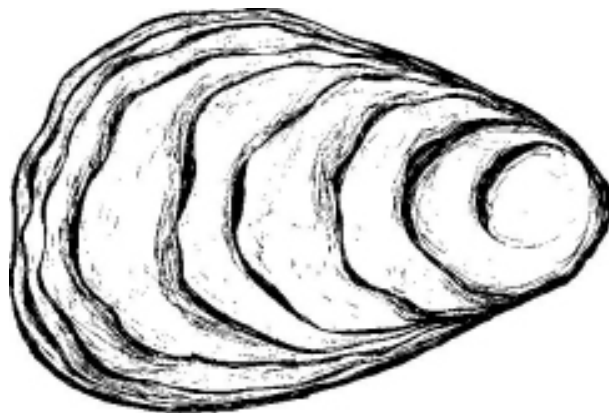




**US Army Corps of Engineers  
Philadelphia District**

**DELAWARE BAY OYSTER RESTORATION  
PROJECT  
DELAWARE AND NEW JERSEY**

**Draft Environmental Assessment**



**April 2008**

# **DELAWARE BAY OYSTER RESTORATION PROJECT DELAWARE AND NEW JERSEY**

## **Finding of No Significant Impact**

The proposed project seeks to continue oyster restoration with a shell-planting program. The Delaware Estuary is an ecologically valuable area. The Philadelphia District Army Corps of Engineers seeks to address the habitat degradation and the ensuing significant losses to an indigenous natural resource. From 1990 to 1995, the oyster industry provided little in jobs or revenue in Delaware Bay. Oystering reopened in 1996 in New Jersey but did not reopen until 2001 in Delaware. Since 2001, the condition of the oyster resource has deteriorated on both sides of the bay despite careful management and a limited controlled fishery, increasing the urgency for establishing a recruitment and enhancement program based on shell planting. The primary goal was to enhance recruitment by enhancing natural seed supply through the planting of shell (cultch) to provide habitat for recruitment of juvenile oysters (spat). The planting of clean shell has increased oyster habitat, expanded oyster abundance, and revitalized the natural resource with concomitant improvements in bay habitat quality from increased habitat complexity as well as increased water clarity brought about by the increased filtration by an abundant shellfish resource.

The proposed work is a continuation of the shell-planting project initiated in 2005. For the fourth consecutive year, shell planting will take place in portions of the natural oyster beds of Delaware Bay in the states of Delaware and New Jersey, as selected by the New Jersey Department of Environmental Protection (NJDEP) and Delaware's Department of Natural Resources and Environmental Control (DNREC) based on bottom surveys that occur annually. Approximately 286,000 bushels of shell were planted on several existing oyster bed locations within Delaware Bay in July 2005. In 2006, approximately 500,193 bushels of shell were planted. In addition to direct shell planting, previously planted shell with spat were transplanted upbay. In 2007, approximately 554,790 bushels of shell were planted. Post construction monitoring results from the 2007 program indicated extraordinary bay-wide recruitment rates (spat set in 2007 was the highest since 1999 bay-wide). New shell plants have typically equaled or exceeded the recruitment rates of native shell. Over the course of the three years of shell budget assessments in the bay, shell plantings have resulted in substantial reductions in shell losses (2005-2007) and has reduced the yearly deficit by at least two-thirds. The 2007 plant was the first time in eight years (since 1999) that New Jersey oyster beds were relatively in equilibrium. Older shell plants continue to attract recruitment, thus demonstrating the long-term biological benefit of the addition of shell beyond each one-year increment. The 2007 shell planting program contributed incalculably to maintaining the ecological services provided by the bay's oyster beds.

For the 2008 program, available funding remaining under the current Section 1135 authority limits the extent of shell planting that can be achieved. Direct shell planting program of approximately 287,000 bushels will be accomplished. As in 2005, 2006, and 2007, roughly 25-acre plots will be planted in Bay waters of both states in June/July 2008. Local clam companies generate large quantities of ocean quahog and surf clam shells and these shells provide an adequate substitute for oyster shell. Hence, the project will recycle a waste product into a useful commodity.

The shell planting program was designed to specifically address the issue of low recruitment and the inability of recruitment rates on natural oyster beds to sustain population abundance over time. It is vital to reduce the amount of shell loss using the shell planting program in order to reestablish oyster beds of sufficient size and health to offset losses due to disease that low abundances limit the amount of shell added to the beds through natural mortality. A concomitant monitoring program will acquire the data necessary to evaluate the success of the shell-planting program.

As a result of the funding constraints under the Section 1135 authority, the monitoring program established in previous years has been reduced for the 2008 year plant to obtain information minimally necessary to

evaluate the success of the shell planting program. The increment in abundance achieved by the program over the abundance that would have been present in the absence of the program at present will be used to establish the degree of success. The 2008 Monitoring and Assessment Program will consist of four of the seven previous components: (1) monitoring of shell plants in the event that the states of New Jersey or Delaware pursue future transplants; (2) periodic tracking of trends in growth and disease exposure for the shell plants (in previous years accomplished monthly but reduced to only a few select months this year); (3) a quantitative evaluation in October to determine the overall success of each year's program at season's end; and (4) a survey of targeted oyster beds to improve bed areal estimates, where required. A shell budget has been calculated to evaluate the efficacy of the shell planting program from the 2007 data. A public outreach program will be implemented as part of the selected plan. Activities include press releases, development of informational brochures and products, and participation in Delaware Bay conservation public events.

The proposed action was reviewed in accordance with ER-200-2-2 Environmental Quality Procedures for Implementing the National Environmental Policy Act (NEPA). The Environmental Assessment for this project is being coordinated with the U.S. Environmental Protection Agency, the U.S. Fish and Wildlife Service, the National Marine Fisheries Service, the New Jersey Department of Environmental Protection, Delaware's Department of Natural Resources and Environmental Control and all other known interested parties.

The Environmental Assessment has determined that the proposed activity is not likely to jeopardize the continued existence of any species or the critical habitat of any fish, wildlife, or plant that is designated as endangered or threatened, pursuant to the Endangered Species Act of 1973 as amended by P.L. 96-159.

A Section 401 Water Quality Certificate and a Coastal Zone Consistency Determination has been requested from the New Jersey Department of Environmental Protection (NJDEP) for the proposed project. Under a current agreement with the State of Delaware, the proposed action meets the requirements for Nationwide Permit #27 (Aquatic Habitat Restoration, Establishment, and Enhancement Activities) and therefore, the Environmental Assessment, Section 404(b)(1) Compliance Review and Statement of Findings for Nationwide Permit #27 apply to this action. However, at the request of DNREC, a Section 401 water quality certification application has been submitted. A Delaware Coastal Zone Management Federal consistency determination has also been requested. Coordination with the NJDEP and DNREC would occur prior to subsequent events to ensure that the necessary state approvals are in place.

The proposed project has been coordinated with both New Jersey's and Delaware's State Historic Preservation Offices. There are no known properties listed on, or eligible for listing on, the National Register of Historic Places that would be adversely affected by the proposed project. The proposed project will avoid areas suspected of containing archaeologically sensitive sites and is therefore not expected to impact any cultural resources.

Because the Environmental Assessment concludes that the proposed project is not a major Federal action significantly affecting the human environment, I have determined that an Environmental Impact Statement is not required.

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**Gwen E. Baker**  
**Lieutenant Colonel, Corps of Engineers**  
**District Commander**

**Date**

Delaware Bay Oyster Restoration Project  
Delaware and New Jersey  
2008  
Draft ENVIRONMENTAL ASSESSMENT

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**Delaware Bay Oyster Restoration Project  
Delaware and New Jersey**

**FINAL ENVIRONMENTAL ASSESSMENT**

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## 1.0. INTRODUCTION

The U.S. Army Corps of Engineers implemented a multi-year program to revitalize the population of the Eastern oyster *Crassostrea virginica* in Delaware Bay—a unique and ecologically valuable area. This Environmental Assessment evaluates environmental concerns relative to the problem of habitat degradation and the ensuing significant losses to an indigenous natural resource. The proposed project seeks to continue an established successful shell-planting program in July 2008 that has demonstrated in the previous three years to have substantially contributed to improvements in oyster populations in Delaware Bay, which in turn, will improve water quality, enhance benthic habitat diversity, and promote the economies not only of the Delaware Bay oyster fishery itself, but that of the Delaware Bay region as a whole.

### 1.1. Authority

The project is located in the 1st New Jersey Congressional District and the at-large Delaware Congressional District. The project bill was authorized in the FY 05 Energy and Water portion of the omnibus appropriations bill under Section 1135 of the Water Resources Development Act of 1986, as amended, Continuing Authorities Program. The non-Federal co-sponsors are the Delaware Department of Natural Resources and Environmental Control (DNREC) and the New Jersey Department of Environmental Protection (NJDEP). The proposed project is supported by the U.S. Fish & Wildlife Service (USFWS), the Partnership for the Delaware Estuary (PDE), Delaware Bay Section Shellfisheries Council (NJ), Governor’s Council on Shellfisheries (DE), the Delaware River Basin Commission (DRBC), the Delaware River and Bay Authority (DRBA), the National Marine Fisheries Service (NMFS), the Delaware Bay Shell Fisheries Council of New Jersey, the Cumberland County, New Jersey Empowerment Zone, (CCEZ), and the U.S. Environmental Protection Agency, Delaware National Estuary Program (USEPA). Rutgers University Haskin Shellfish Research Laboratory provides management and monitoring support for this project.

### 1.2. Environmental Compliance

Coordination with federal and state agencies is ongoing and will insure environmental compliance. All environmental requirements for this project, including permit acquisition, will be completed. Table 1-1 provides a summary of the proposed project’s relationship with environmental statutes and regulations.

**Table 1-1: Environmental Statutes and Regulations.**

<b>Federal Statutes</b>	<b>Compliance w/Proposed Plan</b>
Archaeological Resources Protection Act of 1979, as amended	Full
Clean Air Act, as amended	Full
Clean Water Act of 1977	Full

Safe Drinking Water Act	N/A
Coastal Zone Management Act of 1972, as Amended	Partial
Endangered Species Act of 1973, as amended	Full
Estuary Protection Act	Full
Federal Water Project Recreation Act, as Amended	N/A
Fish and Wildlife Coordination Act	Full
Land and Water Conservation Fund Act, as Amended	N/A
Magnuson-Stevenson Act – Essential Fish Habitat	Full
Marine Mammal Protection Act	Full
Marine Protection, Research and Sanctuaries Act	Full
National Historic Preservation Act of 1966	Partial
National Environmental Policy Act, as amended	Partial
Rivers and Harbors Act	Full
Watershed Protection and Flood Prevention Act	N/A
Wild and Scenic Rivers Act	N/A
Coastal Barrier Resources Act	N/A

**Executive Orders, Memorandums, etc.**

**Compliance w/Proposed Plan**

EO 11988 Floodplain Management	N/A
EO 11990 Protection of Wetlands	N/A
EO 12114 Environmental Effects of Major Federal Actions	Full



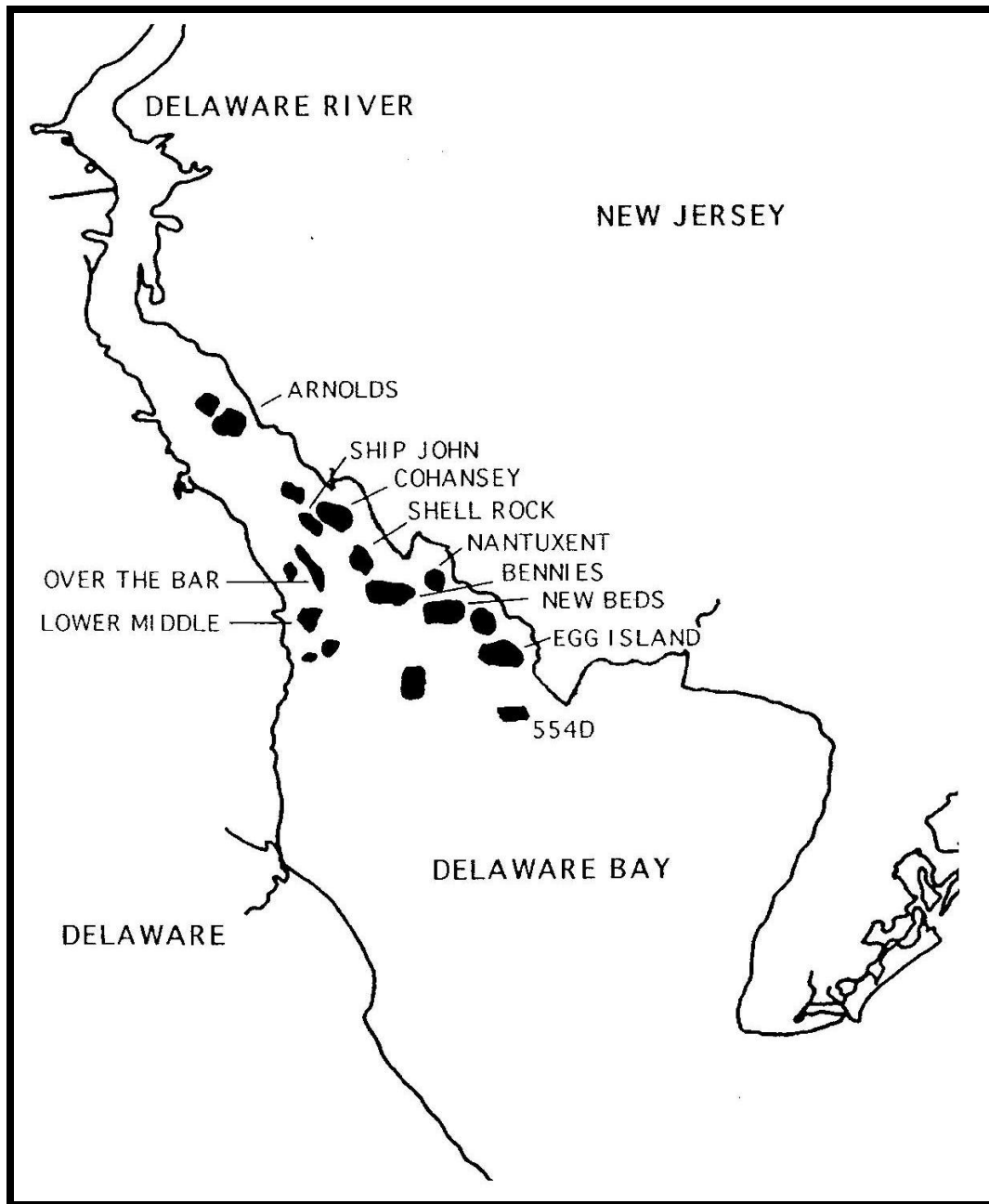
## 2.0. NEEDS AND OBJECTIVES

Oysters inhabit Delaware Bay from the mouth to Bombay Hook on the western side (Delaware) of the estuary, and to just below Artificial Island on the eastern (New Jersey) side, a distance of about 50 miles (Figure 2.1). Oysters have provided a sustainable food supply and contributed to the local economy of Delaware and New Jersey for centuries. From the days of the native American settlements along the shores the American (or Eastern) oyster *Crassostrea virginica* has been an important resource. With the coming of the European settlers, oystering increased dramatically and commercial harvesting towns and markets grew. In 1880, oyster harvesting reached its pinnacle with 2.4 million bushels.

Before the turn of the century, over 500 vessels and over 4,000 people worked in the commercial oystering industry in Cumberland County, New Jersey alone. By 1950, the harvest had dropped to around 1 million bushels. An oyster disease MSX (multinucleated sphere unknown), a protozoan parasite (*Haplosporidium nelsoni*), began to impact oyster populations by the late 1950s. Oyster harvests from planted beds dropped 90-95% while oysters in seed beds suffered a 50% mortality. Oyster harvests fell from 711,000 bushels in 1956 to 49,000 bushels in 1960. The oyster industry recovered during the 1970s and through the mid-1980s, to provide steady employment along the Delaware bayshore of both states. In 1990, a second oyster disease struck. Dermo (*Perkinus marinus*), also a protozoan parasite, invaded the oyster population that had developed a resistance to MSX, and the oyster industry nearly disappeared. A suite of other parasites were observed in a study conducted by Versar, Inc. in 2002. These include gill ciliates, large and small ciliates in the gut and digestive gland, *Bucephalus* trematodes, xenomas, and rickettsial bodies. Rare parasites observed included the trematode *Proctoeces*, nematodes, and parasitic copepods. However, none of these parasites significantly affected the oyster population dynamics or caused significant mortality like Dermo. Today in the Delaware Bay, Dermo disease is the overwhelming cause of adult oyster mortality. Mortality attributed to predation (mostly oyster drills, but also including crabs and dredge damage) was high in higher salinity areas (25%-50%) from Egg Island to Bennies but about 15% or less elsewhere (Versar, Inc. 2001). Recent improved estimates put an annual mortality of juvenile oysters at about 25% bay-wide, with higher estimates down-bay (HSRL, 2005).

From 1990 to 1995, the industry provided little in jobs or revenue in New Jersey. Oystering began again in 1996 under a carefully monitored direct market program. Oystering in Delaware did not reopen until 2001. Recognizing the need to address the decline in the oyster resource, the New Jersey Legislature passed a joint resolution (SJR-19, 1996) establishing the “Oyster Industry Revitalization Task Force” (OIRTF) to develop recommendations that could lead to revitalization of the oyster industry and its associated economic benefits in the Delaware Bay. In 2001, representatives from both Delaware and New Jersey, including state regulatory agencies, the Delaware River and Bay Authority, the Delaware River Basin Commission, and interested citizens developed an oyster revitalization

**Figure 2.1.** Map of Delaware Bay showing the locations of oyster beds.



initiative based on the OIRTF. The primary goal was to enhance recruitment by enhancing natural seed supply through the planting of shell (cultch) to provide habitat for recruitment of juvenile oysters (spat). This will increase oyster habitat, expand oyster abundance, and revitalize the natural resource with concomitant improvements in Bay habitat quality from increased habitat complexity brought about by shell planting as well as increased water clarity brought about by the increased filtration by an abundant shellfish resource.

The OIRTF began addressing the oyster population problem in the Delaware estuary in 1996. It was concluded that culture practices need to be modernized to change management of the resource (DRBA, 1999). Analysis of long-term time series data suggest that enhanced abundance can stabilize natural mortality (HSRL, 2005). Recent work has shown that low abundance leads to degradation of the shell bed and eventual loss of the unique habitat of the oyster reef. Thus, a recruitment enhancement program is important for four reasons: 1) recruitment enhancement is needed immediately to stabilize stock abundance imperiled by seven consecutive years of recruitment failure; 2) recruitment enhancement is needed to permit continuation and expansion of the oyster industry; 3) recruitment enhancement leading to increased abundance produces the shell necessary to maintain the bed; and 4) recruitment enhancement is needed to minimize the control of the oyster population dynamics by oyster disease and thereby stabilize stock abundance at a level that will permit the oyster to fulfill its keystone ecological role in the estuary as a filterer.

Since 1999, the condition of the oyster resource has deteriorated despite careful management and a limited controlled fishery, increasing the urgency for augmenting recruitment and providing habitat for oyster spat through a shell planting program. In 2005, Delaware Bay was in its sixth year of below average recruitment (less than 0.5 spat per oyster per year). Six such consecutive years is unprecedented from the perspective of the 54-year record for which detailed survey data are available (1953-2005). Consistent recruitment failure has resulted in the decline of oyster stocks, endangering the species population dynamics, the continuance of the fishery, and the habitat quality of the oyster beds.

This shell planting program was initiated by the U. S. Army Corps of Engineers in 2005 as a result of a successful pilot shell-planting program conducted by the New Jersey Department of Environmental Protection (NJDEP). The NJDEP had planted roughly 40,000 bushels of clamshell along the western shore of the Cape May peninsula in Delaware Bay in 2003. Approximately one month later, 16,000 bushels of newly set oyster seed were transplanted upbay (Bennies Sand), an area that has supported the majority of the 1990s oyster harvest. Monitoring results indicated that this small pilot-scale planting (only 6 acres) provided more than half of the marketable oysters harvested from this entire seed bed (approximately 600 acres in size) for the 2006 oyster season (2006 NJ Oyster Stock Assessment Report). This small-scale initiative in 2003 increased New Jersey's 2006 oyster harvest allocation by 26 percent.

In 2005, surveys showed that oyster abundance declined slightly to the lowest level since the onset of Dermo disease circa 1989 and to one of the lowest levels in the 1953 to 2005 record. The number of spat was 0.340; insufficient to sustain the present population. The 2005 shell planting program was designed to specifically address the issue of low recruitment and occurred at a critical time (i.e. 2005 was the sixth consecutive year of low recruitment). In 2005, the Corps of Engineers (USACE) Philadelphia District planted 286,000 bushels of shell on approximately 180 acres of existing oyster beds in both New Jersey and Delaware waters of the Delaware Bay. Post construction monitoring results of the 2005 program on beds within New Jersey waters indicated that oyster recruitment was increased by 10% bay-wide (with just 100 acres in NJ planted). On one bed (Shell Rock) shell plants accounted for 52.4% of total recruitment. In Delaware waters, recruitment success was measured on a per-bushel basis. Data indicated that shell planting successfully enhanced recruitment (average spat/bushel on two Delaware beds were 8.1 (Ridge/Jigger) and 23.3 (Middle). In both New Jersey and Delaware, direct shell plants had higher recruitment of spat per bushel than native shell (8<sup>th</sup> SAW report, 2006).

In 2006, the USACE Philadelphia District more than doubled the volume of shell planted (500,193 bushels) on approximately 275 acres of existing oyster beds. Post construction monitoring results showed that although the rate of attraction was about the same for planted shell and native shell, the net addition of shell resulted in an increase in the number of recruits for a second year, indicating the long-term biological benefit of planting shell. The 2006 program increased recruitment by 25% bay-wide and doubled recruitment on the most productive beds. Although Delaware Bay oyster beds continued to incur a net loss of shell annually, in just two years of shell planting the net loss of shell was reduced to the lowest value during the 1999-2006 time period.

In 2007, the program continued with more success by stabilizing the shell resource in Delaware Bay that had been declining due to low oyster abundance. In 2007, the Philadelphia District planted 554,790 bushels of shell on approximately 253 acres of existing oyster beds. Post construction monitoring indicated extraordinary bay-wide recruitment rates (spat set in 2007 was the highest since 1999 bay-wide). Over the course of the last three years (2005-2007) of shell budget assessments, shell planting had resulted in the substantial reduction in shell loss and has reduced the yearly deficit by at least two-thirds. The 2007 shell plant was the first time in eight years (since 1999) that New Jersey oyster beds were relatively in equilibrium.

It is vital to reduce the amount of shell loss through a shell planting program in order to reestablish oyster beds of sufficient size and health to offset the losses due to disease when abundance is so low that it limits the amount of shell added to the beds through natural mortality. The 2007 shell planting program contributed incalculably to maintaining the ecological services provided by the bay's oyster beds (discussed in Section 3.0). The USACE intends to plant additional shell in 2008 and monitor the results.

### **3.0. ALTERNATIVES**

#### **3.1. No Action**

The no action alternative will result in continued deterioration of the oyster stocks, loss of the fishery, and substantial deterioration of habitat quality and water quality in Delaware Bay. Projections of oyster abundance by the 10<sup>th</sup> SAW (2007 Stock Assessment Workshop), presented by the Haskin Shellfish Research Laboratory, summarized the condition of the oyster stock in Delaware Bay in New Jersey waters. The data were evaluated over the period 1989-2007 as this period coincides with the advent of Dermo as a major influence on population dynamics. During the period average mortality rates and epizootic frequencies were up. Although the last three years of shell budget assessments have demonstrated that shell planting has reduced the yearly deficit by at least two-thirds, and bay-wide spat set in 2007 was the highest since 1999, average oyster abundances are down, and average recruitment rates are down relative to the 1953-1988 data collection period.

Oyster beds are sustained, as is the high diversity and complexity of this habitat, by continued addition of shell; without an active abundant oyster population, the quality of this Essential Fish Habitat (EFH) will assuredly also decline until eventually complete loss of the structural dimension of the shell bed will occur. Population dynamics modeling of abundances this low suggest only a limited possibility of

recovery without active intervention through recruitment enhancement. Shellfish play a significant role in water quality of the bay by improving water clarity, controlling plankton or algal blooms, as well as provide valuable structural diversity necessary for a healthy estuarine habitat. Since populations of oysters are near historic lows and showed promising signs after just two years of the shell-planting, restoring some portion of this lost filter-feeding capacity is identified as a direct improvement on water and habitat quality. Oyster shell degrades over time. Since 2001, estimates show a reduction of native cultch on New Jersey beds by as much as 50%. In just three years, the shell planting program has demonstrated its potential to reach an eventual stabilized equilibrium, in the face of low abundance and disease.

### **3.2. Selected Plan**

Attempts to enhance the seed supply have been made sporadically in the form of shell plantings, to catch natural oyster sets on the seed beds. Oyster harvesters themselves were once required to replace a portion of the shell from oysters they harvested, but this practice was eliminated in 1979. Federal funds were available during the 1960s and early 1970s and several significant shell plantings were made in the bay at this time. The value of planting clean shell at the right time (i.e. when larvae are ready to set) is illustrated by results recorded in 1966 when clean planted shell received a set of 5,000 spat per bushel whereas old shell on the same bed received only 90 spat per bushel (records of D.E. Kunkle, Haskin Shellfish Research Laboratory). Most plantings did not receive this kind of set, but there was little attempt to regularly place the shells in areas of historical good setting. Rather, cultch went to areas that had been recently harvested, which were not necessarily very good setting areas. Prior to 2003, very little clean shell had been replaced on the seed beds since the early 1970s because the only source of funds has been the Oyster Resource Development Account. This account receives fees from oyster growers, but due to low harvests, rarely has sufficient funds for a significant planting (DRBA, 1999).

There is little doubt of the value of shell planting, as long as it is done at the appropriate time, in the areas most likely to catch a set, is of sufficient size, and the resulting set is managed effectively. Long-term records of the Haskin Shellfish Research Laboratory show clearly delineated areas of high set potential on the inshore areas along the New Jersey shore. In 2003, the NJDEP planted downbay and subsequently transplanted upbay two months later 16,000 bushels of clamshell as part of a pilot program. The project resulted in the recovery of 1800 spat per bushel during a year when the average recruitment on the natural beds was below 50 spat per bushel. Two years later, this transplanted shell contributed 58% of the marketable oysters on the receiving bed (Bennies Sand). Thus, the setting potential can be very high given that the spat have adequate substrate and a doubling of abundance on reproductive beds is readily achieved. For shell planting to be successful in the Delaware estuary, it must be done regularly, on a much larger scale, and closer to setting time than it has been in the past. At present, sources of surf clam and ocean quahog are being obtained from New Jersey and Delaware shucking houses and oyster shell mining operations.

The shell planting program serves multiple benefits that extend beyond the oysters. Not only do oysters play a major role in improving water quality through filtration, but their biogenic habitats provide refugia, nesting sites, and foraging grounds for a variety of resident and transient marine species. Numerous studies have revealed greater biodiversity associated with oyster reefs than with adjacent sedimentary habitats. Species richness and abundance of organisms in oyster reef habitats are

generally comparable to those found in seagrass meadows. Oyster reefs in estuaries provide hard substrate that supports unique assemblages of organisms, and there is further evidence that oyster reefs contribute to enhanced production, not merely a concentration, of finfish and decapod crustaceans.

The shell-planting project was proposed to continue annually for several consecutive years in portions of the natural oyster beds of Delaware Bay in the states of Delaware and New Jersey, as well as the leased beds of both states, as selected by NJDEP and DNREC. Shell-planting location selection criteria include condition of the existing oyster beds to support exposed shell without significant sediment accumulation, probability of spat settlement above the bay-wide average, and ease of recovery of spat shell for potential subsequent transplanting.

The approach taken in the two states will differ somewhat to maximize use of local conditions. Approximately 360,000 bushels of clean crushed ocean quahog, and surf clam shell has been purchased from several private sources. Due to the allowable limited funds remaining under the existing authority (Section 1135 program) only about 287,000 bushels of the purchased shell can be planted in 2008. The areas to be planted will range in size from 25 to 50 acres in size, consistent with monitoring efforts of previous year plants. The shellfish managers of both New Jersey and Delaware will identify and mark those oyster beds determined to be optimum sites. Twenty-five acres is the recommended size because it encompasses a 0.2" latitude x 0.2" longitude rectangle, so the design facilitates navigation and survey. This is the minimum sized rectangle needed for vessel maneuverability during planting. It is also equivalent to the size of the sampling unit used in the New Jersey stock survey, thereby facilitating evaluation of project success in comparison to bay-wide oyster production. The proposed shell-planting program is based on the premise that planted shell density will average 2,000 bu/acre overall or 50,000 bushels per 25-acre plot.

**3.3.1. Delaware:** Shell planting in Delaware sites will provide needed shell cultch on state-owned natural oyster beds. These beds historically have suffered loss in production due to siltation. The shell planting is designed to increase productive area by adding to bed height while expanding available cultch. Latitude and longitude coordinates for each corner of the planting sites will be recorded using the Global Positioning System. These location data will be converted to Delaware Plane Coordinates using Corpscon software and then inputted into Arc View for calculating total acreage of the planting site.

Previous shell-planting experiences on Delaware's natural oyster beds have demonstrated that a planting density of 2,000 bushels per acre, in general, provides an excellent shell base for promoting oyster larval attachment. Plots may or may not be contiguous based on results from the pre-plant bottom survey. In addition, shell plantings will occur just prior to the oyster spawning season (~ late June/early July) to ensure that shell surfaces remain clean in order to maximize larval retention.

**3.3.2. New Jersey:** The appropriate shell planting time (i.e., in unison with the oyster's prime spawning period) will be determined by plankton sampling, which will commence approximately in mid-June by NJDEP and University of Rutgers staff. The 2008 Stock Assessment Workshop for the New Jersey Delaware Bay Oyster Bed report recommends targeting Shell Rock, Bennies Sand, Nantuxent Point, Hog Shoal, Hawk's Nest, Beadons, and Strawberry. Replants should target Ship John and Cohansey.

As is currently the case with New Jersey's ongoing oyster enhancement programs, NJDEP staff will

record site coordinates using a Trimble Differential Global Positioning System (NJ State Plane Coordinates - NAD83). Coordinates will be mapped using Arc View Geographic Information System, from which acreages can easily be calculated. Cultch planting densities will vary depending on bottom hardness or condition, but will typically range from 1,500 to 2,500 bushels per acre.

**1). Shell Planting:** Approximately 287,000 bushels of approximately 400,000 bushels of ocean quahog and clam shell previously purchased and stockpiled will be placed on existing natural oyster beds within Delaware Bay in both Delaware and New Jersey. Available remaining funding under the current Section 1135 authority limits the extent of shell planting that can be achieved.

**2). Monitoring:** The shell planting program was designed to specifically address the issue of low recruitment and the inability of recruitment rates on natural oyster beds to sustain population abundance over time and the need to maintain the shell beds while natural addition of shell is low due to low abundance. Due to funding constraints, the monitoring program established in previous years has been reduced for the 2008 year plant to obtain information minimally necessary to evaluate the success of the shell planting program. The increment in abundance achieved by the program over the abundance that would have been present in the absence of the program at present will be used to establish the degree of success. The Monitoring and Assessment Program will consist of four of the seven previous components: (1) monitoring of shell plants in the event that the state of New Jersey, Division of Shellfisheries pursues future transplants; (2) periodic tracking of trends in growth and disease exposure for the shell plants (in previous years accomplished monthly but reduced to only a few select months this year; (3) a quantitative evaluation in October to determine the overall success of each year's program at season's end; and (4) a survey of targeted oyster beds to improve bed areal estimates, where required. A shell budget has been calculated to evaluate the efficacy of the shell planting program from the 2007 data.

**3). Public Outreach:** A public outreach program will be implemented as part of the selected plan. Activities include press releases, development of informational brochures and products, and participation in Delaware Bay conservation public events.

## **4.0. EXISTING ENVIRONMENT**

Estuarine environments like Delaware Bay are among the most productive on earth, creating more organic matter each year than comparably-sized areas of forest, grassland, or agricultural fields. It is the productivity of the estuary and the variety of its habitats that fosters such a wide abundance of wildlife and aquatic resources. These organisms are linked to one another through a complex food web. An estuary is critical to many species of aquatic creatures, birds, fish and other wildlife.

### **4.1. Physiographic Setting**

The Delaware estuary lies at the seaward end of the Delaware River, which drains a 12,380 square mile area of the northeastern United States. The study area lies entirely within the Atlantic Coastal Plain Physiographic Province. This coastal area is a relatively flat plain with surface elevations rarely exceeding 100 feet above mean sea level.

## **4.2. Climate**

The climate is considered subtropical in the Delaware Bay region, producing mild summer and winter seasons with only a few short hot, humid periods in summer, and cold, windy periods in winter. The summer weather is dominated by maritime tropical air masses which remain stable for several days at a time, creating high pressure systems. Continental, polar air masses in the winter produce rapidly moving fronts and intense weather patterns. The bay's coastlines are susceptible to strong beach erosion storms as a result of these weather patterns. Noreasters have a frequency of once every 2.5 years, and hurricanes occur about once every 5.5 years, producing an average of one storm every two years. Spring and fall are milder and are dominated by quickly changing air masses. The mean annual temperature in the bay region is a range of 55 to 57 degrees Fahrenheit. The annual precipitation for the area is about 45 inches, with the average monthly rainfall amounting to three or more inches. Temporary droughts, however, are not uncommon in summer.

## **4.3. Surficial Deposits**

Medium-to-coarse sands dominate the mouth of the bay and extend upbay in narrow linear bands that coincide with the axes of the major tidal channels. Generally, the coarsest sands occur in the bottom of the estuary channels. Within any channel, the median grain diameter decreases in the upbay direction and away from the center of the channel. Very fine sands characterize the linear sand shoals, the channel margins, most of the Lower Jersey Platform and the area between Mispillion River and Lewes Harbor. Major departures from the upbay and shoreward fining pattern occur on the Upper Jersey Platform and the Cape May Shoal Complex, where sediments become coarser in the shoreward direction.

The mouth of the bay and the lower bay channels are characterized by poorly sorted medium-to-coarse sands with a low mud content. Sediments of this type also occur near shore along the Upper Jersey Platform. Finer sands with a highly variable mud content are found in most areas of the upper and middle bay and along the margins of the lower bay. Patches of very poorly sorted fine sands with a very high mud content occur throughout the bay, but occur most commonly along the Delaware shoreline of the middle and upper bay.

## **4.4. Subsurface Geology**

The Delaware estuary extends approximately 133 miles from the head of tide at the Fall Line near Trenton, New Jersey to the Atlantic Ocean at Cape May, New Jersey and Cape Henlopen, Delaware. Between Trenton, New Jersey and New Castle, Delaware, the estuary parallels the Fall Line with early metamorphic rocks of the Piedmont on the west and unconsolidated coastal plain sediments on the east. South of New Castle, the lower tidal river and Delaware Bay are underlain by sediments of the Atlantic Coastal Plain. In the vicinity of the bay, a veneer of fluvial Pleistocene sands and gravels up to approximately 100 feet thick covers the older sediments of the Coastal Plain. The Pleistocene sediments form the Columbia Group in Delaware and the Cape May, Pennsauken and Bridgeton Formations in New Jersey. In most cases, Pleistocene sediments form the basal substrate upon which sediments of the Holocene marine transgression have been deposited. However, subsurface data suggest that sediments of the Cohansey Formation and Upper Chesapeake Group (Miocene) may



possibly outcrop in Delaware Bay.

#### **4.5. Bottom Substrate**

Versar, Inc. (2001) conducted an oyster and water quality monitoring study in the Delaware Bay for the Philadelphia District USACE for the proposed Main Channel Deepening Project. In this study Versar was tasked to characterize the pre-construction conditions of the Delaware Bay through evaluation of water quality and existing oyster population health. The study was completed in collaboration with Rutgers University, Haskin Shellfish Research Laboratory. Nine existing oyster beds in Delaware and New Jersey were monitored on historic oyster beds and selected to cover a range of salinity gradients of naturally occurring oyster beds in both New Jersey and Delaware, thus they represented beds typical of high and low rates of mortality from predation and disease

Sediment grain size ranged from pebbles on the surface of medium-sand to medium-coarse sand to stiff clayey sediments. Versar, Inc. conducted a sediment profile study in 2001 using imagery at 50 stations. The predominant sediment type throughout the study area was fine-sand and occurred at 38% of the sampling stations.

#### **4.6. Water Quality**

In the Versar, Inc study (2001) water quality was monitored to assess physical/chemical data for the interpretation of oyster population and habitat health in the bay. The study also served a dual purpose in providing a means to evaluate predictions made using a three-dimensional hydrodynamic model of the estuary's salinity regime.

Water quality monitoring was conducted for nine months (May through November 2000 and March through April 2001) for temperature, pH, dissolved oxygen, salinity, turbidity, TSS (total suspended solids) and nutrient oyster "food" content (chlorophyll concentrations, organic nitrogen proteins, carbohydrates, and lipids). Water temperature was relatively consistent throughout the bay over the 2000/2001 monitoring period. Seasonal changes in water temperature progressed expectedly with spring warming into summer followed by cooling in the fall months.

Salinity was relatively stable in the bay during this same time period within particular sites. Measurements at each station varied within a 5-ppt range throughout the 9-month monitoring period. Although stable on a monthly scale, salinity did follow a seasonal pattern with lower measurements occurring in the warmer months. From May through mid-October, salinity generally ranged from 10 to 20 ppt depending on the station location. Differences in salinity between stations were consistent and reflected relative location in the salinity gradient of the bay. For the most part, salinity throughout the monitoring period was 10 ppt higher in the lower stations than the uppermost stations.

Measurements of pH were very stable in the bay over the 9-month monitoring period. From May to November 2000, pH closely averaged about 8 for the nine stations. In March and April 2001, measures were consistently higher and averaged 8.5 among the stations. Throughout the monitoring period, a slight gradient was apparent along the length of the bay with lower pH measured farther upstream.

Dissolved oxygen levels varied mostly according to season in the bay. From May through July, as

water temperatures increase, DO concentrations decreased steadily from about 9 to 7 mg/L. Toward the end of August 2000 through November 2000, concentrations steadily increased to about 10 mg/L and ranged from 11 to 19 mg/L.

Turbidity in the bay was relatively stable over the monitoring period, although occasionally exceedingly high measures of turbidity were recorded. Concentrations at most stations ranged less than 50 NTU. Throughout the summer months (June through September) measures commonly ranged upwards to 100 NTU. During October and November 2000 and March and April 2001, turbidity was usually less than 100 NTU.

Delaware Bay is typically characterized by a strong early spring phytoplankton bloom, followed by low summer concentrations and then occasionally a fall bloom. In the Versar (2001) study, chlorophyll in Delaware Bay remained uniformly low over the summer growing season. Chlorophyll typically ranged less than 20 ug/L in May through November 2000. In contrast, much higher levels were recorded in early spring (2001). In March 2001 overall measures averaged close to 80 ug/L. By April, the number had halved. Thus, 2001 was considered a typical year. Throughout the monitoring period consistent differences were not readily apparent between stations.

Organic constituents of TSS, defining oyster food supply, were measured at four oyster bed monitoring stations. The sediment load supported by the waters of Delaware Bay was largely uniform throughout the bay and all seasons monitored. Concentrations of total suspended solids (TSS) measured in the lower water column ranged roughly less than 40 mg/L. Higher concentrations were more often measured at the two upper Bay stations and may reflect the higher current velocities present in the narrower portion of the estuary as well as their closer proximity to the turbidity maximum zone near the C&D Canal where salt and freshwater meet. Suspended particles tend to flocculate and fall out of the water column in this area. In early June, TSS measured at these two stations averaged 75-mg/L; in August and early September concentrations ranged from 60 to 120 mg/L; and in March of the following year the two stations averaged 60 mg/L.

Organic nitrogen (Total Kjeldahl Nitrogen) varied as chlorophyll concentrations in the lower water column. Higher concentrations were observed during early spring. The concentrations of lipids, proteins, and carbohydrates followed similar patterns over the nine month sampling period. Concentrations of lipids were usually several times greater than other nutrients and averaged around 5 mg/L. Concentrations were variable and reflected a peak in productivity (around 10 mg/L in summer). Proteins averaged around 2.5 mg/L. Carbohydrates were consistently at or below 1 mg/L throughout the nine month monitoring period. The highest concentrations were measured at an upper bay station during mid-summer and ranged to 3.5 mg/L. These data are important for oysters for two reasons: 1) Oyster larvae require high lipid content food and the lipid:protein:carbohydrate ratio observed demonstrates a good food resource; and 2) The concentrations are highest during late summer when reproduction taxes adult oysters and when oyster larvae require high food concentrations for success (Versar, 2001).

#### **4.7. Aquatic Invertebrates**

Other than the American oyster (*C. virginica*) notable benthic aquatic organisms in the study area include the blue crab (*Callinectes sapidus*), and the horseshoe crab (*Limulus polyphemus*). A number of studies have been conducted on benthic invertebrate communities in Delaware Bay (Maurer *et al.*,

1978; Kinner *et al.*, 1974; Howe and Leathem, 1984; Leathem and Maurer, 1980; Howe *et al.*, 1988). As is common in marine benthic systems, there is considerable spatial and temporal heterogeneity in species composition and organism density. Bottom type and salinity are primary determining factors in community structure. Other commonly occurring species are *Tellina agilis* (bivalve), *Ensis directus* (bivalve), *Glycera dibranchiate* (polychaete), *Heteromastus filiformis* (polychaete), *Gemma gemma* (bivalve), *Nethtys picta* (polychaete), *Mulinia lateralis* (bivalve), *Neomysis americana* (crustacean), *Nucula proxima* (bivalve), and *Protohaustorius wegleyi* (crustacean).

Hard clams (*Mercenaria*) are distributed from Port Mahon to Cape Henlopen. They are currently not commercially harvested in Delaware Bay. The blue crab (*C. sapidus*) is ubiquitous in Delaware Bay and functions as a predator in the estuarine ecosystem. Blue crabs support a commercial industry in the bay. A pot fishery occurs in the near shore region north of Port Mahon, primarily during the warmer months (May to October). A winter crab dredging fishery takes place in the lower bay when the crabs have dug into the sediments in deeper waters to over-winter (U.S. Fish and Wildlife Service).

A small lobster fishery is located primarily on the outer breakwater near Cape Henlopen. The lobsters find favorable cover among the rocks, and the associated fish and invertebrates are a good source of food. Harvesting occurs mostly during the summer and to a lesser extent during the cooler seasons. This is a cyclic fishery that has been low during most recent years (Delaware Division of Fish and Wildlife).

Four species of mud crab were collected in the Versar, Inc. study (2001). *Rithropanopeus harrisii* was relatively uncommon. The other three species *Dyspanopeus sayi*, *Eurypanopeus depressus*, and *Panopens herbstii* were more common. *D. sayi* and *P. herbstii* were collected from the higher salinity beds from Bennies downbay. *E. depressus* was more widespread in abundance across the salinity gradient. Mud crab abundance increased with increasing salinity. Seasonal cycles in abundance were not dramatic or consistent among sites.

Horseshoe crabs (*L. polyphemus*) are ancient arthropods that play a very prominent and vital role in Delaware Bay. Each spring, horseshoe crabs migrate into the bay to spawn within the intertidal zone of sandy beaches. Eggs are laid in tightly bundled clumps in nests dug 2-8 inches below the sand surface. The high concentration of horseshoe crab eggs is vital to migratory shorebirds, who feed on the eggs unintentionally excavated by other spawning horseshoe crabs, to fuel the remainder of their trip to Arctic nesting grounds.

#### **4.7.1. Parasitism and Health**

Common oyster parasites include two disease-causing organisms, *Haplosporidium nelsoni* (MSX) and *Perkinsus marinus* (Dermo), and the relatively benign *Nematopsis*. A suite of other less common parasites were also identified (Versar, 2001). These include gill ciliates, large and small ciliates in the gut and digestive gland, *Bucephalus* trematodes, xenomas, and rickettsial bodies. Rare parasites include the trematode *Proctoeces*, nematodes and parasitic copepods. In addition to parasites, ceroid bodies were also observed in abundance. Ceroid bodies are thought to be indicative of stress, although cause and effect is not well established.

At one time, *H. nelsoni* was the principal cause of mortality in market-size oysters in Delaware Bay.

Prevalences of this parasitic infection have been low however, since 1990. Delaware Bay oysters are believed to have built up immunity to this disease. In 2000, prevalence rarely exceeded 20%, and typically at sites with the highest salinity. Generally, prevalences peaked in early spring and again in June. This pattern is typical of the life history dynamics of this organism (Ford *et al.*, 1999).

*Perkinsus marinus* is presently the primary cause of adult oyster mortality in the bay. Prevalence and infection intensity decline with lower salinities. Prevalence and infection intensity typically peak in late summer and early fall when temperatures are highest (Hofmann *et al.*, 1995). Mortality rates for this disease typically run from <10% up-bay to >50% down-bay with the bay-wide average between 10-35%. Dermo epizootics have occurred in half of the years, on average since 1990.

*Nematopsis* spp. is the most prevalent oyster parasite on the East and Gulf coasts of the U.S. Although infection intensities can reach hundreds of cells per tissue section, the parasite appears to produce little or no pathological effect. The final host is the mud crab. In 2000 *Nematopsis* was found at all sites (Versar, 2001). Highest infection intensities occurred on Ship John and Bennies. Larger oysters tended to have infection intensities similar to smaller oysters, indicating that infection intensity increased linearly with size. Little seasonality was observed in infection intensity.

*Bucephalus* trematodes were rare and encountered principally in late summer and early fall (Versar, 2001). Rickettsial bodies were most common in June and in oysters from Ship John, but otherwise, rarely observed. Ciliates were more commonly and consistently encountered. Small gill ciliates were most abundant in spring and in oysters from Bennies and Lease 544D. Large ciliates were found in the gut, gill, mantle and digestive gland. These ciliates were observed through the year on all oyster beds. Small oysters had a disproportionate infection intensity, indicating that infections lessen with age.

#### **4.7.2. Predators**

Predation accounts for a significant fraction of total mortality (mostly spat and juveniles) (Versar, 2001). Although identified predatory events never account for the majority of observed deaths, the focus of predators should be on the smaller and more easily overlooked individuals. Thus, emphasizing the importance of disease in controlling adult oyster population dynamics. Nevertheless, predatory mortality accounts for upwards of 30% of the juvenile oyster population annually (E. Powell, pers. comm.). Like the diseases MSX and Dermo, the distribution of predators is consistent with the higher mortality rates down-bay at the higher salinity sites. Predators include mud crabs, blue crabs, and drills. Blue crabs were relatively rare and sporadic in the oyster dredge captures as these were insufficient sampling devices for blue crabs (Versar, 2001). Drills were mostly caught on higher-salinity sites: Bennies, New Beds, Egg Island, and Lease 554D. Numbers tended to be highest in the summer because drills migrate into deeper water or burrow into the sediment as the weather cools. Two drill species captured, *Urosalpinx cinerea* and *Eupleura caudate* were collected at the same sites. *E. caudate* tended to be present in early and late summer. *U. cinerea* tended to be present more uniformly over the year.

#### **4.7.3. Fouling Organisms**

Most bionts were observed on the outer surface of the shell (Versar, Inc., 2001). Bionts on the inner

surface were limited to borers. *Polydora* was the most abundant borer species observed. Outer shell bionts included bryozoans, encrusting polychaetes, and sabellariids. Other bionts included egg cases, fungi, green algae, hydroids, and molluscs. Generally, temporal trends were not apparent over all sites. Coverage tended to increase with increasing salinity.

Molluscan epibionts included oysters, ribbed mussels (*Brachidontes* spp.), and *Crepidula* gastropods. Molluscan bionts were most common at the two Delaware sites, Over-the-Bar and Lower Middle. *G. demissa* was also commonly found on New Beds and Bennies. The time series showed distinctively lower coverages during the summer months. Oysters were routinely found as “bionts” on other oysters. Their occurrence was particularly common at the two Delaware sites where the vertical “clump” structure typical of reefs best developed. Temporal trends were not observed.

Encrusting polychaetous bionts include sabellariids, serpulids, and mudtube-dwelling polychaetes such as terebellids. Coverage was highest in spring and declined during the summer months. Mudtubes increased in abundance with increasing salinity in a nearly monotonic fashion. Sabellariid polychaetes were most common at two Delaware sites and a leased bed site. However no time-dependent trends were present. Serpulid tubes were much more common on the lease bed site than elsewhere. Coverage increased with increasing salinity at the other sites and showed a decline in late summer. Barnacles were most abundant at Arnolds, and somewhat more abundant at Ship John and Nantuxent Point than at other sites. Coverage did not show a significant temporal trend.

Bryozoans were both of the encrusting form (e.g. *Electra*, *Membranipora*) and the erect forms (e.g. *Bugula*, *Alcyonidium*, *Amathia*). Total bryozoan coverage was highest at Arnolds, Bennies, Nantuxent Point and Lease 554D. Erect bryozoans were most common at the highest salinity sites, Egg Island and Lease 554D. Encrusting sponges (e.g. *Microciona*) were present in highest abundance at the higher salinity sites but not all of them. Coverage at Bennies, New Beds, and Egg Island was much higher than at other sites. Coverage peaked in late summer in 2000 and then peaked again in March 2001. Hydroids were present in greatest abundance on the New Jersey side of the bay. Abundance was high at five of seven New Jersey sites. A few anemones and tunicates were present. The organisms were present in highest abundance on Lease 554D.

The boring sponges are most significant in impacting habitat complexity because these species rapidly degrade oyster shell over time. Consequently, healthy oyster beds require a resupply of shell by natural mortality or shell planting. This continued need increases down-bay because boring sponges are so abundant, as does the inherent productivity of non-diseased oyster populations that tend to balance shell losses. Disease destabilizes this system by reducing natural shell production in areas where natural shell destruction is greatest, thus resulting in long-term reduction in habitat quality.

It should be noted that of these bionts, mussels are most significant in influencing oyster population dynamics in that they compete with oysters for food. Their abundances are rarely sufficient however, to influence oyster growth and reproduction. Overall, the overwhelming impact of all bionts is the loss of shell area for oyster larval attachment. Most shell surface is already occupied, hence the successful planting of clean shell provides or enhances the available surface area for larval settlement.

#### **4.7.4. Oyster Population Characteristics**

Oyster seed beds in Delaware Bay have been recognized as a public resource for over 150 years. They have been regulated as a single entity although it is clear that they have differing characteristics

depending on their location along the salinity gradient. New Jersey natural seed oyster beds are separated into four separate salinity regions. Oysters on the uppermost beds typically survive well because they are rarely affected by predation and do not experience high levels of disease-related mortality. However, upper bed oysters are thin-shelled, and low growing. These oysters frequently grow in clusters, which makes them less desirable for market because of increased handling. Survival on these upper beds (Round Island, Upper Arnolds, and Arnolds) is primarily controlled by low salinities. Mean salinity in this range is approximately 10.8 parts per thousand (ppt). This salinity is below the threshold for predator and MSX disease activity, but within the tolerance limits for Dermo. Because of the general physiological condition of these oysters, they are rarely harvested by the oyster industry for transplanting. The contribution of these beds to the total harvest has been less than 5%. These beds are currently in a long-term state of decline due to recruitment rates that have been below average for more than a decade (HSRL, 2005).

Oysters at the downbay sites are characterized by good growth and market quality. However, stocks in this range are frequently exposed to intense predation and disease activity. During periods of high disease activity, oyster populations on the lowermost beds (Egg Island, Ledge, and to a somewhat lesser extent New Beds) can be severely reduced. Mean salinity in this region is approximately 19.9 ppt. Since 1996, these beds have provided less than 5% of the total oyster harvest as well.

Typically, the majority of the annual oyster harvest comes from the beds distributed within a region classified as the intermediate zone. This zone includes all the beds from New Beds to Upper Middle. Survival, growth, and market quality can vary widely within this region but are best within these beds. These beds account for over 90% of the total harvest in New Jersey. Mean salinity for this bed region ranges from 16.1 ppt in the lower end to 12.8 ppt in the upper portion.

In addition to differences in oyster growth and survival, there are also differences in the setting patterns of oyster larvae over the range of beds. Although setting will occur throughout the range of the seed beds, the most reliable setting areas are along the nearshore. With the greatest set potential below Ben Davis Point.

#### **4.8. Fish**

The Delaware estuary is home to over 100 species of finfish, many of which are commercially and recreationally important. This great diversity is the result of the overlap between northern and southern species in the mid-Atlantic coastal region. Many species use the estuary as a breeding ground and nursery area for their young. The warm, shallow, near-shore and marsh nursery waters shelter small fish from predators and provide them with food while the deeper, cooler waters serve as feeding grounds for larger fish. The majority of adult fish species in the Delaware estuary are predators at or near the top of the food web, eating plankton, smaller fish, and invertebrates such as crabs, snails, and worms. Surveys of the finfish of Delaware Bay have been conducted by the Delaware Division of Fish and Wildlife for years. Abundant finfish species in the bay include the red hake (*Urophycis chuss*), northern sea robin (*Prionotus carolinus*), spot (*Leiostomus xanthurus*), windowpane flounder (*Scopthalmus aquosus*), silver hake (*Merluccius bilinearis*), bluefish (*Pomatomis saltatrix*), croaker (*Pogonias cromis*), summer flounder (*Paralichthys dentatus*), clearnose skate (*Raja eglanteria*), hogchoker (*Trinectes maculatus*), and weakfish (*Cynoscion regalis*). Many of these species use oyster beds as a source of food and are directly dependent on the maintenance of shell surface area to support the food resources important to their survival.

#### **4.9. Threatened and Endangered Species**

The shortnose sturgeon (*Acipenser brevirostrum*), an endangered fish species within the purview of the National Marine Fisheries Service, migrates through the project area in the spring from the sea to spawn in the upper estuary. Most of the fish have been observed in the upper tidal freshwater area of the Delaware River, but they also access the bay, especially during winter months. Atlantic sturgeon (*Acipenser oxyrinchus*) is a candidate species for listing under the Endangered Species Act, as announced in the Federal Register 16 October 2006. The term “candidate species” refers to species that are the subject of a petition to list as threatened or endangered. The Atlantic sturgeon are primarily found in the upstream portion of the Delaware River and its tributaries.

Sea turtles, especially the loggerhead (*Caretta caretta*), the Kemp’s ridley (*Lepidochelys kempii*), green (*Chelonia mydes*), and leatherback (*Dermochelys coriacea*) may occur in the lower Delaware Bay from June to November.

Six species of endangered whales have been observed migrating along the Atlantic Coast, and are occasionally seen in the lower bay. These whales include the sperm whale (*Physeter catadon*), fin whale (*Balaenoptera physalus*), humpback whale (*Megaptera novaeangliae*), blue whale (*Balaenoptera musculus*), sei whale (*Balaenoptera borealis*), and black right whale (*Balaena glacialis*). All marine mammals are protected by Federal law.

#### **4.10. Cultural Resources**

There are no known shipwrecks or deeply buried prehistoric or historic archaeological deposits in the project area. Shallow archaeological deposits, if they ever existed, would likely have been removed by past oyster harvesting.

### **5.0. ENVIRONMENTAL EFFECTS**

The goal of this project is to increase Eastern oyster abundance in Delaware Bay. The historical role of the Eastern oyster is widely appreciated as a keystone species in the Delaware estuary. Oysters control phytoplankton abundance and alter estuarine food webs through benthic-pelagic coupling and serve an important role in improving water quality within the system. The Eastern oyster constructs biogenic habitats that provide refugia, nesting sites, and foraging grounds for a variety of resident and transient species. Numerous studies reveal greater biodiversity associated with oyster reefs than with adjacent sedimentary habitats. Species richness and abundance of organisms in oyster reef habitats are generally comparable to those found in seagrass meadows (Coen and Luckenback, 1999). The objective of this project to increase oyster abundance within Delaware Bay is the same as the goal of the Oyster Industry Revitalization Task Force (OIRTF): to enhance recruitment by enhancing natural seed supply through the planting of shell (cultch) in a timely fashion, thus providing habitat for recruitment of juvenile oysters (spat). In 2007, Delaware Bay entered its seventh year of well below average recruitment (less than 0.5 spat per oyster per year). Seven such consecutive years is unprecedented for the 54-year record for which detailed survey data are available (1953-2007). An additional goal is to provide shell to maintain the shell beds. Delaware Bay oyster reefs have lost, on average, about 500,000 bushels of shell per year to dynamic processes and oyster abundance is now

too low to replace this shell naturally, thus endangering the future of the shell bed.

The proposed project will continue the shell-planting program that was initiated in 2005 (USACE 2005, USACE, 2006, USACE, 2007). The plan will have minimal effects on bottom topography and substrate as shells will be planted only on existing oyster shell beds or oyster lease areas. There are significant differences in the setting patterns of oyster larvae over the range of natural seed beds, as well as some inshore areas within state leased grounds. Although setting will occur throughout the range of the seed beds, the most reliable setting areas are nearshore and downbay on the New Jersey side of the bay. The greatest set potential occurs in the nearshore areas below Ben Davis Point. Even greater consistency in yearly recruitment occurs downbay in the Cape Shore area. However, historically consistent setting in these areas does not result in historically high abundances of marketable oysters due to high predator mortalities of spat and juveniles. Hence, some spat recruited to these areas is moved to more productive grounds soon after settlement by the state of New Jersey.

Adequate oyster bottom habitat is available in New Jersey, however habitat quality is low on some beds due to limited oyster abundance. In addition, shell loss has become a significant issue for some beds. These beds offer excellent opportunities for enhancement and simultaneously shell planting can repair the shell deficit that exists. Shell will be planted at the time of maximum setting potential. The 2007 Stock Assessment Workshop for the New Jersey Delaware Bay Oyster Beds recommends the following sites for optimum direct shell plants: Ship John, Cohansey, Bennies Sand, Nantuxent, Hawk's Nest, Beadons, and Strawberry. The 2005-2007 shell plants demonstrated that recruitment can be enhanced by direct addition of shell to existing oyster beds in this region. As management of the New Jersey beds focuses on sustaining and increasing adult abundance, this proposal will also result in a long-term increase in oyster abundance.

The shell planting program in Delaware will provide needed shell cultch on state-owned natural oyster bars: Over the Bar, Lower Middle, Silver Bed, and Ridge. These beds historically have suffered loss in production due to siltation. Recruitment has been at record low levels since 2000 on all natural oyster beds in Delaware. The Ridge was not harvested for 15 years prior to opening in 2001. There has been some limited harvesting on the other beds during the period between 1991 and 1995 but all Delaware beds were closed during the period between 1996 and 2000. The shell planting is designed to increase the productive area by adding to bed height while expanding available cultch.

Planting methodologies entail the use of barges for shell transport and raw-water pumps to spray a thin layer of shell overboard on the beds. Transplant methods entail the use of traditional oyster dredge, suction or dry dredge vessels and a raw-water pump for re-planting. Powell *et al.* (2001, 2004) conducted studies to assess the impact of these dredging mechanisms for shell transplanting. Impacts on both the oyster reef and bay bottom as well as to the viability of the oysters were evaluated. No significant effects could be discerned on oyster growth, disease pressure, and mortality from repeated dredging. With respect to the type of dredging equipment used, although catch rates vary with equipment utilized, neither method proved deleterious to bottom complexity, cultch availability, oyster growth, mortality, or population health.

## **5.1. Water Quality**

The project will generate very limited short-term impacts on water quality and in the long-term, the project will positively affect water quality. An increase in oyster abundance will increase water clarity



through filtration. Short-term, nominal adverse impacts to water quality may result from the actual placement of shell in the immediate area of the placement activities. Placement of shell on the bay bottom will result in a temporary elevation of turbidity during operations but this will dissipate very quickly upon completion because the particle size is large (>20mm) with a high sinking rate. No adverse impacts to water quality, including oxygen depletion or the release of chemical substances are anticipated as shell is a natural substance that is already present in high concentrations within the bay and carries with it a very low oxygen demand and inconsequential levels of contaminant risk. To minimize the impact on oxygen demand, only cured shell will be used: shell stored on land for a sufficient amount of time as to insure that any associated shellfish meat left by the shucking process will have decomposed prior to shell planting. Mobile organisms such as fish and crabs can temporarily vacate the area whereas benthic organisms associated with the existing oyster beds will only be temporarily impacted by the increased turbidity levels during the shell planting procedure. Shell planting for recruitment enhancement requires planting shell in a thin veneer to optimize surface area in contact with the water, consequently burial and mortality of benthic biota will be low; typically near zero. No previous studies, to date, have identified a negative environmental impact of shell planting.

## **5.2. Air Quality**

The Delaware Bay Oyster Restoration Project would take place in Delaware Bay in portions of the States of New Jersey and Delaware. This area is classified as moderate nonattainment for ozone (oxides of nitrogen [NO<sub>x</sub>] and volatile organic compounds [VOCs]). Delaware Bay, New Jersey and Delaware is within the Philadelphia-Wilmington-Trenton Nonattainment Area (PA-NJ-DE-MD). The 1990 Clean Air Act Amendments include the provision of Federal Conformity, which is a regulation that ensures that Federal Actions conform to a nonattainment area's State Implementation Plan (SIP) thus not adversely impacting the area's progress toward attaining the National Ambient Air Quality Standards (NAAQS). A General Conformity Analysis for this project is provided in the Appendix.

The total estimated emissions that would result from construction of the Delaware Bay Oyster Restoration Project are 1.85 tons of NO<sub>x</sub> and 0.29 tons of VOCs. These emissions are below the General Conformity trigger levels of 100 tons of NO<sub>x</sub> and 50 tons VOCs per year. General Conformity under the Clean Air Act, Section 176 has been evaluated for the project according to the requirements of 40 CFR 93, Subpart B. The requirements of this rule are not applicable to this project because the total direct and indirect emissions from the project are below the conformity threshold values established at 40 CFR 93.153 (b) for ozone (NO<sub>x</sub> and VOCs) in a Moderate Nonattainment Area (100 tons NO<sub>x</sub> and 50 tons VOCs per year). The project is not considered regionally significant under 40 CFR 93.153 (i).

## **5.3. Threatened and Endangered Species**

From June through November, Delaware Bay is inhabited by transient sea turtles, especially the loggerhead (Federally-listed threatened *C. caretta*) or Kemp's ridley (Federally-listed endangered *L. kempii*). The shortnose sturgeon (*A. brevirostrum*), although usually present in the upper freshwater reaches of the estuary, uses the bay for migration in the spring. Sea turtles and the endangered shortnose sturgeon are under the purview of the National Marine Fisheries Service (NMFS). They are very mobile species and would be expected to vacate the immediate area where shell planting will take place and are not expected to be adversely impacted by the proposed project.

#### 5.4. Essential Fish Habitat

Under provisions of the reauthorized Magnuson-Stevens Fishery Conservation and Management Act of 1996, the Delaware River and Bay from New Castle, DE and Pennsville, NJ to the mouth of the Bay at the Atlantic Ocean is designated as Essential Fish Habitat (EFH) for species with Fishery Management Plans (FMP's), and their important prey species. The National Marine Fisheries Service has identified EFH within 10 minute X 10 minute squares (Table 5-1). Since this study encompasses the entire Delaware Bay, in the essence of time, the Essential Fish Habitat assessment for the Delaware River Main Channel Project is provided here for review. The Main Channel Deepening study area contains EFH for various life stages for 26 species of managed fish and shellfish. Table 5-2 presents the managed species and their life stage(s) that EFH is identified for within the 10 x 10 minute squares that cover the study area. The habitat requirements for identified EFH species and their representative life stages are provided in Table 5-3.

**TABLE 5-1. 10 MINUTE X 10 MINUTE SQUARES THAT CONTAIN ESSENTIAL FISH (NOAA, 1999)**

Square Number	Coordinates			
	North	East	South	West
31	39° 40.0' N	75° 30.0' W	39° 30.0' N	75° 40.0' W
38	39° 30.0' N	75° 30.0' W	39° 20.0' N	75° 40.0' W
39	39° 30.0' N	75° 20.0' W	39° 20.0' N	75° 30.0' W
48	39° 20.0' N	75° 20.0' W	39° 10.0' N	75° 30.0' W
49	39° 20.0' N	75° 10.0' W	39° 10.0' N	75° 20.0' W
50	39° 20.0' N	75° 00.0' W	39° 10.0' N	75° 10.0' W
59	39° 10.0' N	75° 20.0' W	39° 00.0' N	75° 30.0' W
60	39° 10.0' N	75° 10.0' W	39° 00.0' N	75° 20.0' W
61	39° 10.0' N	75° 00.0' W	39° 00.0' N	75° 10.0' W
70	39° 00.0' N	75° 10.0' W	38° 50.0' N	75° 20.0' W
71	39° 00.0' N	75° 00.0' W	38° 50.0' N	75° 10.0' W
80	38° 50.0' N	75° 10.0' W	38° 40.0' N	75° 20.0' W
81	38° 50.0' N	75° 00.0' W	38° 40.0' N	75° 10.0' W
90	38° 40.0' N	75° 00.0' W	38° 30.0' N	75° 10.0' W

**Habitat Areas of Particular Concern (HAPC).** A review of EFH designations and the corresponding 10 x 10 minute squares, which encompasses numbers 48, 49, 50, 59, 60, 61, 70, 71, 80, 81, and 90 contain areas designated as “Habitat Areas of Particular Concern” (HAPC) for the sandbar shark. HAPC are areas of EFH that are judged to be particularly important to the long-term productivity of populations of one or more managed species, or to be particularly vulnerable to degradation (NOAA, 1999).

Sandbar sharks use the shallows of Delaware Bay as an important seasonal nursery ground. The juvenile sharks (1 to 6 yr. old) return to the Bay from wintering grounds in the Carolinas, in mid May.

Adult females visit the Bay to pup (deliver live-born young) in the first weeks of June. This has not been directly observed yet, many young caught in June bear fresh umbilical cord remnants and all have open umbilical scars indicating very recent birth. Newborns weigh about 1.5 pounds and are about 1.5 feet in length. Tag returns show that they stay in the bay feeding throughout the summer and depart for their winter (secondary) nurseries when the waters turn cool in mid October. Most newborns are found on the shallow flats in the Southwestern Bay although they seem to radiate out and use more of the Bay during the summer, as they get larger. Telemetry studies show that juveniles cross the bay mainly on the bottom. They are bottom feeders, preying on fish, particularly flat fish, crabs (blue crabs and spider crabs) and other benthic organisms.

**TABLE 5-2. SUMMARY OF SPECIES WITH EFH DESIGNATION IN THE 10 min. x 10 min. SQUARES OF 31, 38, 39, 48 49, 50, 59, 60, 61, 70, 71, 80, 81, and 90 and Mixing Zone (MZ) (NOAA, 1999)**

MANAGED SPECIES	EGGS	LARVAE	JUVENILE S	ADULTS
Atlantic cod ( <i>Gadus morhua</i> )				81
Red hake ( <i>Urophycis chuss</i> )	31,71, 81	31, 71, 81	71, 81	59,60,61,70, 71, 80, 81
Red fish ( <i>Sebastes fasciatus</i> )	90			
Winter flounder ( <i>Pleuronectes americanus</i> )	31, 38, 39, 48, 49, 50, 59, 60, 61, 70, 71, 80, 81, 90, MZ	31, 38,39,48, 49, 50, 59, 60, 61, 70, 71,80, 81, 90, MZ	31, 38,39, 48, 49, 50, 59, 60, 61, 70, 71, 80, 81, 90, MZ	31,38,39,48, 49,50,59,60,661, 70, 71,80,81, 90, MZ*
Windowpane flounder ( <i>Scophthalmus aquosus</i> )	31, 38, 39, 48, 49, 50, 59, 60, 61, 70, 71, 80, 81,90, MZ	31, 38, 39, 48, 49, 50, 59, 60, 61, 70, 71, 80, 81,90, MZ	31, 38, 39, 48, 49, 50, 59, 60, 61, 70, 71, 80, 81, 90, MZ	31, 38, 39, 48, 49, 50, 59, 60, 61, 70, 71, 80, 81, 90, MZ*
American plaice ( <i>Hippoglossoides platessoides</i> )			MZ	
Atlantic sea herring ( <i>Clupea harengus</i> )			48, 49, 50, 59, 60, 61, 70, 71, 80, 81, 90, MZ	48, 49, 50, 59, 60, 61, 70, 71, 80, 81, 90
Monkfish ( <i>Lophius americanus</i> )	81, 90	81, 90		
Bluefish ( <i>Pomatomus saltatrix</i> )			31, 38, 39, 48, 49, 50, 59, 60, 61, 70, 71, 80, 81, 90, MZ	31, 38, 39, 48, 49, 50, 59, 60, 61, 70, 71, 80, 81, 90, MZ
Long finned squid ( <i>Loligo pealei</i> )	n/a	n/a		71
Short finned squid ( <i>Illex illecebrosus</i> )	n/a	n/a		
Atlantic butterfish ( <i>Peprilus tricanthus</i> )		59, 60, 61, 70, 71, 80, 81	31, 38, 39, 48, 49, 50, 59, 60, 61, 70, 71, 80, 81, 90, MZ	59, 60, 61, 70, 71, 80, 81, 90
Summer flounder ( <i>Paralichthys dentatus</i> )		90	31, 38, 39, 48, 49, 50, 59, 60, 61, 70, 71, 80, 81, 90, MZ	31, 38, 39, 48, 49, 50, 59, 60, 61, 70, 71, 80, 81, 90, MZ
Scup ( <i>Stenotomus chrysops</i> )	n/a	n/a	31, 38, 39, 48, 49, 50,59, 60, 61, 70, 71, 80, 81, 90, MZ	31, 38, 39, 48, 49, 50, 90
Black sea bass ( <i>Centropristus striata</i> )	n/a	81	31, 38, 39, 48, 49, 50, 59, 60, 61, 70, 71, 80, 81, 90, MZ	59, 60, 61, 70, 71, 80, 81, 90
Ocean quahog ( <i>Artica islandica</i> )	n/a	n/a		
Spiny dogfish ( <i>Squalus acanthias</i> )	n/a	n/a	71	81
King mackerel ( <i>Scomberomorus cavalla</i> )	31, 38, 39, 48, 49, 50, 59, 60, 61, 70, 71, 80, 81, 90	31, 38, 39, 48, 49, 50, 59, 60, 61, 70, 71, 80, 81, 90	31, 38, 39, 48, 49, 50, 59, 60, 61, 70, 71, 80, 81, 90	31, 38, 39, 48, 49, 50, 59, 60, 61, 70, 71, 80, 81, 90
Spanish mackerel ( <i>Scomberomorus maculatus</i> )	31, 38, 39, 48, 49, 50, 59, 60, 61, 70, 71, 80, 81, 90	31, 38, 39, 48, 49, 50, 59, 60, 61, 70, 71, 80, 81, 90	31, 38, 39, 48, 49, 50, 59, 60, 61, 70, 71, 80, 81, 90	31, 38, 39, 48, 49, 50, 59, 60, 61, 70, 71, 80, 81, 90
Cobia ( <i>Rachycentron canadum</i> )	31, 38, 39, 48, 49, 50, 59, 60, 61, 70, 71, 80, 81, 90	31, 38, 39, 48, 49, 50, 59, 60, 61, 70, 71, 80, 81, 90	31, 38, 39, 48, 49, 50, 59, 60, 61, 70, 71, 80, 81, 90	31, 38, 39, 48, 49, 50, 59, 60, 61, 70, 71, 80, 81, 90

Sand tiger shark ( <i>Odontaspis taurus</i> )		50, 59, 60, 61, 70, 71, 80, 81, 90		59, 60, 61, 70, 71, 80, 81, 90
Atlantic angel shark ( <i>Squatina dumerili</i> )		71, 81, 90	71, 81, 90	71, 81, 90
Dusky shark ( <i>Charcharinus obscurus</i> )		48, 49, 50, 60, 61, 70, 71, 80, 81, 90		
Sandbar shark ( <i>Charcharinus plumbeus</i> )		<b>HAPC</b> , 48, 49, 50, 59, 60, 61, 70, 71, 80, 81, 90	<b>HAPC</b> , 48, 49, 50, 59, 60, 61, 70, 71, 80, 81, 90	<b>HAPC</b> , 48, 49, 50, 59, 60, 61, 70, 71, 80, 81, 90
Scalloped hammerhead shark ( <i>Sphyrna lewini</i> )			71, 81, 90	
Atl. Sharpnose shark ( <i>Rhizopriondon terraenovae</i> )		71, 81, 90	71, 81	71, 81, 90

“n/a”: species either have no data available on designated lifestages, or those lifestages are not present in the species reproductive cycle. **HAPC: (Habitat Areas of Particular Concern): EFH that is judged to be particularly important to the long-term productivity of populations of one or more managed species, or to be particularly vulnerable to degradation.**

**TABLE 5-3. HABITAT UTILIZATION OF IDENTIFIED EFH SPECIES AND THEIR SUMMARY OF SPECIES WITH EFH DESIGNATION IN THE 10 min. x 10 min. SQUARES OF 31, 38, 39, 48 49, 50, 59, 60, 61, 70, 71, 80, 81, 90, and Mixing Zone (NOAA, 1999)**

MANAGED SPECIES	EGGS	LARVAE	JUVENILES	ADULTS
Atlantic cod ( <i>Gadus morhua</i> ) (Fahay, 1998)				<b>Habitat:</b> Bottom (rocks, pebbles, or gravel) winter for Mid-Atlantic <b>Prey:</b> shellfish, crabs, and other crustaceans (amphipods) and polychaetes, squid and fish (capelin redfish, herring, plaice, haddock).
Red hake ( <i>Urophycis chuss</i> ) (Steimle et al. 1998)	<b>Habitat:</b> Surface waters, May – Nov.	<b>Habitat:</b> Surface waters, May –Dec. Abundant in mid- and outer continental shelf of Mid-Atl. Bight. <b>Prey:</b> copepods and other microcrustaceans under floating eelgrass or algae.	<b>Habitat:</b> Pelagic at 25-30 mm and bottom at 35-40 mm. Young inhabit depressions on open seabed. Older juveniles inhabit shelter provided by shells and shell fragments. <b>Prey:</b> small benthic and pelagic crustaceans (decapod shrimp, crabs, mysids, euphasiids, and amphipods) and polychaetes).	
Red fish ( <i>Sebastes fasciatus</i> )	n/a			
Winter flounder ( <i>Pseudopleuronectes americanus</i> ) (NOAA, 1999); Pereira et al, 1998; McClane, 1978)	<b>Habitat:</b> Mud to sand or gravel; from Jan to May with peak from Mar to April in 0.3 to 4.5 meters inshore; 90 meters or less on Georges Bank. 10 to 32 ppt salinity.	<b>Habitat:</b> Planktonic, then bottom oriented in fine sand or gravel, 1 to 4.5 m inshore. 3,2 to 30 ppt. salinity. <b>Prey:</b> nauplii, harpacticoids, calanoids, polychaetes, invertebrate eggs, phytoplankton.	<b>Habitat:</b> Shallow water. Winter in estuaries and outer continental shelf. Equally abundant on mud or sand shell. <b>Prey:</b> copepods, harpacticoids, amphipods, polychaetes	<b>Habitat:</b> 1-30 m inshore; less than 100m offshore; mud, sand, cobble, rocks, boulders. <b>Prey:</b> omnivorous, polychaetes and crustaceans.

Windowpane flounder ( <i>Scophthalmus aquosus</i> ) (Chang, 1998)	<b>Habitat:</b> Surface waters, peaks in May and October.	<b>Habitat:</b> Pelagic waters.	<b>Habitat:</b> Bottom (fine sands) 5-125m in depth, in nearshore bays and estuaries less than 75 m <b>Prey:</b> small crustaceans (mysids and decapod shrimp) polychaetes and various fish larvae	<b>Habitat:</b> Bottom (fine sands), peak spawning in May, in nearshore bays and estuaries less than 75 m <b>Prey:</b> small crustaceans (mysids and decapod shrimp) polychaetes and various fish larvae
Atlantic sea herring ( <i>Clupea harengus</i> ) (Reid et al., 1998)			<b>Habitat:</b> Pelagic waters and bottom, < 10 C and 15-130 m depths <b>Prey:</b> zooplankton (copepods, decapod larvae, cirriped larvae, cladocerans, and pelecypod larvae)	<b>Habitat:</b> Pelagic waters and bottom habitats; <b>Prey:</b> chaetognath, euphausiids, pteropods and copepods.
Monkfish ( <i>Lophius americanus</i> ) (Steimle et al., 1998)	<b>Habitat:</b> Surface waters, Mar. – Sept. peak in June	<b>Habitat:</b> Pelagic waters in depths of 15 – 1000 m along		

**TABLE 5-3. HABITAT UTILIZATION OF IDENTIFIED EFH SPECIES AND A SUMMARY OF SPECIES WITH EFH DESIGNATION IN THE 10 min. x 10 min. SQUARES OF 31, 38, 39, 48 49, 50, 59, 60, 61, 70, 71, 80, 81, 90, and Mixing Zone (NOAA, 1999)**

MANAGED SPECIES	EGGS	LARVAE	JUVENILES	ADULTS
	in upper water column of inner to mid continental shelf	mid-shelf also found in surf zone <b>Prey:</b> zooplankton (copepods, crustacean larvae, chaetognaths)		
Bluefish ( <i>Pomatomus saltatrix</i> )			<b>Habitat:</b> Pelagic waters of continental shelf and in Mid Atlantic estuaries from May-Oct.	<b>Habitat:</b> Pelagic waters; found in Mid Atlantic estuaries April – Oct.
Long finned squid ( <i>Loligo pealei</i> )	n/a	n/a		
Short finned squid ( <i>Illex illecebrosus</i> )	n/a	n/a		
Atlantic butterfish ( <i>Peprilus tricanthus</i> )		<b>Habitat:</b> Pelagic waters, greater than 33 ft deep	<b>Habitat:</b> Pelagic waters in 10 – 360 m	<b>Habitat:</b> Pelagic waters
Summer flounder ( <i>Paralichthys dentatus</i> )		<b>Habitat:</b> Pelagic waters, nearshore at depths of 10 – 70 m from Nov. – May	<b>Habitat:</b> Demersal waters (mud and sandy substrates)	<b>Habitat:</b> Demersal waters (mud and sandy substrates). Shallow coastal areas in warm months, offshore in cold months
Scup ( <i>Stenotomus chrysops</i> )	n/a	n/a	<b>Habitat:</b> Demersal waters	<b>Habitat:</b> Demersal waters offshore from Nov – April
Black sea bass ( <i>Centropristus striata</i> )	n/a	<b>Habitat:</b> Pelagic and estuarine.	<b>Habitat:</b> Demersal waters over rough bottom, shellfish and eelgrass beds, man-made structures in sandy-shelly areas, <i>Sabellaria</i> reefs	<b>Habitat:</b> Demersal waters over structured habitats (natural and man-made), and sand and shell areas, <i>Sabellaria</i> reefs.
Ocean quahog ( <i>Artica islandica</i> )	n/a	n/a		
Spiny dogfish ( <i>Squalus acanthias</i> )	n/a	n/a		

King mackerel ( <i>Scomberomorus cavalla</i> )	<b>Habitat:</b> Pelagic waters with sandy shoals of capes and offshore bars, high profile rocky bottom and barrier island ocean-side waters from the surf to the shelf break zone.	<b>Habitat:</b> Pelagic waters with sandy shoals of capes and offshore bars, high profile rocky bottom and barrier island ocean-side waters from the surf to the shelf break zone	<b>Habitat:</b> Pelagic waters with sandy shoals of capes and offshore bars, high profile rocky bottom and barrier island ocean-side waters from the surf to the shelf break zone	<b>Habitat:</b> Pelagic waters with sandy shoals of capes and offshore bars, high profile rocky bottom and barrier island ocean-side waters from the surf to the shelf break zone
Spanish mackerel ( <i>Scomberomorus maculatus</i> )	<b>Habitat:</b> Pelagic waters with sandy shoals of capes and offshore bars, high profile rocky bottom and barrier island ocean-side waters from the surf to the shelf break zone. Migratory	<b>Habitat:</b> Pelagic waters with sandy shoals of capes and offshore bars, high profile rocky bottom and barrier island ocean-side waters from the surf to the shelf break zone. Migratory	<b>Habitat:</b> Pelagic waters with sandy shoals of capes and offshore bars, high profile rocky bottom and barrier island ocean-side waters from the surf to the shelf break zone. Migratory	<b>Habitat:</b> Pelagic waters with sandy shoals of capes and offshore bars, high profile rocky bottom and barrier island ocean-side waters from the surf to the shelf break zone. Migratory
Cobia ( <i>Rachycentron canadum</i> )	<b>Habitat:</b> Pelagic waters with sandy shoals of capes and offshore bars, high profile rocky bottom and barrier island ocean-side waters from the surf to the shelf	<b>Habitat:</b> Pelagic waters with sandy shoals of capes and offshore bars, high profile rocky bottom and barrier island ocean-side waters from the surf to the shelf	<b>Habitat:</b> Pelagic waters with sandy shoals of capes and offshore bars, high profile rocky bottom and barrier island ocean-side waters from the surf to the shelf break zone. Migratory	<b>Habitat:</b> Pelagic waters with sandy shoals of capes and offshore bars, high profile rocky bottom and barrier island ocean-side waters from the surf to the shelf break zone. Migratory
	break zone. Migratory	break zone. Migratory		
Sand tiger shark ( <i>Odontaspis taurus</i> )		<b>Habitat:</b> Shallow coastal waters, bottom or demersal		<b>Habitat:</b> Shallow coastal waters, bottom or demersal
Atlantic angel shark ( <i>Squatina dumerili</i> )		<b>Habitat:</b> Shallow coastal waters,	<b>Habitat:</b> Shallow coastal waters	<b>Habitat:</b> Shallow coastal waters, bottom (sand or mud near reefs)
Dusky shark ( <i>Charcharinus obscurus</i> )		<b>Habitat:</b> Shallow coastal waters		
Sandbar shark ( <i>Charcharinus plumbeus</i> ) Pratt, 1999		<b>Habitat:</b> Shallow coastal waters; submerged flats (1-4 m). Important nursery area off Broadkill and Primehook beaches.	<b>Habitat:</b> Shallow coastal waters; submerged flats (1-4 m) Important nursery area off Broadkill and Primehook beaches.	<b>Habitat:</b> Shallow coastal waters; submerged flats (1-4 m)
Scalloped hammerhead shark ( <i>Sphyrna lewini</i> )			<b>Habitat:</b> Shallow coastal waters	
Atl. sharpnose shark ( <i>Rhizopriondon terraenovae</i> )		<b>Habitat:</b> Shallow coastal waters	<b>Habitat:</b> Shallow coastal waters	<b>Habitat:</b> Shallow coastal waters
Clear nose skate ( <i>Raja eglanteria</i> )		<b>Habitat:</b> Shallow Coastal waters	<b>Habitat:</b> Shallow Coastal waters	<b>Habitat:</b> Shallow Coastal waters
Little skate ( <i>Leucoraja erinacea</i> )		<b>Habitat:</b> Shallow Coastal waters	<b>Habitat:</b> Shallow Coastal waters	<b>Habitat:</b> Shallow Coastal waters
Winter skate ( <i>Leucoraja ocellata</i> )		<b>Habitat:</b> Shallow Coastal waters	<b>Habitat:</b> Shallow Coastal waters	<b>Habitat:</b> Shallow Coastal waters

The sharks' main nursery areas on the East Coast are in Delaware and Chesapeake bays. Pup and juvenile sharks use submerged flats for residence and feeding in water depths of from 1 to 4 meters. On the Delaware coast they extend from Roosevelt Inlet at the southern terminus of Broadkill Beach to Port Mahon in the north. The greatest concentrations of young sharks occur off Broadkill and

Primehook beaches, Delaware. They also are found in great numbers on submerged flats off the New Jersey shore (1-4 m) between Villas and Reed's Beach and shoal areas throughout the Bay such as Deadman and Hawksnest Shoal. They are limited by salinity to areas south of the latitude of Fortescue, NJ. Juveniles and pups may be caught almost anywhere in the bay, but the southwest coastal areas have the greatest consistent numbers as reflected in Catch per Unit Effort (CPUE) data (Merson and Pratt, 1998).

EFH is designated for the skate species for juveniles and adults. The Little skate and Winter skate are broadly distributed from Newfoundland to Cape Hatteras. Juveniles and adults mostly prefer sand or gravelly bottoms and mud. During the spring they move into shallow water and during winter head into deeper water. The Clearnose skate is broadly distributed along the eastern United States from Nova Scotia to Northeastern Florida. Juvenile and adult Clearnose skates are most abundant in summer months and less abundant in the cooler months of fall, winter, and spring. They prefer soft bottom habitats but can also be found in rocky or gravelly bottoms. Skate diets consist primarily of polychaetes, amphipods, decapod crustaceans, squid, bivalves, and small fish. Turbidity during the placement or transplant of shell may impact sight feeding but the skates will flee the area to feed in neighboring waters and the elevated turbidity is temporary. Therefore, no more than minimal impact to feeding success should occur.

**Effect Analysis.** It is anticipated that all fish species, being mobile organisms will vacate the proposed shell planting sites during the time of construction and not be adversely impacted by the proposed work. Elevated turbidity levels due to construction, are anticipated to lower fairly quickly following completion of the shell planting. Improved habitat quality of the oyster beds, due to the proposed shell planting is expected to enhance the habitat quality for fish species which use the oyster beds, particularly during larval or juvenile stages. Many fish species rely on healthy oyster beds for a source of food and are directly dependant on the maintenance of shell surface area to support the food resources important to their needs.

There are a number of Federally-managed fish species where Essential Fish Habitat (EFH) was identified for one or more life stages within the project impact areas. Fish occupation of waters within the project impact areas is highly variable spatially and temporally. Some of the species are strictly offshore, while others may occupy both nearshore and offshore waters. In addition, some species may be suited for the open ocean or pelagic waters, while others may be more oriented to bottom or demersal waters. This can also vary between life stages of Federally-managed species. Also, seasonal abundances are highly variable, as many species are highly migratory. For most of the fish species in Delaware Bay, no adverse effect is anticipated on adults and juveniles because both stages can move away from the project impact area. Minimal adverse effect on eggs and larvae is expected as they are demersal at these life stages. All shell placements will occur on existing natural oyster beds. No impact to soft bottom habitat will occur.

The shortnose sturgeon is a Federally-endangered fish that lives in the Delaware Estuary. Likewise, any sturgeon in the proposed shell planting areas are anticipated to vacate the shell planting area during actual construction and a temporary post-construction period until elevated turbidity levels dissipate.

## **5.5. Monitoring**

From 1997 to the present, through the efforts of the state regulatory agencies, the Shellfish Councils,

and the Haskin Shellfish Research Laboratory (HSRL) of Rutgers University have established a significant assessment infrastructure that has produced a sustainable industry in Delaware Bay. In New Jersey, this process has been formalized through a stock assessment workshop, a rigorous stock survey, and the development of a coupled shellfisheries-disease model to permit projections of yearly harvest. Through these efforts, a consistent fishery has been established and a stable stock structure has been maintained. The resiliency of Delaware Bay oyster populations was reduced with the advent of Dermo in the 1990s.

The proposed shell planting and monitoring project seeks to continue to promote improvements in the oyster resource of Delaware Bay and habitat quality-critical during a period of high infestation of disease. The program is not revolutionary, in the sense that the approach has been used successfully by other states as well as in several previous initiatives within Delaware Bay. Several oyster reef restoration projects are underway on the East and Gulf coasts of the U.S. Monitoring is essential and research vital to our understanding of genetic implications of restoration strategies, larval dispersal patterns, factors affecting early post-settlement survival, disease dynamics, and landscape-level patterns in restoring oyster reef habitat (Coen and Luckenback, 1999). The monitoring program is, however, revolutionary in that it is the first such one developed based on detailed measurements of shell budes and comprehensive stock surveys permitting targeted shell planting to quantify results of the ecological return on investment.

The Monitoring and Assessment Program for 2008, although reduced in size due to funding restraints under the current Section 1135 authority, will acquire the data necessary to evaluate the success of the 2008 shell-planting program. The increment in abundance achieved by the program over the abundance that would have been present in the absence of the program at present will be used to establish the degree of success. Each year the total number of oysters supported by the shell planting is assessed. The addition of shell should augment the production of the Delaware Bay oyster fishery. Each state sets its quota to determine the number of bushels permissible for harvest in the coming year based on a formal stock assessment. The monitoring program will compare the quotas set each year to the quota that would have been established had the shell-planting program not been carried out. A shell plant is expected to substantially increase larval settlement in the year that it occurs. However, the shell added will continue to serve as substrate over future years. The usable life span of a shell plant is likely to exceed 10 years (Powell, pers. comm., 2007). Therefore, it is likely that the benefit of previous years' shell plants may be underestimated. That is, the gain in abundance at any time will underestimate the true gain over the usable life span of the shell plant.

A secondary aspect of the proposed shell planting and monitoring program is to seek a wider constituency in the revitalization of the oyster population and continued interest in improvements to habitat quality within Delaware Bay. Increasing estuary-wide awareness through a multifaceted education and outreach program is proposed to bring together stakeholders from across the region to build stewardship for this natural resource. A successful resource management program depends upon the support of the general public. In time, this stewardship and public awareness should mobilize additional involvement and resources for the revitalization process.

The shell planting program was designed to specifically address the issue of low recruitment and the inability of recruitment rates on natural oyster beds to sustain population abundance over time. The monitoring program for 2008 consists of four components: (1) monitoring of shell plants in the event that the state of New Jersey, Division of Shellfisheries pursues future transplants; (2) periodic tracking



of trends in growth and disease exposure for the shell plants (in previous years accomplished monthly but reduced to only a few select months this year; (3) a quantitative evaluation in October to determine the overall success of each year's program at season's end; and (4) a survey of targeted oyster beds to improve bed areal estimates, where required. A shell budget has been calculated to evaluate the efficacy of the shell planting program from the 2007 data.

### **5.5.1. Monitoring Results**

New Jersey oyster beds have been losing approximately 250,000 to 500,000 bushels of cultch annually since 1999 (the first year that survey data was available and an estimate calculated). The shell budget shows a substantial reduction in shell loss in the bay in 2005 through 2007 as a result of the shell-planting program that has reduced the yearly deficit by at least two-thirds. The data suggest that 2007 is the first time in an eight-year time series that New Jersey beds are in relative equilibrium. However, it should be noted that the improved shell balance observed in 2007 is due to two factors: 1) the purposeful addition of the planted shell, and 2) the relatively high level of natural input due to the Dermo epizootic that occurred in 2007. Since the onset of Dermo disease in 1990, two periods of epizootic mortality have occurred, each being multi-year (Powell et al, SAW 2008). The first occurred during the 1992-1994 period and the second from 1998-2002, with an intermediate lessening in intensity in 2001. The time series suggests that 2007 may be initiating another period of higher than average Dermo mortality.

The current program has a proven track record. In 2003, as part of a pilot shell planting program, the NJDEP planted shell in the vicinity of Reeds Beach in the lower Delaware Bay. Approximately one month later, 16,000 bushels were transplanted to Bennies Sand, an area which has supported the majority of the 1990s oyster harvest. Preliminary monitoring results indicate that these 16,000 bushels increased bed abundance of market size oysters in 2005 by more than half (58% of the market size oysters on Bennies Sand in 2005 came from this 2003 planting) (E. Powell, pers. comm.).

The yearly mortality rate for yearlings from 2006 to 2007 averaged 55.7%, somewhat lower than the long-term average of 62.9%. Shell planted in 2006 continued to attract spat in 2007 at a rate equivalent to native shell. Nevertheless, the net addition of shell to the beds sustained an increased recruitment rate for a second year. Spat set in 2007 was the highest since 1999 bay-wide, ending a string of seven consecutive years of relatively low recruitment and four consecutive years of very low recruitment. Recruitment on direct shell plants in 2007 averaged 237 spat per bushel (native shell on the same grids averaged 222 spat per bushel). The similarity between direct plants and native shell spat set originates in the timing of the set in 2007. Most of the set occurred in late September to early October and the shell planted in June/July, by that time, had lost most of its "cleanliness" and so performed no differently than native shell (pers. comm.. J. Heron, 2008).

This supports what evidence has shown previously: that the biological potential for oyster production in the Delaware estuary remains high (Haskin et al., 1983; Ford, 1997; and Canzonier, 1992b). Resource management practices are in place and designed to stabilize adult abundance in times of decline and expand adult abundance when needed, using different techniques designed to enhance oyster productivity even in the face of diseases.

**2005.** Surveys taken for the 8<sup>th</sup> SAW report (Powell *et al.*, 2006) indicated that oyster abundance

declined slightly in 2005 to the lowest level since the onset of Dermo disease circa 1989 and to one of the lowest levels in the 1953 to 2005 record. Declines were concentrated on medium-mortality beds upbay of Shell Rock. Elsewhere, abundance was increased over 2004 levels. 2005 was the sixth consecutive year of low recruitment. The number of spat per bushel sampled was insufficient (0.340) to sustain the present population. Recruitment enhancement in 2005 was successful. Shell plants raised the ratio of spat to oyster on Shell Rock from 0.471 to 0.991, and on the high mortality beds from 0.808 to 0.905. As of 2005, in the 53-year history of the New Jersey oyster survey, a bay-wide set exceeding 1 spat per oyster had happened only 17 times. Shell planting in New Jersey in 2005 enhanced recruitment bay-wide by 10%, even though the total area planted was a mere 100 acres. On Shell Rock, shell plants accounted for 52.4% of total recruitment. In 2005, comparisons in Delaware could only be made on a per-bushel basis. Nevertheless, data from the Delaware survey indicates that shell planting successfully enhanced recruitment in 2005. The average spat/bushel from 15 samples at Ridge/Jigger Hill was 8.1. The average spat/bushel from 6 samples on Lower Middle was 23.3. The average spat/bushel for all Delaware beds was 14.5. In contrast, the shell plants yielded an average of 43 spat/bu (three times the bay average). The spat monitoring program suggested two recruitment waves occurred in 2005, one early in July and another later, in August/September.

**2006.** New Jersey conducts a yearly monitoring program to track recruitment potential and in 2006, this program was extended to Delaware portions of the bay. The 2006 program showed greater spat availability downbay but a lower setting potential overall than in 2005. The monitoring program showed two recruitment waves occurring in 2006: one early in July downbay and one in August upbay. Increase in recruitment on directly planted shell was about a factor of 5.9 over native shell.

Recruitment remained low bay-wide in 2006. Evidence suggests that low spat abundance is associated with low adult abundance, and data analyses suggest that the explanation involves the contribution of live oyster shell to the cultch resource preferred for settlement. This implies that high recruitment may be less likely under current conditions of low abundance and emphasizes further the need for continual shell planting to increase oyster abundance. Overall, recruitment enhancement programs were successful in 2006. In New Jersey, shell planting in 2006 enhanced recruitment by a factor of 1.34 bay-wide, providing 26% of total recruitment on New Jersey beds. On Shell Rock, shell plants accounted for 50% of total recruitment. On the high mortality beds, shell plants accounted for 58% of total recruitment (Powell *et al.*, 2007).

Spawning stock biomass rose in 2006. Increases were observed in all bay regions except upbay on the low-mortality beds. Spawning stock biomass has increased steadily on the high-mortality and medium-mortality beds over the last three years and has risen for the last two years on Shell Rock. Spawning stock biomass was above the biomass target in three of 4 bay regions and near the threshold for the low-mortality beds. *Perkinsus marinus* (Dermo) prevalences in the area of the bay used for shell planting are typically above 50%. In 2006, oysters on the 2005 shell plants were monitored for Dermo infection. The bed-average prevalence was 100% and 90% for these two sites, respectively. These compare closely to the values obtained in October 2005 for the previous year's shell plants. The evidence suggests that Dermo infection is lower on oysters obtained from shell plants relative to oysters naturally occurring on the bed.

Although the beds continued to suffer a net loss of shell in 2006, the shell-planting program reduced this net loss to the lowest value during the 1999-2006 time period. The shell budget estimates identify the importance of shell planting in maintaining the integrity of the beds during times of disease when

low abundance limits the amount of shell added to the beds through natural mortality. Shell plants provide substrate to enhance recruitment. The shell budget also permits more effective planning for future shell plants. Most beds that did not receive shell plants in 2006 suffered losses of surficial shell.

In summary for 2006, low-mortality beds were not showing significant improvement but beds in other bay regions appear to have improved since 2004. However, the fact that all bay regions fall below their abundance targets indicates that actions to enhance abundance are needed in all bay regions. A continued need exists to minimize shell loss to reinforce the maintenance of biomass at or above target levels. Abundance has been enhanced on the high-mortality beds and Shell Rock by downbay transplants. The shell planted in 2006 continued to attract spat in 2007 at a rate of attraction approximately equal to native shell. This net addition of shell over multiple years resulted in an increase in the number of recruits for a second year, indicating the long-term biological benefit of shell plants beyond the planting year (9th SAW, Powell *et al.*, 2007).

**2007.** From surveys taken during the 2007 monitoring program, quantitative estimates using the time-series analysis indicate that oyster abundance summed across all strata and bay regions declined somewhat from 2006, but remained above the 2003-2005 values (i.e. falling from 2006 on some low-mortality beds but rising dramatically on the productive beds of Shell Rock, principally as a result of the shell-planting program). Abundance in 2007 fell 32% on low mortality beds and on high mortality beds (10%) from 2006, but remained consistent with values observed during the 2000s. The proportion of the stock on high mortality beds remained relatively high for the third straight year (14<sup>th</sup> and 18<sup>th</sup> percentiles for the 55-year time series) as well as when compared to the post-1988 time series. Spawning stock biomass decreased bay-wide by 8% in 2007. It rose slightly on low mortality beds, declined by 24% on medium mortality beds, though still remaining relatively high for the 1990-2007 time series, declined by 25% on high mortality beds, and rose dramatically on Shell Rock (factor of 2.03). Spawning stock biomass is highest on the medium mortality beds in most years. In 2007, these beds contributed 38.7% to the bay-wide spawning stock biomass. The low mortality beds contributed an additional 27.8% and the high mortality beds contributed an additional 20.9%.

Aside from the decline in adult oyster abundance due to high mortalities resulting from Dermo disease, there are reduced numbers of oyster spat due to relatively poor natural setting that has also contributed significantly to the demise of the Delaware Bay oyster. Spawning stock biomass decreased bay-wide by 8% in 2007 (i.e. rose slightly on low-mortality beds, declined on medium-mortality beds, though still remaining relatively high for the 1990-2007 time series, declined on high-mortality beds, and rose dramatically on beds at Shell Rock).

Oyster condition throughout the bay increased in 2007 to one of the highest values in the 1990-2007 time series. Spat set observed in 2007 was the highest since 1999 bay-wide, ending a string of seven consecutive years of relatively low recruitment and four consecutive years of very low recruitment. The number of spat recruiting per oyster was the highest since 1999 at 1.413, and one of the highest on record. Shell planting in 2007 enhanced recruitment by a small factor bay-wide. Recruitment was increased 6% on the medium mortality beds and 1.9% on the high-mortality beds. These increments were relatively low due to the lateness of 2007's largest setting event, which limited the influence of the planted shell's "cleanliness" and because of the overwhelmingly good set generally throughout the bay (Powell *et al.*, 2008).

## **5.6. Socioeconomic Resources**

To date, approximately 659,886 bushels of shell have been planted and an additional 287,000 bushels are proposed to be planted in 2008. The program is a collaborative effort at the local, state, and federal levels involving ten partners. The additional of shell is critical for maintaining the integrity of the oyster reef itself; and essential for the settlement of spat to maintain the population. Shell is not a permanent resource. Gradually it deteriorates and disappears. Previous to the emergence of oyster diseases such as MSA and Dermo, shell was added to the beds through natural mortality while populations were maintained by annual high recruitment. Once adult oysters began to decline at a rate higher than could be renewed, over time, insufficient shell was available for adequate settlement. The shell planting program, in just three years, has essentially stabilized this loss and the ecological benefits of the population retained. The continued disease pressure from Dermo and a number of consecutive years of below average recruitment would have resulted in the closure of the oyster fishery in 2006, had the shell planting program not been put into place in 2005.

The proposed plan is expected to continue to increase oyster habitat, expand oyster abundance, and revitalize the natural resource with concomitant improvements in Bay habitat quality from increased habitat complexity brought about by shell planting as well as increased water clarity brought about by the increased filtration by an abundant shellfish resource. Expansion of oyster abundance provides increased substrate and expanded habitat complexity for a variety of other species, which in turn increases recreational value of the estuary.

Recovery of oyster abundance to the abundance at maximum sustainable yield (msy) would increase stock abundance by about a factor of 4. Currently there is a rebuilding program ongoing for the Delaware Bay oyster fishery. Due to this program and the current msy, only 1-3% of the available stock is fished per year. At msy, 7% of the stock can be harvested. The economic value of the oyster fishery at msy is estimated to be \$165,615,141 yearly. The present value is about \$12,000,000 yearly. The proposed shell-planting project will not achieve msy values, but, as an example, a doubling of oyster abundance is worth more than the simple multiplier of 2 because the allowable fishing rate increases disproportionately. A factor of 4 increase in abundance would allow a factor of about 7 increase in fishing or a factor of 28 increase in total value. 2007 allocations were above the long-term, on average, and estimates of future harvests suggest that the 2005-2006 programs may double harvests in 2008-2009, relative to the long-term average (E. Powell, pers. comm., 2007). Early projections show that the 2005-2007 shell planting programs should generate minimally \$15.6 million dollars of dockside value in the oyster fishery, which would have a total economic value of \$93.4 million (using the typical economic multiplier of six, which is used by the National Marine Fisheries Service). The return on investment (expenditures to date: \$6 million in federal and state dollars) is about \$28 per \$1 invested. This is a minimal estimate as additional oysters in the population also increase the reproductive capacity of the population and add to the long-term value of the shell in stabilizing the oyster bed. In addition, the oyster industry provides \$2 for each harvested bushel, so that the program generates additional funding for reinvestment in the resource (J. Heron, pers. communication, 2008).

## **5.7. Cultural Resources**

The planting of additional oyster shell should have no effect on significant cultural resources. The periodic harvesting of oysters does involve the shallow disturbance of the sea floor at the time of

harvesting. However, oyster harvesting has been carried out in these areas for hundreds of years. This project's indirect effect of promoting the future harvesting of oysters while sustaining the existence of the oyster beds will sustain the cultural significance of the bayshore communities that have been a focal point of this area since the 1700s.

### **5.8. Unavoidable Adverse Environmental Impacts**

The long-term adverse impact of the no action alternative would be decline in both the natural environment and the ecological value of the Delaware Estuary to the regional economic environment. Decimated by disease and low recruitment since 2000, oyster populations of Delaware Bay are not expected to recover without intervention. Oyster spat are not presently recruiting in numbers large enough to replace the number of oysters lost to harvest, predators and disease and shell bed deterioration has reached alarming levels. It is anticipated that unless the decline in oyster populations are reversed, oyster beds may be closed to harvesting and habitat quality will most likely continue to decline. The shell budget shows a substantial reduction in shell loss during 2005-2007 as a result of the shell-planting program (which has reduced the yearly deficit by at least two-thirds).

The impacts anticipated to occur as the result of a shell planting are positive. Shell planting will provide oysters the needed hard substrate of a sufficient elevation above the sediments to settle and grow. Shell planting had been conducted on a smaller, trial-basis initially (2003) and has proven successful both in the small pilot study as well as the subsequent three years. To date, approximately 1,341,000 bushels of shell have been planted in three years in the Delaware Bay under this program. Approximately 287,000 additional bushels will be planted in 2008 to revitalize the oyster population.

### **5.9. Short-term Uses of the Environment and Long-term Productivity**

All shell placements will occur on existing natural oyster beds. No impact to soft bottom habitat will occur. The shell planting operation may entail temporary and localized increases in turbidity in the water column but this is expected to dissipate quickly. Revitalization of the oyster in Delaware Bay will contribute to the overall economy of Delaware Bay shore communities. The ecological benefits associated with a viable oyster resource are far reaching for the general health of the estuary. Oyster beds provide protective habitat for various economically important invertebrates and finfish species; and the filtering capacity of oysters will result in improved water quality. Furthermore, increased abundance is necessary to generate shell to retain bed integrity and maintain habitat complexity.

### **5.10. Irreversible and Irretrievable Commitments of Resources**

The selected plan proposes to use surf clam and ocean quahog processed shell generated from shucking companies. Clean clam shell provides an adequate substitute for oyster shell for oyster larvae settlement. Hence, the proposed project is recycling a waste product as a useful commodity, thereby alleviating present storage and disposal requirements. With the additional pressure on oysters due to harvesting, it is critical that an active replacement program be implemented to ensure adequate shell cultch for successful future settlements.

### **5.11. Cumulative Effects**

Cumulative effects of the proposed shell planting program are all anticipated to be positive. Oysters

provide a sustainable food supply that can be restored under proper augmentation and management conditions. Recovery of oyster abundance to a level at maximum sustainable yield (msy) will achieve an even greater harvesting rate because natural mortality from disease is expected to decline and the natural recruitment rate is expected to increase with positive impacts occurring over many years. Planted oyster shell beds are anticipated to have approximately a 10-year life span. As additional spat survive to reproductive age, successive year broodstock will increase. In addition to the economic value gained, the oyster is a keystone species in the estuary and an increase in the oyster population translates to improved water quality as a result of enhanced filtering capacity and expanded habitat complexity and diversity of estuarine species, as oyster beds provide habitat to a variety of benthic organisms that in turn provide food for recreationally and commercially important invertebrate and finfish species.

## **6.0. COORDINATION**

Coordination for this project was done with Federal, state and local resource agencies. Agencies notified of this proposed project included the U.S. Fish and Wildlife Service, the U.S. Environmental Protection Agency, the National Marine Fisheries Service, the New Jersey Department of Environmental Protection, and the Delaware Department of Natural Resources and Environmental Control.

A public notice was issued describing the selected plan and the availability of the draft Environmental Assessment. All comments received on the draft report during the comment period are included in an Appendix of this final report.

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## **8.0. EVALUATION OF 404(b)(1) GUIDELINES**

### I. Project Description

#### A. Location:

The project site is the Delaware Bay between Bombay Hook on the western side (Delaware), and to just below Artificial Island on the eastern side (New Jersey) to the mouth, a distance of about 50 miles. The proposed shell planting would take place on portions of the natural oyster beds of Delaware Bay in both the states of Delaware and New Jersey. The exact locations will be selected by the New Jersey Department of Environmental Protection (NJDEP) and the Delaware Department of Natural Resources and Environmental Control (DNREC) based on bottom surveys to be carried out at the inception of the project.

#### B. General Description:

The approach taken in the two states will differ somewhat to maximize use of local conditions. The objective is to plant approximately 287,000 bushels of clean surf clam and ocean quahog in areas approximately 25 acres in size, which is the recommended size because it encompasses a 0.2" latitude x 0.2" longitude rectangle, so the design facilitates navigation. This is the minimum size rectangle needed for vessel maneuverability during planting. It is also equivalent to the size of the sampling unit used in the New Jersey stock survey, thereby facilitating evaluation of project success in comparison to bay-wide oyster production.

#### C. Purpose

The proposed work is a continuation of the shell-planting project initiated in 2005. For the fourth consecutive year, shell planting will take place in portions of the natural oyster beds of Delaware Bay in the states of Delaware and New Jersey, as selected by the New Jersey Department of Environmental Protection (NJDEP) and Delaware's Department of Natural Resources and Environmental Control (DNREC) based on bottom surveys that occur annually. Approximately 286,000 bushels of shell were planted on several existing oyster bed locations within Delaware Bay in July 2005. In 2006, approximately 500,193 bushels of shell were planted. In addition to direct shell planting, previously planted shell with spat were transplanted upbay. In 2007, approximately 554,790 bushels of shell were planted. Post construction monitoring results from the 2007 program indicated extraordinary bay-wide recruitment rates (spat set in 2007 was the highest since 1999 bay-wide). As in previous years, new shell plants equaled or far exceeded the recruitment rates of native shell. Over the course of the three years of shell budget assessments in the bay, shell plantings have resulted in substantial reductions in shell losses (2005-2007) and has reduced the yearly deficit by at least two-thirds. The 2007 plant was the first time in eight years (since 1999) that New Jersey oyster beds were relatively in equilibrium. Older shell plants continue to attract recruitment, thus demonstrating the long-term biological benefit of the addition of shell beyond each one-year increment. The 2007 shell planting program contributed incalculably to maintaining the ecological services provided by the bay's oyster beds.

#### D. General Description of Dredged or Fill Material:

The proposed placement material is clean (processed) surf clam, ocean quahog and oyster shell. Oyster harvesters themselves were once required to replace a portion of the shell from oysters they harvested, but this practice was eliminated in 1979. Recently, very little clean shell has been replaced on the seed beds because the only source of funds has been the Oyster Resource Development Account. This account receives fees from oyster growers, but due to low harvests, rarely has sufficient funds for a significant planting. Local clam companies generate large quantities of ocean quahog and surf clam shells and these shells provide an adequate substitute for oyster shell, with surf clam being the preferred of the two. Hence, this project will also recycle a waste product into a useful commodity, thereby alleviating present storage and disposal issues.

#### E. Description of Placement Method:

Clean shell will be brought on site by barge or oyster boat and washed overboard with a high pressure hose.

## II. Factual Determination

### A. Physical Substrate Determinations:

1. Clean oyster shell and clean clam shell. Shell is “cured” by storing on land for a sufficient amount of time to insure that any associated shellfish meat or other biotic growth has decomposed prior to shell planting.
2. Other effects would include a temporary increase in suspended sediment load during the construction period. The substrate in the project area is large-grained (>20mm) nontoxic sand and projected turbidity increases are not anticipated to be high or of long duration.
3. Actions taken to minimize impacts include selection of clean, inert clam and oyster shell.

### B. Water Circulation, Fluctuation and Salinity Determinations

#### 1. Water. Consider effects on:

- a. Salinity - No effect.
- b. Water Chemistry - No significant effect.
- c. Clarity -Minor short-term increase in turbidity during construction.
- d. Color - No effect.
- e. Odor - No effect.
- f. Taste - No effect.
- g. Dissolved gas levels - No significant effect.
- h. Nutrients - Minor short-term effect
- i. Eutrophication - No effect.
- j. Others as appropriate - None
- 

#### 2. Current patterns and circulation

- a. Current patterns and flow - Circulation would not be significantly impacted by the proposed work as placement of shell will not significantly alter the existing bathymetry of the area.

- b. Velocity - No effect on tidal velocity and longshore current velocity regimes.
- c. Stratification – N/A. Thermal stratification typically does not occur within relatively shallow, well-mixed, high tidal energy areas of Delaware Bay. Some minor stratification in deeper areas during summer months.
- d. Hydrologic regime - The regime is estuarine. This would remain the case following construction of the proposed project.

### 3. Normal water level fluctuations – N/A

- 1 Salinity gradients - There would be no effect on the existing salinity gradients.
- 2 Actions that would be taken to minimize impacts - Utilization of clean, inert oyster and clam shell will minimize water chemistry impacts.

### C. Suspended Particulate/Turbidity Determinations

1 Expected changes in suspended particulate and turbidity levels in the vicinity of the placement site - There would be a short-term, minimal elevation of suspended particulate concentrations during construction phases in the immediate vicinity of the work area.

2 Effects (degree and duration) on chemical and physical properties of the water column:

- a. Light penetration - Short-term, limited reductions would be expected at the shell placement sites due to construction activities in the water.
- b. Dissolved oxygen - There is a potential for a slight decrease in dissolved oxygen levels but the anticipated low levels of organics in the turbidity generated during construction should not generate a high, if any, oxygen demand.
- c. Toxic metals and organics - Because the fill material is essentially all clean, inert shell, no toxic metals or organics are anticipated.
- d. Pathogens - Pathogenic organisms are not present on clean, inert shell.
- e. Aesthetics - Construction activities associated with the fill site would result in a minor, short-term degradation of aesthetics.

### 3. Effects on Biota

- a. Primary production, photosynthesis - Minor, short-term effects related to turbidity.
- b. Suspension/filter feeders - Minor, short-term effects related to suspended particulates outside the immediate deposition zone. Sessile organisms typically present on existing oyster beds have evolved to withstand a limited level of suspended particulate matter. The project will result in an increased elevation of the existing oyster beds, thereby reducing siltation and/or suffocation of inhabitants.
- c. Sight feeders - Minor, short-term effects related to turbidity.

4. Actions taken to minimize impacts include selection of clean, inert oyster and clam shell. Standard construction practices would also be employed to minimize turbidity and erosion.

### D. Contaminant Determinations

The discharge material (shell) is not expected to introduce, relocate, or increase contaminant levels at the placement site. This is assumed based on the characteristics of the materials, the

proximity of the placement site to sources of contamination, the area's hydrodynamic regime, and existing water quality.

#### E. Aquatic Ecosystem and Organism Determinations

1. Effects on plankton -The effects on plankton should be minor and mostly related to light level reduction due to turbidity. Significant dissolved oxygen level reductions are not anticipated.

Effects on benthos - There would be a minor disruption of the benthic community in the immediate placement area due to the addition of more shell to the existing shell bottom. The loss is offset by the expected rapid opportunistic recolonization from adjacent areas that would occur in the improved (elevated) shell bed habitat following cessation of construction activities and the importance of added shell in sustaining the habitat for the shell bed benthos. The new benthic community will be the same in composition due to the nature of the project (i.e. bottom habitat type will not change).

2. Effects on Nekton - Only a temporary displacement is expected as nekton would probably avoid the active work areas. Many fish species use oyster beds as a source of food and are directly dependent on the maintenance of shell surface area to support the food resources important to their needs. The proposed project will enhance habitat quality of the oyster beds by providing more available substrate.

3. Effects on Aquatic Food Web - Only a minor, short-term impact on the food web is anticipated. This impact would extend beyond the construction period until recolonization of the filled area has occurred. A positive impact on the food web is anticipated following the placement of additional shell on the shell beds to increase surface area of available substrate.

4. Effects on Special Aquatic Sites - No wetlands would be impacted by the project.

5. Threatened and Endangered Species - Several species of threatened and endangered sea turtles might be in the project area during the period of construction. Sea turtles may be present in the project area but it is unlikely that construction activities will have an adverse effect. Shortnose sturgeon, an endangered fish species within the purview of the National Marine Fisheries Service, migrates through the project area in the spring from the sea to spawn in the upper estuary. However, most fish are observed in the upper tidal freshwater areas of the estuary and are not expected to be impacted by the proposed project.

6. Other wildlife - The proposed plan would not adversely affect other wildlife. The proposed project is anticipated to provide a positive impact to habitat availability within existing natural oyster beds.

7. Actions to minimize impacts - Impacts to benthic resources will be minimal at the placement site considering the anticipated recolonization. No impacts to Federal and state threatened and endangered species are anticipated due to the short-term nature and location of the proposed project. The project area is not considered spawning habitat for winter flounder due to high velocity currents.

#### F. Proposed Placement Site Determinations

1. Mixing zone determination

- a. Depth of water - < 20 feet
- b. Current velocity – current velocities can exceed 100 cm/sec.
- c. Degree of turbulence – Moderate to high due to high velocity currents
- d. Stratification - None
- e. Discharge vessel speed and direction - Not applicable
- f. Rate of discharge – Not applicable
- g. Dredged material characteristics – Not applicable
- h. Number of discharge actions per unit time – Not applicable

2. Determination of compliance with applicable water quality standards - Prior to construction a Section 401 Water Quality Certificate and Federal consistency concurrence with the State of New Jersey's Coastal Zone Management Program will be obtained. Under a current agreement with the State of Delaware, a Section 401 Water Quality Certification is issued under General Permit #27 (Aquatic Habitat Restoration, Establishment, and Enhancement Activities). However, at the request of DNREC, a water quality certification application has been submitted. A Federal consistency determination with the Delaware Coastal Zone Management Program will be obtained.

### 3. Potential effects on human use characteristics

- a. Municipal and private water supply - No effect
- b. Recreational and commercial fisheries – Positive effect after construction as the project will directly increase habitat quality of the oyster beds and indirectly result in improved water quality in Delaware Bay.
- c. Water related recreation – No effect.
- d. Aesthetics - Short-term effect during construction.
- e. Parks, national and historic monuments, national seashores, wilderness areas, etc. – No effect.

G. Determination of Cumulative Effects on the Aquatic Ecosystem – Positive impacts are anticipated to oyster populations, benthic habitat quality, and water quality within the Delaware Bay.

H. Determination of Secondary Effects on the Aquatic Ecosystem – the proposed project offers positive impacts to the aquatic ecosystem present within Delaware Bay.

### III. Finding of Compliance or Non-Compliance with the Restrictions on Discharge

- A. No significant adaptation of the Section 404(b)(1) Guidelines was made relative to this evaluation.
- B. The alternative measures considered for accomplishing the project are detailed in Section 3.0 of the document of which this 404(b)(1) analysis is part.
- C. A water quality certificate will be obtained from the New Jersey Department of Environmental Protection. A Nationwide General Permit applies to this project according to an agreement with the state of Delaware.
- D. The proposed project will not violate the Toxic Effluent Standards of Section 307 of the Clean Water Act.
- E. The proposed project is in compliance with the Endangered Species Act of 1973. Informal coordination procedures have been completed.
- F. The proposed project will not violate the protective measures for any Marine Sanctuaries designated by the Marine Protection, Research, and Sanctuaries Act of 1972.

- G. The proposed project will not result in significant adverse effects on human health and welfare, including municipal and private water supplies, recreation and commercial fishing, plankton, fish, shellfish, wildlife, and special aquatic sites. Significant adverse effects on life stages of aquatic life and other wildlife dependent on the aquatic ecosystem; aquatic ecosystem diversity, productivity, and stability; and recreational, aesthetic, and economic values will not occur.
- H. Appropriate steps to minimize potential adverse impacts of the project on aquatic systems include selection of clean, inert shell fill material.
- I. On the basis of the guidelines, the placement sites for the fill material is specified as complying with the requirements of these guidelines, with the inclusion of appropriate and practical conditions to minimize pollution or adverse effects on the aquatic ecosystem.

## **APPENDIX**