

APPENDIX E

RARE, THREATENED AND ENDANGERED SPECIES

AGENCY COORDINATION LETTERS



United States Department of the Interior



FISH AND WILDLIFE SERVICE

Chesapeake Bay Field Office
177 Admiral Cochrane Drive
Annapolis, Maryland 21401
<http://www.fws.gov/chesapeakebay>

December 16, 2010

Rummel, Klepper & Kahl, LLP
10306 Eaton Place, Suite 240
Willow Wood II
Fairfax, VA 22030

RE: Christina River Bridge Project

Dear Thomas M. Heil:

This responds to your letter, received, July 1, 2010, requesting information on the presence of species which are federally listed or proposed for listing as endangered or threatened within the above referenced project area. We have reviewed the information you enclosed and are providing comments in accordance with section 7 of the Endangered Species Act (87 Stat. 884, as amended; 16 U.S.C. 1531 et seq.).

Except for occasional transient individuals, no proposed or federally listed endangered or threatened species are known to exist within the project impact area. Therefore, no Biological Assessment or further Section 7 Consultation with the U.S. Fish and Wildlife Service is required. Should project plans change, or if additional information on the distribution of listed or proposed species becomes available, this determination may be reconsidered.

This response relates only to federally protected threatened or endangered species under our jurisdiction. For information on the presence of other rare species, you should contact Edna Stetzar, of the Delaware Natural Heritage and Endangered Species Program, at (302) 653-2883 ext. 126. You may also obtain information on how to make such a request by visiting the Program website at www.dnrec.state.de.us/nhp.

Effective August 8, 2007, under the authority of the Endangered Species Act of 1973, as amended, the U.S. Fish and Wildlife Service (Service) removed (delist) the bald eagle in the lower 48 States of the United States from the Federal List of Endangered and Threatened Wildlife. However, the bald eagle will still be protected by the Bald and Golden Eagle Protection Act, Lacey Act and the Migratory Bird Treaty Act. As a result, starting on August 8, 2007, if your project may cause "disturbance" to the bald eagle, please consult the "National Bald Eagle Management Guidelines" dated May 2007.



If any planned or ongoing activities cannot be conducted in compliance with the National Bald Eagle Management Guidelines (Eagle Management Guidelines), please contact the Chesapeake Bay Ecological Services Field Office at 410-573-4573 for technical assistance. The Eagle Management Guidelines can be found at:

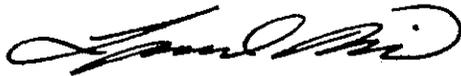
<http://www.fws.gov/migratorybirds/issues/BaldEagle/NationalBaldEagleManagementGuidelines.pdf>.

In the future, if your project can not avoid disturbance to the bald eagle by complying with the Eagle Management Guidelines, you will be able to apply for a permit that authorizes the take of bald and golden eagles under the Bald and Golden Eagle Protection Act, generally where the take to be authorized is associated with otherwise lawful activities. This proposed permit process will not be available until the Service issues a final rule for the issuance of these take permits under the Bald and Golden Eagle Protection Act.

An additional concern of the Service is wetlands protection. The Service's wetlands policy has the interim goal of no overall net loss of Delaware Bay's remaining wetlands, and the long term goal of increasing the quality and quantity of the Basin's wetlands resource base. Because of this policy and the functions and values wetlands perform, the Service recommends avoiding wetland impacts. All wetlands within the project area should be identified, and if construction in wetlands proposed, the U.S. Army Corps of Engineers, Philadelphia District should be contacted for permit requirements. They can be reached at (215) 656-6728.

We appreciate the opportunity to provide information relative to fish and wildlife issues, and thank you for your interest in these resources. If you have any questions or need further assistance, please contact Devin Ray at (410) 573-4531.

Sincerely,



Leopoldo Miranda
Field Supervisor

September 13, 2011

Ms. Therese Fulmer
800 Bay Road
PO Box 778
Dover, DE 19903

Re: Christiana River Bridge Project

Dear Ms. Fulmer:

Thank you for contacting the Delaware Natural Heritage and Endangered Species Program (NHESP) about information on rare, threatened and endangered species, unique natural communities, and other significant natural resources as they relate to the bridge proposed to cross the Christiana River in the Riverfront area of Wilmington.

A review of our database indicates that there are currently no records of state-rare or federally listed plants, animals or natural communities at this project site. As a result, at present, this project does not lie within a State Natural Heritage Site, nor does it lie within a Delaware National Estuarine Research Reserve which are two criteria used to identify "Designated Critical Resource Waters" in the Army Corps of Engineers (ACOE) Nationwide Permit General Condition No. 19. A copy of this letter shall be included in any permit application or pre-construction notification submitted to the Army Corps of Engineers for activities on this property.

Wildlife Refuge

The Russell W. Peterson Urban Wildlife Refuge has been set aside to provide safe haven for wildlife that utilize the Christiana River and its environs. Portions of the wetlands on the refuge have been enhanced/reclaimed to benefit native plants and wildlife.

Raised roadways and bridges can cause disturbance to wildlife beyond the limits of the actual ground covered by the road itself. A structure built too close to the refuge will degrade the functions for which the refuge was intended and reduce, well beyond the limits of construction, the effective area of the refuge. Physical obstruction, road noise, highway runoff, litter and artificial lighting all can create danger and/or disturbance to wildlife. Additionally, putting the refuge in the shadow of a busy highway bridge will negatively impact the experience of the visitors to the refuge. The proposed bridge should be sited as far away as is practicable from the wildlife refuge.

DelDOT should coordinate with the owners of the refuge and the Dupont Environmental Education Center (Riverfront Development Corporation and Delaware Nature Society, respectively) to minimize impacts to the refuge and education center during design and construction. Designs of the alternatives being considered in the Environmental Assessment should take into consideration the importance of maintaining visitor access to the refuge and incorporate details regarding refuge access into the Environmental Assessment.

Fisheries

The Christina River is the largest tidal tributary in northern New Castle County with important resident and migratory anadromous fish species. The protection of spawning and nursery habitats and migratory corridors during the spawning season is important in maintaining these fisheries resources. It would be best to restrict the in-stream work schedule around the spawning season. For alewife, blueback herring, American shad, white perch, and possibly striped bass this would include from March 1 to June 30.

In order to protect migratory corridors for anadromous fish, DeIDOT should avoid putting piers in the main channel of the river. If the design chosen for the proposed will require two piers to be in the water, they should be located such that that neither pier blocks the main channel. Additionally, the portion of the bridge that spans the river should be kept as high as is practicable above the river's surface. If the span is too low, shading effects and traffic noise might discourage anadromous fish from passing under, thus interrupting the migratory corridor.

We are continually updating our records on Delaware's rare, threatened and endangered species, unique natural communities and other significant natural resources. If the start of the project is delayed more than a year past the date of this letter, please contact us again for the latest information.

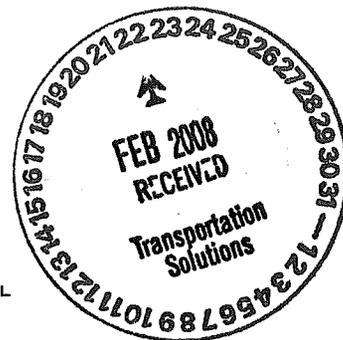
Feel free to get in touch with me if you have any questions or require additional information.

Sincerely,

Matthew Bailey
DeIDOT Environmental Review Coordinator
(302) 735-8677
(302) 382-4151 cell
(302) 653-3431 fax
matthew.bailey@state.de.us



STATE OF DELAWARE
 DEPARTMENT OF NATURAL RESOURCES & ENVIRONMENTAL CONTROL
 DIVISION OF FISH & WILDLIFE
NATURAL HERITAGE & ENDANGERED SPECIES
 4876 HAY POINT LANDING ROAD
 SMYRNA, DELAWARE 19977



TELEPHONE: (302) 653-2880
 FAX: (302) 653-3431

February 19, 2008

Therese Fulmer
 Delaware Department of Transportation
 800 Bay Road
 PO Box 778
 Dover, DE 19903

Re: Christina River Bridge Project

Dear Ms. Fulmer:

Thank you for contacting the Delaware Natural Heritage Program (DNHP) about information on rare, threatened and endangered species, unique natural communities, and other significant natural resources as they relate to the Christina river Bridge Project.

A review of our database indicates that the following species and/or communities at or adjacent to the project site:

Scientific Name	Common Name	Taxon	State Rank	State Status	Global Rank	Federal Status
<i>Battus philenor</i>	Pipevine Swallowtail	Insect	S2	-	G5	-

State Rank: S1- extremely rare within the state (typically 5 or fewer occurrences); S2- very rare within the state (6 to 20 occurrences); B - Breeding; N - Nonbreeding; SX-Extirpated or presumed extirpated from the state. All historical locations and/or potential habitat have been surveyed; SH- Historically known, but not verified for an extended period (usually 15+ years); there are expectations that the species may be rediscovered; SE-Non-native in the state (introduced through human influence); not a part of the native flora or fauna.

State Status: E - endangered, i.e. designated by the Delaware Division of Fish and Wildlife as seriously threatened with extinction in the state;

Global Rank: G1 - imperiled globally because of extreme rarity (5 or fewer occurrences worldwide); G2 - imperiled globally because of great rarity (6 to 20 occurrences); G3 - either very rare and local throughout its range (21 to 100 occurrences) or found only locally in a restricted range; G4 - apparently secure globally but uncommon in parts of its range; G5 - secure on a global basis but may be uncommon locally; T_ - variety or subspecies rank; Q - questionable taxonomy;

Federal Status: LE - endangered, i.e. designated by the U.S. Fish and Wildlife Service as being in danger of extinction throughout its range; LT - threatened, i.e. designated by USFWS as being likely to become endangered in the foreseeable future throughout all or a significant portion of its range; PS Candidate - Taxa for which the U.S. Fish and Wildlife Service has on file enough substantial information on biological vulnerability and threat(s) to support proposals to list them as endangered or threatened species.

Pipevine Swallowtail

This insect prefers open woodlands, meadows and fields. To best protect this species at this site, woodlands, meadows and fields should be left undisturbed.

Wildlife Refuge

The Peterson Wildlife Refuge has been set aside to provide safe haven for wildlife that utilize the Christina River and its environs. Raised roadways and bridges can cause disturbance to wildlife beyond the limits of the actual ground covered by the road itself. A structure built too close to the refuge will degrade the functions for which the refuge was intended and reduce, well beyond the limits of construction, the effective area of the refuge. Physical obstruction, road noise, highway runoff, litter and artificial lighting all can create danger and/or disturbance to wildlife. Additionally, putting the refuge in the shadow of a busy highway bridge will negatively impact the experience of the visitors to the refuge. The proposed bridge should be sited as far away as is practicable from the Peterson Wildlife Refuge.

Natural Area

The Peterson Wildlife Refuge is a state designated Natural Area. The project team should be sure to get the latest information on the exact boundaries of the Natural Area. Please contact Eileen Butler, Natural Areas Program Manager, at (302) 739-9235.

For Natural Areas in New Castle County contacting Eileen is required.

Fisheries

The Christina River is the largest tidal tributary in northern New Castle County with important resident and migratory anadromous fish species. The protection of spawning and nursery habitats and migratory corridors during the spawning season is important in maintaining these fisheries resources. It would be best to restrict the in-stream work schedule around the spawning season. For alewife, blueback herring, American shad, white perch, and possibly striped bass this would include from March 1 to June 30. Please contact Craig Shirey, Fisheries Section Manager at (302) 739-9914 for further information regarding fisheries issues on the Christina River.

Critical Resource Waters

According to our database, this section of the Christina is a Critical Resource Water. The final decision regarding Critical Resource Waters – if this is an issue – will be made by the U.S. Army Corps of Engineers (ACOE). The information above will aid the ACOE in their determination.

Options Presented/Preferred

As noted above, the DNHP recommends that the bridge be sited as far from the refuge as is practicable. At the information session hosted by DelDOT and the Riverfront Development Corporation on February 6, 2008, several options were presented and several more were suggested. At this point in the process, the only option to which DNHP would strenuously object would be the red option, which is the option that comes closest to the Peterson Wildlife Refuge.

We are continually updating our records on Delaware's rare, threatened and endangered species, unique natural communities and other significant natural resources. If the start of the project is delayed more than a year past the date of this letter, please contact us again for the latest information.

Feel free to get in touch with me if you have any questions or require additional information.

Sincerely,



Matthew Bailey
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(302) 382-4151
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