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**PRESS RELEASE**

**DEFENDANTS IN NATURAL RESOURCE DAMAGES CASE AGREE TO RESTORE  
FISH  
PATHWAYS AT MASSAPEQUA LAKE IN OYSTER BAY, NEW YORK**

The defendants in a federal civil environmental case have agreed to restore fish pathways at Massapequa Creek, near the Liberty Industrial Finishing Superfund site in Oyster Bay, Nassau County, New York, at a total estimated cost of approximately \$300,000. The site became contaminated with hazardous materials resulting from decades of industrial operations, which also caused natural resource damages, including injury to fish and other wildlife. Pursuant to an earlier settlement with the Environmental Protection Agency ("EPA"), the defendants agreed to perform a cleanup of soil, groundwater, and sediments at the Liberty site, but the EPA settlement left open the issue of compensation for natural resource damages.

The settlement was announced by **Roslynn R. Mauskopf**, United States Attorney for the Eastern District of New York, **John H. Dunnigan**, Assistant Administrator for the National Oceanic and Atmospheric Administration's ("NOAA"), National Ocean Service, **Marvin E. Moriarty**, Northeast Regional Director, U.S. Fish and Wildlife Service ("FWS"), **Eliot Spitzer**, New York State Attorney General, and **Denise M. Sheehan**, Commissioner of the New York State Department of Environmental Conservation ("DEC").

Under the settlement, the defendants will design, implement, and fund the construction of a fish ladder, which is intended to restore the passage of alewife and blueback herring from the Massapequa Tidal Channel to the Massapequa Lake and Massapequa Creek. Alewife and blueback herring were historically native to Massapequa Creek. They hatch in freshwater and swim out to sea, returning as adults to the same freshwater areas to spawn. However, a dam constructed at Massapequa Creek to provide drinking water for New York City and to create an

artificial lake for fishermen blocked the migrating fish. The fish ladder will provide access to the lake by allowing fish to travel over the spillway on Massapequa Lake and reach historic spawning grounds upstream.

The United States owned a portion of the site between 1941 and 1948, and on behalf of the Department of Defense and the General Services Administration is contributing approximately 43 percent of the funds for the settlement. The settlement was made pursuant to the provisions of the Comprehensive Environmental Response, Compensation, and Liability Act, commonly known as the Superfund statute, passed by Congress to help accomplish the cleanup of toxic waste sites across the country.

“This settlement represents a cooperative effort by public and private parties to improve biodiversity and recreational fishing opportunities in Massapequa Lake,” stated United States Attorney **Mauskopf**. “It is another step forward in our mission to assure that those responsible for causing or contributing to hazardous waste sites take responsibility for the resulting damages to our natural resources.”

NOAA’s National Ocean Service Assistant Administrator **Dunnigan** stated, “Restoration of fish access to Massapequa Lake will improve bio-diversity and increase recreational opportunities -- it’s a great example of the multiple benefits that can be achieved for natural resources, the local community, and the potentially responsible parties through cooperative natural resource damage settlements.”

“Cooperative negotiations led to swift development of a restoration plan and putting the plan into action, which was a real highlight of the settlement. Of course, the enduring benefits will be for fish and wildlife and for the American people when fish passage to spawning habitat is restored,” stated U.S. Fish and Wildlife Service’s Northeast Regional Director **Moriarty**.

“Restoring the passage for the fish in Oyster Bay is another important achievement in New York State’s goal to protect the natural resources in our environment,” said DEC Commissioner **Sheehan**. “This settlement demonstrates our State’s commitment to hold polluters accountable for contamination that threatens our water quality, habitat, and economically important fisheries and waterways.”

The proposed settlement was subject to a 30-day public comment period, which recently ended. The settlement requires approval by the United States District Court before becoming final.

The lead negotiator on behalf of NOAA and FWS was Assistant United States Attorney Sandra L. Levy, and the Department of Defense and General Services Administration were represented by Assistant United States Attorney Deborah B. Zwany. The Commissioner of the New York State Department of Environmental Conservation was represented by Assistant Attorney General Robert Hernan and Associate DEC Counsel David Keehn

**The Defendants:**

COLTEC INDUSTRIES GOODRICH CORPORATION KOCH-GLITSCH LP BEAZER EAST  
INC. LIBERTY ASSOCIATES WILLIAM HELLER JAN BURMAN JEROME LAZARUS  
CUBBIES PROPERTIES INC. 55 MOTOR AVENUE COMPANY  
J. JAY TANENBAUM JEFRY ROSMARIN LIBERTY AERO, INC.