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CEQR No. 03DEP054U

**NOTICE OF COMPLETION OF THE
FINAL ENVIRONMENTAL IMPACT STATEMENT
FOR THE NEW YORK CITY
DEPARTMENT OF ENVIRONMENTAL PROTECTION'S
WATERFOWL MANAGEMENT PROGRAM**

April 13, 2004

A Final Environmental Impact Statement (EIS) has been prepared by the New York City Department of Environmental Protection (NYCDEP), acting as lead agency, pursuant to all applicable environmental rules and procedures; specifically in accordance with Article 8 of the Environmental Conservation Law establishing the State Environmental Quality Review Act (SEQRA) and its implementing regulations (6 NYCRR Part 617) and Executive Order 91 of 1977 and its amendments establishing City Environmental Quality Review (CEQR). Acting as lead agency, NYCDEP is hereby certifying this Final EIS as complete.

Public meetings were held to afford the interested public the opportunity to provide oral comments on the Draft EIS in Stone Ridge and Katonah, New York. The meetings were held on November 5, 2003 in Stone Ridge and November 3, 2003 in Katonah. Notification of the time and location of the public hearings appeared in the New York City Record, The Journal News, Kingston Freeman, NYS Environmental Notice Bulletin, and NYCDEP's website. The Draft EIS was also available for inspection by the public at repositories located within Putnam, Sullivan, Ulster, and Westchester Counties and in the City of New York. The period for submitting written comments remained open until November 21, 2003.

Project Description

The New York City Department of Environmental Protection is proposing to expand its Waterfowl Management Program beyond the current program at Kensico Reservoir to five additional City reservoirs: Rondout, Ashokan, West Branch, Croton Falls, and Cross River. The objective of the program is to minimize fecal coliform bacteria (FCB) loads to the reservoirs that result from waterbirds* roosting on the reservoirs during the migratory and winter seasons.

* Waterbirds targeted under this program include gulls, Canada geese, cormorants, ducks, and duck-like species.

The program would include avian (bird) population monitoring, avian deterrence measures, targeted avian dispersion activities, reproductive management methods, and, on rare occasions, removal methods.

The five reservoirs included in the proposed expansion are located in the following Towns and Counties:

<u>Reservoir</u>	<u>Towns (County)</u>
Rondout	Neversink (Sullivan), Wawarsing (Ulster)
Ashokan	Hurley, Marbletown, Olive (Ulster)
West Branch	Carmel, Kent (Putnam)
Croton Falls	Carmel, Southeast (Putnam), Somers (Westchester)
Cross River	Bedford, Lewisboro, Pound Ridge (Westchester)

For a more detailed description of the proposed program, please refer to the project description in the Final EIS.

Required Approvals

There are several potential local, state, and federal permits and/or approvals that may be required to implement the program including the following:

- US Fish and Wildlife Service permits under Title 50, Wildlife and Fisheries, 50 CFR 21.
- New York State Department of Environmental Conservation (NYSDEC) permits under the Fish and Wildlife Act, Article 11 of the Environmental Conservation Law (ECL).
- NYSDEC freshwater wetlands permits under 6 NYCRR Parts 663, 664, and 665.

These regulations and permits are described in the applicable technical chapters of the Final EIS.

Significant Impacts and Mitigation

Potential significant adverse impacts predicted to occur as the result of the proposed expansion of the Waterfowl Management Program include:

- Potential significant adverse noise impacts may occur on sensitive receptors at each of the five reservoirs.
- Potential significant adverse community character impacts due to significant noise impacts are projected for the area within the noise contour surrounding the eastern half of Rondout Reservoir.
- Potential significant adverse water quality impacts on Class AA and Class A waterbodies in the vicinity of the reservoirs due to the potential displacement of waterbirds from the five reservoirs.
- Potential significant adverse natural resources impacts were identified for the Bald Eagle, Osprey, and several threatened and endangered plant species.

NYCDEP has examined mitigation measures to reduce the potential significant adverse impacts noted above where feasible and practical. Measures to mitigate the potential significant adverse natural resources and water quality impacts have been identified and are described below.

To mitigate potential significant adverse water quality impacts to Class AA and Class A waters due to potential displacement of waterbirds from the five reservoirs, NYCDEP is proposing the mitigation measures outlined below. These measures would minimize the potential significant

adverse impacts to the best extent practicable, however it may not ensure full mitigation for all potential adverse water quality impacts to Class AA and Class A waters.

- Except under emergency conditions, contact local municipalities and surface water suppliers within a five-mile radius of the reservoirs, as identified in the Final EIS, prior to implementation of avian dispersion measures. Under emergency conditions, contact will be made as soon as possible after measures are employed. This mitigation measure would alert potential affected communities to NYCDEP activities that may displace waterbirds to their locales.
- Monitor waterbird movements at the five NYCDEP reservoirs in response to avian dispersion techniques. This mitigation measure would provide information on types and numbers of waterbirds that may be relocating elsewhere on NYCDEP reservoirs and/or off these reservoirs altogether.
- Provide a NYCDEP contact to receive reports from local municipalities and surface water suppliers of increased problems, particularly elevated coliform levels in nearby Class AA and A waterbodies, associated with increased numbers of Canada geese and gulls during implementation of avian dispersion measures at the five NYCDEP reservoirs. This mitigation measure would provide information to water supply managers to achieve common water quality objectives.
- Evaluate potential modifications to the application of avian dispersion measures, as necessary, in response to observed and reported increases in gulls and Canada geese, and elevated coliform levels in nearby areas due to implementation of the avian dispersion measures under the Expanded Program. This commitment for adaptive management would help resolve the potential for undesirable relocations of waterbirds that are displaced from any of the five reservoirs.

The following sections describe mitigation measures proposed to avoid or minimize potential significant adverse impacts to the bald eagle, osprey and several plant species.

Noise from pyrotechnics and boats, and movement of boats on the reservoir have the potential to interfere with bald eagle nesting success and foraging during breeding season, and with foraging and roosting for overwintering individuals. NYCDEP is proposing the following bald eagle protection measures in consultation with NYSDEC to avoid potential significant impacts to bald eagles in accordance with the Endangered Species Act and the Bald and Golden Eagle Protection Act. NYCDEP will strictly adhere to the measures put forth below when performing the proposed waterbird dispersion techniques. In addition, NYCDEP would continue to coordinate with NYSDEC and USFWS concerning information on the status of bald eagle breeding and overwintering activities at all five reservoirs.

- NYCDEP will continue to document observations of active bald eagle breeding sites, and overwintering individuals at the reservoirs during regular waterbird surveys at the reservoirs. Prior to waterbird dispersion activities, a complete reservoir shoreline survey would be conducted to identify the presence/absence and all activities (nesting, foraging, flying over, roosting, etc) of the bald eagle. Reservoir locations and bald eagle presence, time of day, age class, and activity would be recorded.
- An assessment of bald eagle activity would be made in conjunction with spatial and temporal distribution information of waterbirds targeted for dispersion. This information would be the basis for the planned implementation strategy and would be considered when deciding on the type, combination and location of bird dispersion activities to be implemented. This would avoid any compromises to the federal and/or state laws protecting eagles.
- NYCDEP will develop detailed eagle interaction guidelines in conjunction with NYSDEC. These will include, among other things, field data sheets with a distance guideline map to establish a buffer zone around each significant bald eagle location (nesting, roosting, foraging, etc).

- The buffer zone for use of waterbird management measures including shoreline access for launching pyrotechnics, pyrotechnics launched from the reservoir, and vehicle access for distress tapes shall be a distance of $\frac{3}{4}$ of a mile from the sensitive location(s) as estimated in the field. Management activities would be restricted to areas outside the buffer zone.
- A buffer zone of 400 meters, or approximately $\frac{1}{2}$ mile will be implemented for the use of motorboats or airboats for dispersing waterbirds. No motorboats or airboats shall pass within this buffer when bald eagles are present (nesting, roosting, etc) at an identified shoreline location.
- In the unlikely event that bald eagle activity (flying over or feeding) was observed in an area (outside of the established buffer zones) targeted for waterbird dispersion during a management period, all management measures would be suspended for the duration of the bald eagle's presence in such area. Waterbird management measures could resume once the bald eagle has dispersed from the area.
- If any disturbances to bald eagle behavior due to the use of pyrotechnics are observed, all use of pyrotechnics will be immediately discontinued and other management measures will be employed (lasers, motorboats, and airboats). Specific eagle behavior to be monitored includes alert behavior, flushing from nest, time to return to nest after flushing, flushing from hunting perch, and alteration of daily patterns. If the waterfowl management program is canceled for more than one day consecutively due to observed conflicts or disturbances to the eagles or if the suspension of dispersion activities would create conflicts between needed water quality protection and disadvantages to bald eagle, NYCDEP will discuss this with NYSDEC. If necessary, in coordination with NYSDEC, NYCDEP would propose alternative methods of waterbird dispersion and bald eagle impact avoidance; these may include modification to the buffer zones described above and the exploration of alternative waterfowl dispersion techniques.
- Personnel responsible for carrying out waterbird management measures would be required to report to the NYCDEP Supervisor of Wildlife Studies including a detailed assessment of all field operations. The Supervisor of Wildlife studies will consult with the NYSDEC Endangered Species Unit as necessary and if/when a potential conflict between bald eagle protection and necessary waterbird dispersion arises to find an outcome that would still achieve the desired water quality requirements for these reservoirs.

The goal of these protection measures is to avoid any impacts to bald eagles nesting or wintering at the five reservoirs. NYCDEP will continue to monitor eagle behavior and evaluate and improve upon these management measures, as necessary, for the life of the project and in coordination with the Endangered Species Unit of NYSDEC.

Although the period for implementation of waterbird management measures would not likely overlap osprey migration periods, there is a potential for migrating individuals to be present at the reservoirs when avian dispersion measures are needed. Noise from pyrotechnics and boats, and movement of boats on the reservoir have the potential to interfere with foraging and roosting of migrating individuals. The following mitigation measures are proposed to minimize potential significant adverse impacts to osprey.

- Continue to document observations of individuals at the reservoirs during regular waterbird surveys at the reservoirs.
- Coordinate with NYSDEC concerning information on the status of osprey at all five reservoirs.
- In coordination with NYSDEC, some or all of the following measures will be implemented at all five reservoirs as necessary when presence of overwintering individuals is confirmed:
 - Monitor osprey behavior during implementation of waterbird dispersion activities such as—alert behavior, flushing from hunting perch, etc.

- Establish buffer zones around preferred foraging areas specific to different activities—boat passage, launching pyrotechnics, shoreline access for launching pyrotechnics, vehicle access for distress tapes
- Modify avian dispersion measures as necessary based upon monitoring observations.

Four plant species of concern have been identified within the vicinity of the reservoirs. These species include:

- Ashokan Reservoir—Hyssop-skullcap (*Scutellaria integrifolia*) and woods rush (*Juncus subcaudatus*), both of which are state-listed endangered, plants that occur in forested or emergent wetlands in the vicinity of the reservoir.
- West Branch Reservoir—Tooth-cup (*Rotala ramosior*), a state-listed threatened plant species that occurs in shoreline areas in the vicinity of the reservoir.
- Croton Falls Reservoir—Cat-tail sedge (*Carex typhina*), a state-listed threatened plant found in wet soils and margins of ponds and lakes in the vicinity of the reservoir.

Shoreline modification, shoreline fencing, and meadow management may be implemented as deterrent measures as part of the Expanded Program. Although they would most likely be limited to the grassy areas in the immediate vicinity of the shaft structures (where these plant species are not likely to occur), they have the potential to disturb threatened or endangered plant species through land disturbance activities. The following mitigation measures have been proposed to minimize potential significant adverse impacts to threatened or endangered plants within the vicinity of the reservoirs.

- Coordinate with NYSDEC and the New York State Natural Heritage Program with respect to known locations of plant species of concern at all five reservoirs.
- In coordination with NYSDEC and the New York State Natural Heritage Program, identify plant species of concern with the potential to occur in the vicinity of areas proposed for meadow management or shoreline modification.
- Conduct field survey prior to conducting meadow management or shoreline modification.
- In response to a positive identification within an area proposed for meadow management or shoreline modification, coordinate with NYSDEC and the New York State Natural Heritage Program, and develop a revised plan to minimize or avoid disturbance in the area, to the extent feasible.

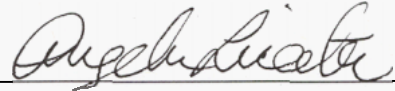
Potential significant noise impacts and the potential significant community character impact at Rondout Reservoir would not be mitigable and considered unavoidable in order to achieve the objectives of the proposed program. Unavoidable significant adverse impacts are defined as those that meet the following two criteria:

- There are no reasonably practicable mitigation measures to eliminate the impacts; and
- There are no reasonable alternatives to the proposed project that would meet the purpose and need of the action, eliminate the impact, and not cause other or similar significant adverse impacts.

NYCDEP has designed the proposed waterfowl management program to minimize potential significant impacts to the extent feasible. The focus of the proposed expansion program is to disperse birds only from the areas nearest to the intake structures during a shorter period of the year, operating less hours per day, and on ~~an~~ intermittent basis whenever possible to achieve the goal of the program. A full description of the proposed program and how it was designed to reduce potential adverse impacts to the extent possible and still achieve its purpose can be found in the Final EIS.

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