June 10, 2005

Diane Rusanowsky
Northeast Fisheries Science Center
Milford Laboratory
212 Rogers Avenue
Milford, CT 06460-6499

Dear Ms. Rusanowsky,

Enclosed is 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). The National Oceanic and Atmospheric Administration (NOAA), U.S. Fish and Wildlife Service, and the New York State Department of Environmental Conservation, also known as the federal and state natural resource trustees, jointly prepared the Draft RP/EA, pursuant to the Comprehensive Environmental Response, Compensation and Liability Act and National Environmental Policy Act. The Draft RP/EA describes the injuries caused by the releases of hazardous substances at the Site, and the proposed off-Site restoration project to address those injuries.

Remedial activities at the Site, located 0.5 miles from the Massapequa Creek, are being addressed and the continued contamination of hazardous substances into the surface waters will been curtailed. A source area in the most upstream pond on Massapequa Creek will be remediated as part of the Remedial Action for the Site.

To supplement to upland remedial activities and compensate for injured resources, the Draft RP/EA proposes the off-site 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 spillway is a man-made structure located at the head of tide and currently obstructs migratory fish passage into their historical spawning grounds. Target species for the restoration project are: blueback herring (*Alosa aestivalis*) and alewife (*Alosa pseudoharengus*). Striped bass (*Morone saxatilis*) and white perch (*Morone Americana*) may also benefit from the proposed passage. The proposed work focuses on the construction of a concrete or adjustable aluminum fish ladder at the spillway to allow anadromous fish passage into Massapequa Lake. Construction would likely require minor excavation of sediment and minor filling for the installation of the fish ladder entrance and, possibly, other portions of the fish ladder. If a concrete fish ladder is chosen, the concrete will be poured into a sealed form to minimize sedimentation. During construction, local temporary disturbances may include minor sediment disturbances and alteration of water flows in the project area. All construction activities will be conducted in a manner that reduces these effects to the maximum extent practicable. It is anticipated that construction of the fish ladder can be completed within a six week period. We are in conceptual stage of the project and will complete a design document once the Draft

RP/EA has been through the public review process. As the proposed project plans are finalized, further consultation with the NMFS Northeast Region will be undertaken prior to project implementation. The final plan may call for stocking of anadromous fish species in Massapequa Lake. NOAA staff anticipates minimal direct adverse effects to essential fish habitat (EFH) associated with the proposed construction of this fish ladder.

NOAA anticipates that the net long-term effect that this restoration project will have on the EFH will be positive by indirectly enhancing forage-based activities. The targeted restoration species already exist in the estuarine and marine waters of South Oyster Bay, but will likely increase in population during the seasonal migration periods. NOAA staff anticipates no indirect adverse effects to EFH species associated with the proposed construction of this fish ladder.

The waters below the spillway of Massapequa Lake flow into South Oyster Bay, an area of EFH designation. The following species are listed:

Species	**Eggs**	**Larvae**	**Juveniles**	**Adults**
Atlantic salmon (*Salmo salar*)				x
pollock (*Pollachius virens*)			x	
whiting (*Merluccius bilinearis*)	x	x	x	
red hake (*Urophycis chuss*)	x	x	x	
winter flounder (*Pleuronectes americanus*)	x	x	x	x
windowpane flounder (*Scopthalmus aquosus*)	x	x	x	x
ocean pout (*Macrozoarces americanus*)	x	x		x
Atlantic sea herring (*Clupea harengus*)			x	x
monkfish (*Lophius americanus*)	x	x		
bluefish (*Pomatomus saltatrix*)			x	x
long finned squid (*Loligo pealei*)			x	
Atlantic butterfish (*Peprilus triacanthus*)	x	x	x	x
Atlantic mackerel (*Scomber scombrus*)	x	x	x	x
summer flounder (*Paralicthys dentatus*)			x	x
scup (*Stenotomus chrysops*)			x	x
black sea bass (*Centropristus striata*)				x
surf clam (*Spisula solidissima*)			x	x
king mackerel (*Scomberomorus cavalla*)	x	x	x	x
Spanish mackerel (*Scomberomorus maculatus*)	x	x	x	x
cobia (*Rachycentron canadum*)	x	x	x	x
sand tiger shark (*Odontaspis taurus*)		x		
blue shark (*Prionace glauca*)				x
dusky shark (*Charcharinus obscurus*)		x	x	
sandbar shark (*Charcharinus plumbeus*)		x	x	x
shortfin mako shark (*Isurus oxyrhyncus*)			x	
tiger shark (*Galeocerdo cuvieri*)		x		
skipjack tuna (*Katsuwonus pelamis*)				x
little skate (*Raja erinacea*)			x	x
winter skate (*Leucoraja ocelatta*)			x	x

Of the managed species identified within the EFH, NOAA anticipates possible temporary minimal adverse impacts to the following species: winter flounder (*Pleuronectes americanus*), windowpane flounder (*Scopthalmus aquosus*), bluefish (*Pomatomus saltatrix*), summer flounder (*Paralicthys dentatus*), and scup (*Stenotomus chrysops*). These species would be most susceptible to effects of sedimentation in the project area during construction. However, construction will not be conducted during spawning periods and/or state and federally restricted periods, thus reducing possible temporary minimal adverse impacts.

In compliance with the regulations implementing the Essential Fish Habitat amendment to the Magnuson-Stevens Fishery Conservation and Management Act, 50 CFR 600.920, we ask that you please review the proposed project and provide comments by July 15, 2005 to Reyhan Mehran, NOAA Coastal Resource Coordinator at (212) 637-3257, NOAA Office of Response and Restoration, 290 Broadway, 18th Floor, New York, NY 10007-1866. If we do not hear from you by July 15, then the trustees will assume that you have no further comments on this project.

Sincerely,

Kate Clark
Injury Assessment Coordinator
NOAA Office of Response and Restoration

cc: w/o attachment: Jason Forman, NOAA/OGC
John Catena, NOAA/NMFS
Reyhan Mehran, NOAA/ORR
Mark Barash, DOI
Sharon Brooks, NYSDEC
David Keehn, NYSDEC
Ken Karwowski, USFWS