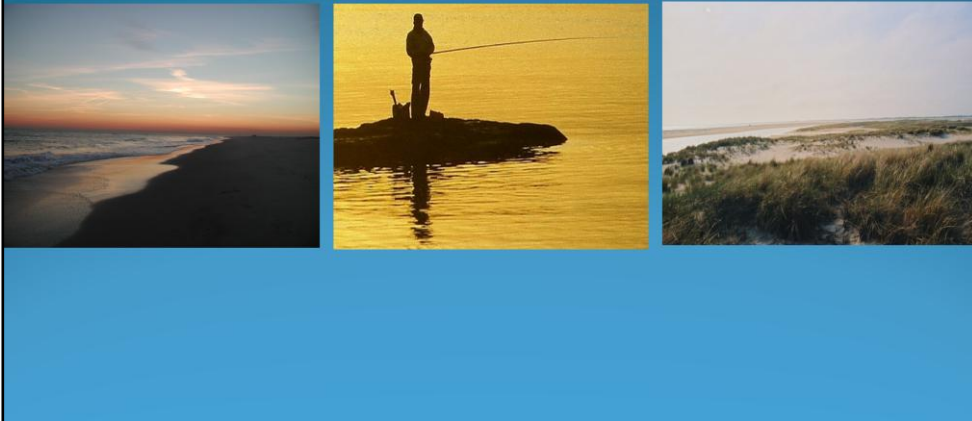


South Shore Estuary Habitats



A number of questions were received at the last Council meeting regarding South Shore Estuary habitat issues, and more specifically, regarding the New York Significant Coastal Fish and Wildlife Habitat designations. I have organized this talk into two segments to address those questions and hopefully provide some clarity on habitat issues. First, I will provide some clarifications on the SCFWH Program, its benefits, how it works, and so on. Second, as habitat protection and restoration will be one of the three areas that DOS will focus on for the SSE Amendment to the State's Coastal Program, I will review our thoughts on how we will address habitat issues in the Amendment process, what the habitat portion of the Amendment might look like, and how we can work together to get there.

Habitats in the South Shore Estuary



• Questions:

- How does the program work?
- Why were boundaries drawn as they were?
- What are the benefits?

So let's get started on habitats and the New York Significant Coastal Fish and Wildlife Habitat Program. Questions were raised regarding how the program works, why boundaries were drawn as they were, and what are the benefits of the program.

Significant Coastal Fish and Wildlife Habitats

- **Purpose:** Ensure coastal habitats are not harmed
- **Policy:** Significant coastal fish and wildlife habitats will be protected, preserved, and where practical, restored so as to maintain their viability as habitats
- **Four main components:**
 - Habitat Protection
 - Restoration guidance
 - Local planning aids
 - Public education



Let's first start with the program's purpose. The purpose of the Significant Coastal Fish and Wildlife program is simply to ensure that the habitats critical to our coastal ecosystems are not harmed or destroyed and continue to provide the functions and values for our diverse fish and wildlife and for our economies and our communities.

The New York Coastal Management Program policies that guide planning and decision-making for DOS contain a strongly worded policy to address habitat protection; stating that "Significant Coastal Fish and Wildlife Habitats shall be protected, preserved, and where practical, restored so as to maintain their viability as habitats".

This component of the Coastal Program essentially does four things:

- Protect habitats through federal consistency review
- Provides restoration guidance
- Assists with local planning
- Serves as a source of information for public education

Significant Coastal Fish and Wildlife Habitats

- **Four Primary Criteria:**
 - Population dynamics
 - Rare or unique ecological communities
 - Rare and threatened species
 - Commercial/recreational value
- **NYSDEC identifies and recommends habitats for designation**
- **NYSDOS responsible for State designation and NOAA OCRM concurrence**

Article 42 of the NYS Executive Law, NYCRR Section 19, Parts 600 and 602

So, what are these SCFWHs? Where do they come from? And how are the boundaries drawn?

Significant Habitats are areas that possess characteristics important to the health of the State's coastal ecosystems. They range from coastal wetlands, to breeding grounds, to nursery areas, to seasonal concentration areas.

Areas are evaluated using criteria and a scoring system developed by DEC biologists. The evaluation of areas is based on four criteria: Population Level, Ecosystem Rarity, Species Vulnerability, and Human Use.

The Department of Environmental Conservation is responsible for identifying, documenting, and recommending areas to the DOS for designation.

The DOS is responsible for packaging the documentation and maps and undertaking the designation process. This includes public information meetings, public hearings, State and federal agency review, Secretary of State approval, local filing of the habitat documentation and maps, and submission to the NOAA OCRM for approval and incorporation into New York's federally approved Coastal Management Program.

Significant Coastal Fish and Wildlife Habitats

- **27 Habitats within SSER boundary**

- Total acreage: 122,400 acres
- Updated: 2008

Significant Habitats of the South Shore



In the South Shore Estuary there are 27 designated habitats totaling over 122,000 acres.

We have had a number of questions related to why there are so many Significant Coastal Fish and Wildlife Habitats in the Estuary, as it looks like the entire South Shore is designated.

The answer has 2 parts: #1 - each habitat has its own unique characteristics. In the best professional judgment of DEC biologists and DOS coastal specialists, the areas were described and delineated as functionally unique units. #2 – some areas, like Great South Bay are so large that it makes sense to split them to keep the information manageable and digestible. Otherwise we would have very long narratives that would be cumbersome to use.

Because functions and values in each of these habitats are often different, undertaking specific management activities, conducting project reviews and determining the best restoration opportunities can and do vary. For example, Great South Bay East experiences “hotspots” for weakfish, scup, and summer flounder, which result in heavy recreational fishing pressures; and Great South Bay West contains the Fire Island Inlet which is a source of exchange and circulation of bay water and an area where feeding by many fish and wildlife is concentrated. This is also the most important foraging area for roseate terns (E) on western Long Island. The Western GSB Marshes are also unique to the GSB-West with mosaics of tidal pools, marshes and mudflats.

Significant Coastal Fish and Wildlife Habitats

- **Habitat Documentation**

- Habitat description
- Fish and wildlife values
- Impact assessment language
- Map



- **Updates reflect new data, restoration guidance, and additional impacts to avoid**

Documentation for these areas includes habitat and fish and wildlife sections that describe the areas unique characteristics, an impact assessment section that identifies impacts to be avoided to protect the viability of those habitats, and a map delineating the area.

In 2008, the habitat documentation for habitats in South Shore was updated. The new revised habitat documentation included three kinds of improvements. 1 - the areas reflect new field data and updated species accounts; 2 - many narratives now include restoration guidance; and, 3 - the impact assessment sections were updated to reflect additional sensitivities and impacts to be avoided, an example of that would be the inclusion of SAV impacts to be avoided.

As you would expect, these impact assessments serve as important guidance for consistency review decisions.

Habitat Protection through Federal Consistency

- **Approve**
- **Deny**
- **Modify**
 - Time period
 - Project Scope
 - Methodology



So, how do these things work?

As you heard, DOS does 200 – 300 federal consistency reviews in the estuary each year and those review all need to ensure proposed activities are consistent with the Habitats Policy.

The policy is activated by the designation of the Significant Coastal Fish and Wildlife Habitats. So, when a proposed federal activity has the potential to negatively affect a designated habitat, the DOS applies this policy to its federal consistency review.

This allows DOS to use its federal consistency authority to approve, deny or require modifications to proposed federal actions that can impair or destroy the habitat.

While proposed activities are routinely denied or approved, many projects are modified through consistency review. Examples of modifications include restricting the time period an activity can be undertaken (dredging windows), scaling back the project scope (reducing the amount of material to be dredged), or requiring a different methodology for a project (hydraulic dredging instead of clam shell).

Habitat Protection through State Consistency

- **State actions must be consistent with Significant Habitat policy**
 - State direct actions
 - Actions requiring state permits
 - Actions using state funds

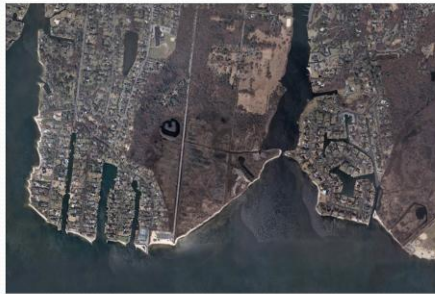


State agencies are also required to certify that direct State proposed actions be consistent with the Significant Habitat Policy.

So, when a state agency undertakes a capital project, or issues a permit, they are required to ensure that the action will not harm a SCFWH.

Habitat Protection through Local Consistency

- **Local Waterfront Revitalization Programs**
 - Municipality has review authority
 - Municipality can identify locally significant habitats



When a municipality completes an approved Local Waterfront Revitalization Program, there is a great opportunity for a couple of things.

1 – That municipality has the lead consistency review authority for activities in their community. Just as the federal government passes down authority to States with approved Coastal Programs, the State passes down that same authority to a local municipality that has an approved Local Program.

2 – During the LWRP development process, a municipality can identify locally significant habitats beyond those designated at the State level. This allows for local conservation and open space planning priorities to be formalized through new or amended local laws.

This is why the DOS is always encouraging the Towns and Villages in the estuary to participate in the development of a LWRP. Unfortunately, there is currently only a tiny portion of the Estuary that can enjoy this authority, the Village of Ocean Beach.

Summary of the Significant Coastal Fish and Wildlife Habitat Program

- **Habitat Protection through Federal, State, and Local Consistency Review**
- **Habitat Restoration**
- **Local Planning**
- **Outreach and Education**



So to review and sum up the purpose and benefits of the SCFWH program:

The program serves as an important tool for consistency reviewers to determine if a proposed activity may negatively affect a designated habitat.

Habitat documentation can be used to focus and support habitat restoration efforts.

The Significant Coastal Fish and Wildlife Habitats can be a valuable local planning tool to target sensitive areas for protection through local laws and ordinance.

The habitat documentation serves as an education tool to provide advocates, residents and citizen groups information about these areas.

South Shore Estuary Habitat Restoration Projects

Project Type	State Funds	Matching Funds	Total
Shellfish Restoration	\$488,978	\$488,978	\$977,956
Wetland/Saltmarsh Restoration	\$1,432,453	\$1,432,453	\$2,864,906
Erosion Control	\$23,340	\$23,340	\$46,680
Fish Passage	\$1,448,000	\$1,448,000	\$2,896,000
TOTAL	\$3,392,771	\$3,392,771	\$6,785,542

As an example of one of the purposes just highlighted, the designated Significant Coastal Fish and Wildlife Habitats have helped guide the selection of restoration activities in the SSE. Since 1995, over \$6.7 million dollars have been focused on restoring critical habitat in the South Shore Estuary through the Clean Water/Clean Air Bond Act, the Environmental Protection Fund, and local matching funds. The SCFWHs were an important part of the inter-agency deliberations and decision-making leading to what projects to fund.

Next Steps for developing the SSE Amendment for Habitat Issues

- Establish habitat workgroup
- Examine geographic area to best address protection
- Identify regulatory gaps
- Explore existing and emerging issues
- Develop policy refinements and guidance



Our approach for habitats will focus on 4 areas:

- 1 – Seek ways to improve and enhance habitat protection.
- 2 - Take action to address pressing habitat issues.
- 3 – Better use the science we have.
- 4 – Develop policy refinements and guidance.

We will form a Habitat Workgroup that will focus on a specific need. For example, wetland loss and landward migration due to sea level rise will need to be assessed - with areas identified and prioritized in order to concentrate effective planning and restoration efforts. A workgroup may focus on identifying all public lands that might be appropriate for landward migration of salt marshes. These areas could be prioritized and the appropriate landowner could develop plans to ensure the site will be dedicated for that purpose.

Over the next 18-24 months we will conduct an analysis to determine whether we have the right or adequate geographic coverage.

We will examine options to increase our ability to protect habitats. For example, a strategy for ensuring activities outside the Coastal Area Boundary and not currently subject to consistency review, may be to extend the coastal area boundary landward to cover the estuary watershed; or waterward to include near ocean connections to the estuary

2: We will also identify the regulatory gaps in habitat protection. While as I mentioned, we review several hundred proposed activities each year, what about the thousands of other activities we are not reviewing because of these regulatory gaps.

We will continue to work toward improving interagency coordination to better use the habitat documentation. DOS and the Department of Environmental Conservation are currently discussing ways to improve our collective ability to protect coastal habitats using the Significant Coastal Fish and Wildlife Habitat documentation. We will also expand this to other agencies that do not routinely use the habitat documentation.

3: We will look at existing and emerging issues affecting the SSE habitats. We need to understand how the current science can be translated into effective management actions. We need to undertake targeted activities to advance habitat protection goals and to help inform and develop the SSE Amendment.

4: And finally we will develop regional refinements for the Habitat policy.

As those refinements are developed, it may be useful to develop formal guidance for federal, State and local consistency review that would set decisional criteria based on the regional policy refinements. The guidelines could be formulated using a matrix of pressing issues, sensitive resources, and defined geographic areas or reaches.

Throughout this process we need to utilize the best available information. We also need to understand and integrate new information. This could be aided by data collected from SUNY SoMAS in the future as the observing system gets up and running. We will need a process to identify, vet, and use existing and new data for making State, regional, and local decisions.