

## **APPENDIX O**

### **Ecological Site Visits, October 2003 and July 2007**



In Reply Refer to:

2008-I-0103

# United States Department of the Interior

## FISH AND WILDLIFE SERVICE

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Ecological Services  
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DEC 12 2007

David A. McCarley, Project Manager  
Cabrera Services  
103 E. Mt. Royal Ave., Suite 2B  
Baltimore, Maryland 21202

Dear Mr. McCarley:

The U.S. Fish and Wildlife Service (Service) has reviewed your November 6, 2007 request for information on the presence of federally listed endangered and threatened species in the vicinity of the DuPont Chambers Works facility in Carneys Point and Pennsville Townships, Salem County, New Jersey. The U.S. Army Corps of Engineers, Baltimore District (Corps) is conducting a site investigation and remediation on the DuPont property, which is an active chemical manufacturing facility.

### AUTHORITY

This response is pursuant to Section 7 of the Endangered Species Act of 1973 (87 Stat. 884, as amended; 16 U.S.C. 1531 *et seq.*) (ESA) to ensure the protection of federally listed endangered and threatened species. These comments do not preclude separate review and comments by the Service pursuant to the National Environmental Policy Act of 1969 as amended (83 Stat. 852; 42 U.S.C. 4321 *et seq.*); the Bald and Golden Eagle Protection Act (54 Stat. 250; 16 U.S.C. 668-668d); or the December 22, 1993 Memorandum of Agreement among the U.S. Environmental Protection Agency, New Jersey Department of Environmental Protection (NJDEP), and the Service, if project implementation requires a permit from the NJDEP pursuant to the New Jersey Freshwater Wetlands Protection Act (N.J.S.A. 13:9B *et seq.*).

### FEDERALLY LISTED SPECIES

#### Sensitive Joint-vetch

The federally listed (threatened) plant sensitive joint-vetch (*Aeschynomene virginica*) historically occurred in the vicinity of the project site. Sensitive joint-vetch inhabits the intertidal zone of freshwater tidal river segments, typically in areas where sediments accumulate and extensive marshes are formed. These habitats are flooded twice daily by tidal action, and occur only along stretches of river close enough to the coast to be influenced by the tides, yet far enough upstream

that river water is fresh or slightly brackish. Bare or sparsely vegetated substrate appears to be a habitat requirement for this species, which usually grows on river banks within 2 meters (6.6 feet) of the low water mark. The plant can also occur on accreting point bars and in sparsely vegetated microhabitats of freshwater tidal marsh interiors, such as low swales and areas of muskrat (*Ondatra zibethicus*) eat-out. This species is typically found in areas where plant diversity is high and annual species are prevalent. Threats to the sensitive joint-vetch include: dredging and filling of marshes, dam construction, shoreline stabilization, commercial and residential development, sedimentation, impoundments, water withdrawal projects, invasive plants, introduced insect pests, pollution, recreational activities, agricultural activities, mining, timber harvest, and salt water intrusion due to sea level rise.

Available mapping shows freshwater tidal wetlands on the northern portion of the DuPont property. Many areas of New Jersey have not been thoroughly surveyed for endangered and threatened species. If present, sensitive joint-vetch could be adversely affected by any impacts to wetlands including clearing, filling, draining, shading, and changes in erosion, sedimentation, water quality, or surface or groundwater hydrology. If freshwater tidal wetlands may be affected by the Corps' proposed activities, the Service requests that a qualified surveyor conduct a survey of the action area to determine the presence or absence of sensitive joint-vetch. The action area includes all areas that may be directly or indirectly affected during or after project implementation, including through hydrologic changes. The results of any survey, whether showing presence or absence of sensitive joint-vetch, must be forwarded to this office for review; please include the survey method used, photographs, and the qualifications of the surveyor(s).

## **OTHER SPECIES OF CONCERN**

There is a known nest site of the peregrine falcon (*Falco peregrinus*) immediately adjacent to the DuPont property. The Service removed the peregrine falcon from the List of Endangered and Threatened Wildlife and Plants in 1999, removing all protections provided to the species under the ESA. The peregrine falcon continues to be protected by the Migratory Bird Treaty Act (40 Stat. 755; 16 U.S.C. 703-713), and under New Jersey regulations as a State-listed (endangered) species. The State-listed (endangered) plant, Chickasaw plum (*Prunus angustifolia*), is also known to occur in the vicinity of the property. The Service recommends contacting the New Jersey Division of Land Use Regulation<sup>1</sup> regarding protections for State-listed species under the New Jersey Coastal Zone Management Rules (N.J.A.C. 7:7E) and other State regulations.

## **CONCLUSION**

The proposed project may adversely affect the federally listed sensitive joint-vetch. Therefore, further consultation with the Service is necessary pursuant to Section 7 of the ESA. Through the

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<sup>1</sup> <http://www.state.nj.us/dep/landuse/>

informal consultation process, the Service will work cooperatively with the Corps to avoid adverse effects to federally listed species.

Except for the above-mentioned species, no other federally listed or proposed threatened or endangered flora or fauna are known to occur within the vicinity of the proposed project. If additional information on listed and proposed species becomes available or if project plans change, this determination may be reconsidered.

Please refer to our web site at <http://www.fws.gov/northeast/njfieldoffice/Endangered/> for current lists of federally listed and candidate species in New Jersey. The web site also provides a link to the National Bald Eagle Management Guidelines, and contacts for obtaining current information regarding State-listed and other species of concern from the New Jersey Natural Heritage and Endangered and Nongame Species Programs.

Please contact Wendy Walsh at (609) 383-3938, extension 48, if you have any questions or require further assistance regarding federally listed threatened or endangered species.

Sincerely,

A handwritten signature in dark ink, appearing to read "John C. Staples", with a stylized flourish at the end.

John C. Staples  
Assistant Supervisor