

Date: June 10, 2005

To: Administrative Record

From: Kate Clark, Injury Assessment Coordinator, NOAA ORR

Re: NOAA ESA Consultation for Liberty Industrial Finishing Corporation Superfund Site

With regard to the restoration of fish passage in Massapequa Creek Watershed, as proposed in the Draft Restoration Plan and Environmental Assessment (Draft RP/EA) for the Liberty Industrial Finishing Corporation Superfund Site, June 2005 (also available at <http://www.darp.noaa.gov>), it is the best professional judgment of the NOAA case team that no threatened or endangered species under the regulatory authority of NOAA National Marine Fisheries Service (NMFS) will be affected by the proposed action. Therefore, NOAA will not, at this time, request a Section 7 consultation from NMFS under the Endangered Species Act, 16 U.S.C. § 1536.

The Draft RP/EA proposes the creation of fish passage at the spillway downstream of Massapequa Lake. Massapequa Lake is a 40-acre water body located near the southern end of the Massapequa Preserve in the Township of Oyster Bay, Nassau County, New York. The proposed work focuses on the construction of a concrete or adjustable aluminum fish ladder at the spillway to allow anadromous fish passage into the Massapequa Creek watershed. We are in conceptual stage of the project and will complete a design document once the project has been through the public review process. Restoration tasks identified include a topographic survey, a wetland delineation of the area, and installation of the fish ladder. The final plan may call for stocking of anadromous fish species in Massapequa Lake. NOAA staff anticipates no adverse effects to threatened or endangered species associated with construction of this fish ladder.

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