

APPENDIX 2I.  
NYSDEC NATURAL HERITAGE REPORT

**New York State Department of Environmental Conservation**  
**Division of Fish, Wildlife & Marine Resources**  
**New York Natural Heritage Program**  
625 Broadway, Albany, New York 12233-4757  
Phone: (518) 402-8935 - FAX: (518) 402-8925  
Website: www.dec.state.ny.us



March 19, 2007

Robert G Torgersen  
Landscape Architecture  
3 Main Drive  
Nanuet, NY 10954

Dear Mr. Torgersen:

In response to your recent request, we have reviewed the New York Natural Heritage Program databases with respect to an Environmental Assessment for the proposed Cornwall Commons Project, site as indicated on the map you provided, located in the Town of Cornwall, Orange County.

Enclosed is a report of rare or state-listed animals and plants, significant natural communities, and other significant habitats, which our databases indicate occur, or may occur, on your site or in the immediate vicinity of your site. The information contained in this report is considered sensitive and should not be released to the public without permission from the New York Natural Heritage Program.

This project location is adjacent to a designated Significant Coastal Fish and Wildlife Habitat. This habitat is part of New York State's Coastal Management Program (CMP), which is administered by the NYS Department of State (DOS). Projects which may impact the habitat are reviewed by DOS for consistency with the CMP. For more information regarding this designated habitat and applicable consistency review requirements, please contact:

Jeff Zappieri or Vance Barr - (518) 474-6000  
NYS Department of State  
Division of Coastal Resources and Waterfront Revitalization  
41 State Street, Albany, NY 12231

The presence of the plants and animals identified in the enclosed report may result in this project requiring additional review or permit conditions, or review. For further guidance, and for information regarding permits that may be required under state law for regulated areas or activities (e.g., regulated wetlands), please contact the appropriate NYS DEC Regional Office, Division of Environmental Permits, at the enclosed address.

For most sites, comprehensive field surveys have not been conducted; the enclosed report only includes records from our databases. We cannot provide a definitive statement on the presence or absence of all rare or state-listed species or significant natural communities. This information should NOT be substituted for on-site surveys that may be required for environmental impact assessment.

Our databases are continually growing as records are added and updated. If this proposed project is still under development one year from now, we recommend that you contact us again so that we may update this response with the most current information.

Sincerely,

*Tara Seoane* *js*

Tara Seoane  
Information Services  
NY Natural Heritage Program

Encs.

cc: Reg. 3, Wildlife Mgr.  
Reg. 3, Fisheries Mgr.  
Peter Nye, Endangered Species Unit, Albany

## Natural Heritage Report on Rare Species and Ecological Communities

NY Natural Heritage Program, NYS DEC, 625 Broadway, 5th Floor,  
Albany, NY 12233-4757  
(518) 402-8935

### HISTORICAL RECORDS

The following plants and animals were documented in the vicinity of the project site at one time, but have not been documented there since 1979 or earlier.

There is no recent information on these plants and animals in the vicinity of the project site and their current status there is unknown. In most cases the precise location of the plant or animal in this vicinity at the time it was last documented is also unknown.

If appropriate habitat for these plants or animals is present in the vicinity of the project site, it is possible that they may still occur there.

## Natural Heritage Report on Rare Species and Ecological Communities

### VASCULAR PLANTS

#### *Bidens hyperborea* var. *hyperborea*

Estuary  
Bagger-ticks

NY Legal Status: Endangered

NYS Rank: S1 - Critically Imperiled

Office Use  
7128

Federal Listing:

Global Rank: G4T2T4 - Imperiled

Last Report: 1936-08-27

EO Rank: Historical, no recent  
information

County: Orange

Town: Cornwall, New Windsor

Location: Moodna Creek Mouth

Directions: Moodna Creek tidal mud flats, Cornwall.

General Quality and Habitat: Freshwater tidal mud flats.

1 Records Processed

## Natural Heritage Report on Rare Species and Ecological Communities

NY Natural Heritage Program, NYS DEC, 625 Broadway, 5th Floor,  
Albany, NY 12233-4757  
(518) 402-8835

- This report contains SENSITIVE information that should not be released to the public without permission from the NY Natural Heritage Program.  
-Refer to the User's Guide for explanations of codes, ranks and fields.  
-Location maps for certain species and communities may not be provided 1) if the species is vulnerable to disturbance, 2) if the location and/or extent is not precisely known, 3) if the location and/or extent is too large to display, and/or 4) if the animal is listed as Endangered or Threatened by New York State.

## Natural Heritage Report on Rare Species and Ecological Communities

### BIRDS

#### *Haliaeetus leucocephalus*

Bald Eagle

NY Legal Status: Threatened

Federal Listing: Threatened

Last Report: \*\*

County: Orange

Town: Cornwall, New Windsor

Location: At, or in the vicinity of, the project site.

Directions: \*\*

General Quality and Habitat: \*\*For information on the population at this location and management considerations, please contact the NYS DEC Regional Wildlife Manager for the Region where the project is located, or the NYS DEC Endangered Species Unit at 518-402-8859.

NYS Rank: S2S3B,S2N - Imperiled

Global Rank: G5 - Demonstrably secure

EO Rank: \*\*

Office Use  
10395

S

ESU

USFWS

#### *Ixobrychus exilis*

Least Bittern

NY Legal Status: Threatened

Federal Listing:

Last Report: \*\*

County: Orange

Town: Cornwall, New Windsor

Location: At, or in the vicinity of, the project site.

Directions: \*\*

General Quality and Habitat: \*\*For information on the population at this location and management considerations, please contact the NYS DEC Regional Wildlife Manager for the Region where the project is located, or the NYS DEC Endangered Species Unit at 518-402-8859.

NYS Rank: S3B,S1N - Vulnerable

Global Rank: G5 - Demonstrably secure

EO Rank: \*\*

Office Use  
8403

ESU

### COMMUNITIES

**Brackish Intertidal mudflats**

This occurrence of Brackish Intertidal Mudflats is considered significant from a statewide perspective by the NY Natural Heritage Program. It is either an occurrence of a community type that is rare in the state or a high quality example of a more common community type. By meeting specific, documented significance criteria, the NY Natural Heritage Program considers this occurrence to have high ecological and conservation value.

Office Use

NY Legal Status: Unlisted

NYS Rank: S1S2 -

59

Federal Listing:

Global Rank: G3G4 -

Last Report: 2002-07-19

EO Rank:

County: Orange

Town: New Windsor, Cornwall

Location: Moodna Creek Mouth

Directions: From the junction of Route 17K and Route 9W in Newburgh, follow Route 9W south for 3.1 miles and turn south (left) on Shore Road. Follow Shore Road for 0.6 mile, park in a lot across from Scenic Technologies (300 Shore Road). Walk back up the road and wade into the marsh at the first opportunity. The mudflats occur on the ebbtide delta and along the marsh edge inside the railroad trestle to the north.

General Quality and Habitat: This is a small occurrence in good condition within a relatively good landscape context. Moodna Creek river delta mudflats with large patches east of the railroad tracks in the Hudson River and some smaller patches west of the railroad tracks adjacent the brackish tidal marshes. Upland terrestrial communities have many invasives but offer some buffer, while the Hudson River tidal river community abuts and overlaps this community as the matrix community.

**Brackish tidal marsh**

This occurrence of Brackish Tidal Marsh is considered significant from a statewide perspective by the NY Natural Heritage Program. It is either an occurrence of a community type that is rare in the state or a high quality example of a more common community type. By meeting specific, documented significance criteria, the NY Natural Heritage Program considers this occurrence to have high ecological and conservation value.

Office Use

NY Legal Status: Unlisted

NYS Rank: S3S4 -

6492

Federal Listing:

Global Rank: G4 -

Last Report: 2002-07-19

EO Rank:

County: Orange

Town: Cornwall, New Windsor

Location: Moodna Creek Mouth

Directions: From the junction of Route 17K and Route 9W in Newburgh, follow Route 9W south for 3.1 miles and turn south (left) on Shore Road. Follow Shore Road for 0.6 mile and park in a lot across from Scenic Technologies (300 Shore Road). Walk back up the road and wade into the marsh at the first opportunity.

General Quality and Habitat: The marsh is moderate to small-sized, in good condition within a moderate quality landscape. A relatively large marsh complex at the mouth of Moodna Creek crossed by a railroad bridge at the mouth and a road (Route 9W) just beyond the upstream end. Additional wetland is forested or shrubby. Brackish intertidal mudflats abut and interdigitate with some of the marsh. A road, sewage treatment plant, and industrial building occur at one edge, and a residential home and mostly second growth forest along the other edge. Moodna Creek flows among the patches and effectively isolates some of the patches

**FISH*****Acipenser brevirostrum***Shortnose  
Sturgeon

NY Legal Status: Endangered

NYS Rank: S1 - Critically Imperiled

Office Use  
1091

Federal Listing: Endangered

Global Rank: G3 - Vulnerable

Last Report: \*\*

EO Rank: \*\*

BOF

County: Columbia, Putnam, Rensselaer, Rockland, Orange, New York, Dutchess, Greene, Westch USFWS

Town: Mount Pleasant, Saugerties, Bethlehem, City Of Rensselaer, City Of New York, Fishkill, City Of New

Location: At, or in the vicinity of, the project site.

Directions: \*\*

General Quality and Habitat: \*\*For information on the population at this location and management considerations, please contact the NYS DEC Regional Wildlife Manager for the Region where the project is located, or the NYS DEC Endangered Species Unit at 618-402-8869.

***Acipenser oxyrinchus***

|                          |  |  |                            |
|--------------------------|--|--|----------------------------|
| <b>Atlantic Sturgeon</b> | <b>NY Legal Status:</b> Protected  | <b>NYS Rank:</b> S1 - Critically imperiled | <b>Office Use</b><br>11464 |
|                          | <b>Federal Listing:</b> Candidate for listing  | <b>Global Rank:</b> G3 - Vulnerable        |                            |
|                          | <b>Last Report:</b> 1997   | <b>EO Rank:</b> Excellent or Good          |                            |
|                          | <b>County:</b> Rockland, Dutchess, Putnam, Westchester, Orange   |  | USFWS                      |
|                          | <b>Town:</b> New Windsor, Newburgh, Stony Point, City Of Beacon, Cornwall, Highlands, Cortlandt, City Of Newb                              |  |                            |
|                          | <b>Location:</b> Lower Hudson River  |  |                            |
|                          | <b>Directions:</b> The fish were observed in the lower Hudson River between Newburgh and Peekskill.  |  |                            |
|                          | <b>General Quality and Habitat:</b> The rank is based on the draft element global ranking form of 1994. The fish were observed in a river. |  |                            |

**OTHER****Waterfowl Winter Concentration Area**

|   |                                      |                           |
|---|--------------------------------------|---------------------------|
| <b>NY Legal Status:</b> Unlisted  | <b>NYS Rank:</b> S3S4 - Vulnerable   | <b>Office Use</b><br>1932 |
| <b>Federal Listing:</b>   | <b>Global Rank:</b> GNR - Not ranked | S                         |
| <b>Last Report:</b> 1984  | <b>EO Rank:</b> Extant               |                           |
| <b>County:</b> Orange   |                                      |                           |
| <b>Town:</b> Cornwall, New Windsor  |                                      |                           |
| <b>Location:</b> Moodna Creek Mouth   |                                      |                           |
| <b>Directions:</b> The concentration area is on the west side of the Hudson River, north of the village of Cornwall at Moodna Creek mouth.                        |                                      |                           |
| <b>General Quality and Habitat:</b> Large, medium gradient stream with lower mile of stream in tidal range with emergent marsh and wooded islands and tidal flat. |                                      |                           |

**Anadromous Fish Concentration Area**

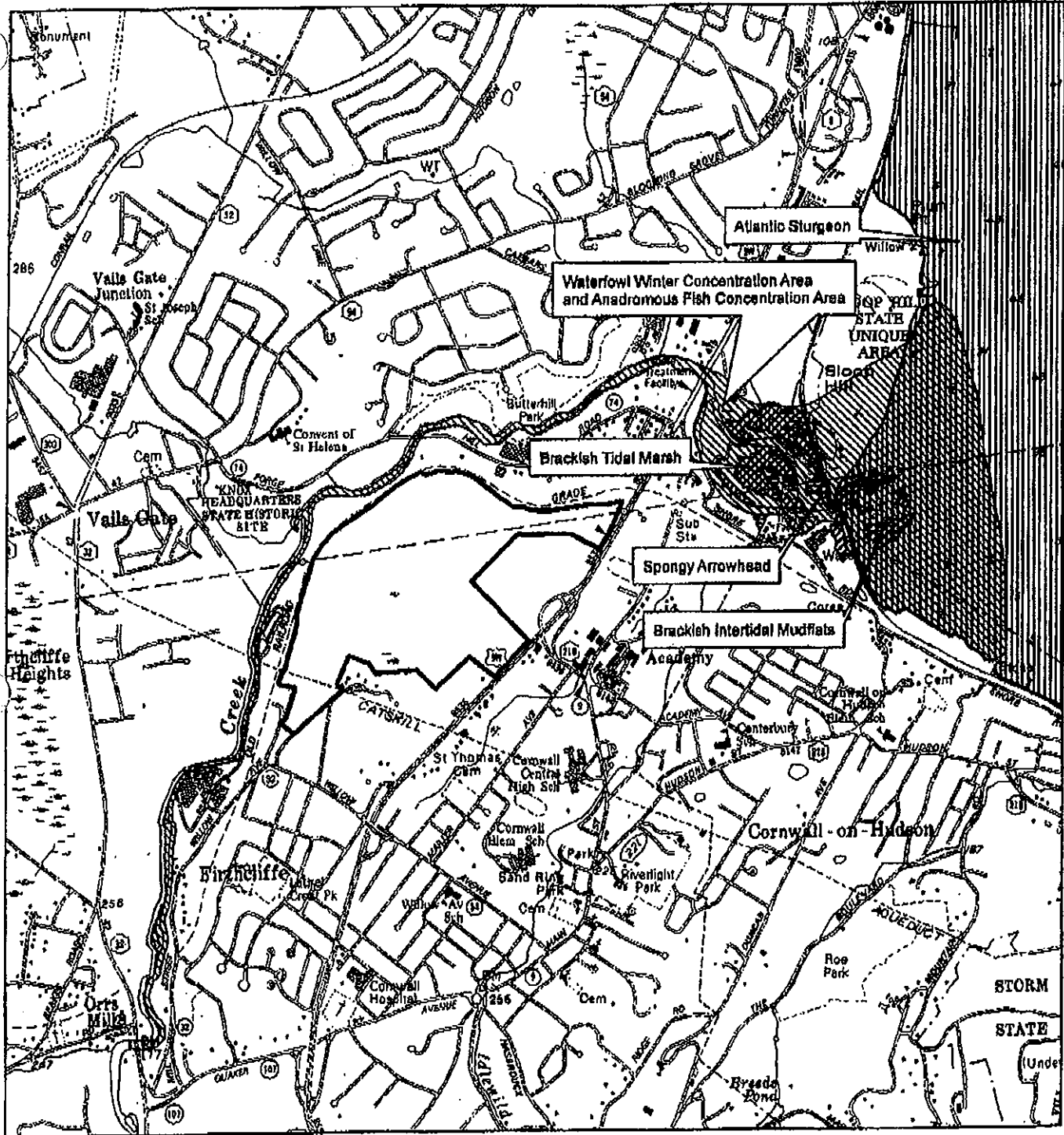
|   |                                      |                           |
|---|--------------------------------------|---------------------------|
| <b>NY Legal Status:</b> Unlisted  | <b>NYS Rank:</b> S3 - Vulnerable     | <b>Office Use</b><br>9587 |
| <b>Federal Listing:</b>   | <b>Global Rank:</b> GNR - Not ranked | S                         |
| <b>Last Report:</b> 1987  | <b>EO Rank:</b> Extant               |                           |
| <b>County:</b> Orange   |                                      |                           |
| <b>Town:</b> New Windsor, Cornwall  |                                      |                           |
| <b>Location:</b> Moodna Creek Mouth   |                                      |                           |
| <b>Directions:</b> The concentration area is on the west side of the Hudson River, north of the village of Cornwall.  |                                      |                           |
| <b>General Quality and Habitat:</b> Large medium gradient stream with lower mile of stream in tidal range with emergent marsh and wooded islands and tidal flats. |                                      |                           |

**VASCULAR PLANTS*****Sagittaria montevidensis* var. *spongiosa***

|                         |   |  |                           |
|-------------------------|---|--|---------------------------|
| <b>Spongy Arrowhead</b> | <b>NY Legal Status:</b> Threatened  | <b>NYS Rank:</b> S2 - Imperiled              | <b>Office Use</b><br>9467 |
|                         | <b>Federal Listing:</b>   | <b>Global Rank:</b> G5T4 - Apparently secure | S                         |
|                         | <b>Last Report:</b> 1990-10-10  | <b>EO Rank:</b> Good or Fair                 |                           |
|                         | <b>County:</b> Orange   |  |                           |
|                         | <b>Town:</b> Cornwall, New Windsor  |  |                           |
|                         | <b>Location:</b> Moodna Creek Mouth   |  |                           |
|                         | <b>Directions:</b> The plants occur on mudflats in the Hudson River north of the Moodna Creek mouth and inside the railroad tressle to the north along the marsh edge. The plants are located in mucky intertidal edges of the marsh and on broad mudflats. |  |                           |
|                         | <b>General Quality and Habitat:</b> Small, localized occurrence. Small patches of mudflats along creek and in cove. 1986-08-22: mucky intertidal edges of marsh and on broad mudflats, Associated species: <i>Sagittaria subulata</i> and little else.      |  |                           |

### Natural Heritage Map of Rare Species and Ecological Communities

Prepared March 12, 2007 by NY Natural Heritage Program, NYS DEC, Albany, NY



#### Legend

Project Site

NY Natural Heritage Program Database Records\*

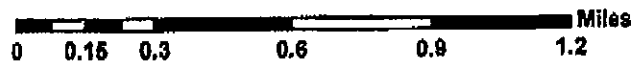
Animal Concentration Area

Animal

Community

Plant

1:24,000



\*The locations that are displayed are considered sensitive and should not be released to the public without permission. We do not provide map locations for all records. Please see report for details.







## USERS GUIDE TO NY NATURAL HERITAGE DATA

New York Natural Heritage Program, 625 Broadway, 5<sup>th</sup> Floor, Albany, NY 12233-4757 phone: (518) 402-8935

**NATURAL HERITAGE PROGRAM:** The NY Natural Heritage Program is a partnership between the NYS Department of Environmental Conservation (NYS DEC) and The Nature Conservancy. Our mission is to enable and enhance conservation of rare animals, rare plants, and significant communities. We accomplish this mission by combining thorough field inventories, scientific analyses, expert interpretation, and the most comprehensive database on New York's distinctive biodiversity to deliver the highest quality information for natural resource planning, protection, and management.

**DATA SENSITIVITY:** The data provided in the report are ecologically sensitive and should be treated in a sensitive manner. The report is for your in-house use and should not be released, distributed or incorporated in a public document without prior permission from the Natural Heritage Program.

**EO RANK:** A letter code for the quality of the occurrence of the rare species or significant natural community, based on population size or area, condition, and landscape context.

A-E = Extant: A=Excellent, B=Good, C=Fair, D=Poor, E=Extant but with insufficient data to assign a rank of A-D.  
 F = Failed to find. Did not locate species during a limited search, but habitat is still there and further field work is justified.  
 H = Historical. Historical occurrence without any recent field information.  
 X = Extirpated. Field/other data indicates element/habitat is destroyed and the element no longer exists at this location.  
 U = Extant/Historical status uncertain.  
 Blank = Not assigned.

**LAST REPORT:** The date that the rare species or significant natural community was last observed at this location, as documented in the Natural Heritage databases. The format is most often YYYY-MM-DD.

### NY LEGAL STATUS - Animals;

Categories of Endangered and Threatened species are defined in New York State Environmental Conservation Law section 11-0535. Endangered, Threatened, and Special Concern species are listed in regulation 6NYCRR 182.5.

- E - Endangered Species:** any species which meet one of the following criteria:
- Any native species in imminent danger of extirpation or extinction in New York.
  - Any species listed as endangered by the United States Department of the Interior, as enumerated in the Code of Federal Regulations 50 CFR 17.11.
- T - Threatened Species:** any species which meet one of the following criteria:
- Any native species likely to become an endangered species within the foreseeable future in NY.
  - Any species listed as threatened by the U.S. Department of the Interior, as enumerated in the Code of the Federal Regulations 50 CFR 17.11.
- SC - Special Concern Species:** those species which are not yet recognized as endangered or threatened, but for which documented concern exists for their continued welfare in New York. Unlike the first two categories, species of special concern receive no additional legal protection under Environmental Conservation Law section 11-0535 (Endangered and Threatened Species).
- P - Protected Wildlife** (defined in Environmental Conservation Law section 11-0103): wild game, protected wild birds, and endangered species of wildlife.
- U - Unprotected** (defined in Environmental Conservation Law section 11-0103): the species may be taken at any time without limit; however a license to take may be required.
- G - Game** (defined in Environmental Conservation Law section 11-0103): any of a variety of big game or small game species as stated in the Environmental Conservation Law; many normally have an open season for at least part of the year, and are protected at other times.

### NY LEGAL STATUS - Plants:

The following categories are defined in regulation 6NYCRR part 193.3 and apply to NYS Environmental Conservation Law section 9-1503.

- E - Endangered Species:** listed species are those with:
- 5 or fewer extant sites, or
  - fewer than 1,000 individuals, or
  - restricted to fewer than 4 U.S.G.S. 7 ½ minute topographical maps, or
  - species listed as endangered by U.S. Dept. of Interior, as enumerated in Code of Federal Regulations 50 CFR 17.11.
- T - Threatened:** listed species are those with:
- 6 to fewer than 20 extant sites, or
  - 1,000 to fewer than 3,000 individuals, or
  - restricted to not less than 4 or more than 7 U.S.G.S. 7 and ½ minute topographical maps, or
  - listed as threatened by U.S. Department of Interior, as enumerated in Code of Federal Regulations 50 CFR 17.11.