson Boroughs, Bergen County;
- Woodcliff Lake in Woodcliff Lake and Hillsdale Boroughs, Bergen County;
- Lake Tappan in Old Tappan Borough and River Vale Township, Bergen County; and
- Oradell Reservoir in Harrington Park, Closter, Emerson, Haworth and Oradell Borough, Bergen County.

### FEDERALLY LISTED SPECIES

The following subject water bodies are within the likely summer habitat range of the federally listed (endangered) Indiana bat (*Myotis sodalis*): Alexauken Creek, Harihokake Creek, Little Nishisakawick Creek, Nishisakawick Creek, Lockatong Creek, Pohatcong Creek, Wickecheoke Creek, and South Branch Rockaway Creek. Indiana bats hibernate in caves and abandoned mine shafts from October through April. When not hibernating, Indiana bats inhabit floodplain, riparian, and upland forests, roosting within tree crevices or under loose bark during the day, and foraging for flying insects in and around the tree canopy at night. A variety of upland and wetland habitats are used as foraging areas, including flood plain, riparian, and upland forests; pastures; clearings with early successional vegetation; cropland borders; and wooded fencerows. Preferred foraging areas are streams, associated flood plain forests, and impounded bodies of water such as ponds and reservoirs. From late August to mid-November, Indiana bats congregate in the vicinity of their hibernacula, building up fat reserves for hibernation. Protection of Indiana bats during all phases of their annual life cycle is essential to preserving this species. Threats to the Indiana bat include disturbance or killing of hibernating and maternity colonies; vandalism and improper gating of hibernacula; fragmentation, degradation, and destruction of forested summer habitats; and use of pesticides and other environmental contaminants. The C1 upgrades of the aforementioned water bodies would provide increased protection to Indiana bat foraging habitat and prey resources; therefore, the proposed action would have a beneficial effect on the Indiana bat and its habitat.

The federally listed (threatened) bald eagle (*Haliaeetus leucocephalus*) nests in the vicinity of the South Branch of Rockaway Creek and Manasquan River. Bald eagles occur in New Jersey throughout the year. Bald eagles are opportunistic, foraging primarily on fish, but also on other prey such as small mammals, reptiles, waterfowl, and seabirds, as well as carrion. Bald eagles prefer forested or open habitats with little human disturbance near large bodies of water, such as lakes, large rivers, reservoirs, and seacoasts. Eagles are often attracted to a water body as they search for food, and frequently roost in dead or mature trees adjacent to water. In winter, bald eagles gather in large numbers near coasts and inland open waters where fish are plentiful.

sparse vegetation. Threats to Knieskern's beaked-rush include habitat loss from development, agriculture, hydrologic modification, and other wetland alterations; excessive disturbance from vehicle-use, trash dumping, and other activities; and natural vegetative succession of the open, sparsely-vegetated substrate preferred by this species. The C1 upgrades of the aforementioned water bodies would provide increased protection to Knieskern's beaked-rush habitat; therefore, the proposed action would have a beneficial effect on Knieskern's beaked-rush and its habitat.

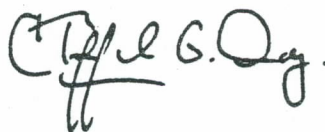
Except for an occasional transient bald eagle, no federally listed species are found within the immediate vicinity of the following subject water bodies: Cresskill Brook, Tenakill Brook, Hackensack River, Fieldstone Brook, Mill Brook, Echo Glenn Brook, Laurel Brook, Bear Brook, Pascack Brook, Woodcliff Lake, Lake Tappan, and Oradell Reservoir. Therefore, the proposed action will have no effect to federally listed species for these water bodies.

## CONCLUSION

The Service concurs with the EPA's determination that approval of the revisions to C1 water bodies as proposed is not likely to adversely affect federally listed species within the subject water bodies. The Service's concurrence pertains to the EPA's approval of upgrades in the anti-degradation category for the subject water bodies and not to any federal actions associated with implementing, monitoring and / or achieving the water quality objectives of the anti-degradation category.

The Service appreciates the EPA's continued cooperation with the NJDEP in efforts to protect water quality through the implementation of these C1 designations and monitoring to assure that C1 objectives are attained. If you have any questions regarding the above comments, please contact Annette Scherer of my staff at (609) 646-9310, extension 34.

Sincerely,

A handwritten signature in black ink, appearing to read "Clifford G. Day". The signature is stylized with a large "C" and "D".

Clifford G. Day  
Supervisor