

## 7.0 FEDERAL AND STATE PROTECTED SPECIES

Within or near the vicinity of the Study Area, there are various fish species found that are either protected by the federal government (e.g., U.S. Fish and Wildlife Service [USFWS] and NMFS) and/or the State of New Jersey. These species warrant protection because population levels have declined to levels that could threaten or endanger the species existence throughout all or a significant portion of its range. Although the shortnose sturgeon (*Acipenser brevirostrum*) is the only fish species protected by the federal government under the Endangered Species Act (ESA; classified as endangered) that may be found in the vicinity of the Study Area (i.e., Delaware River), there are no records of shortnose sturgeon within the Study Area. At this time, there are also no known shortnose sturgeon populations in the riverine systems between the Hudson and Delaware rivers (NMFS 1998). This species is not known to make coastal migrations (Dadswell et al. 1984). In addition, there are five species of concern and one candidate species found within or in the vicinity of the Study Area. Species of concern are those species that NMFS has identified as potentially vulnerable to decline, but for which insufficient information is available to indicate a need to list the species under the ESA. Candidate species are species that are the subject of either a petition to list or status review, and for which NMFS or USFWS has determined that listing may be or is warranted jurisdiction.<sup>15</sup> Fish species classified as species of concern that may be found within or near the vicinity of the Study Area are the following: alewife, blueback herring, dusky shark, sand tiger shark, and barndoor skate (*Dipturus laevis*). One candidate species that may be found within or near the vicinity of the Study Area is the Atlantic sturgeon (*Acipenser oxyrinchus oxyrinchus*). This migratory species commonly aggregates in shallow (10 to 50 m [32.8 to 164.1 ft]) nearshore areas along the New Jersey coast (Stein et al. 2004; Atlantic Sturgeon Status Review Team 2007). Currently, the NMFS is preparing a determination on whether listing this species or multiple distinct population segments (DPSs) as threatened or endangered is warranted (NMFS 2010b). The State of New Jersey also protects the shortnose sturgeon.<sup>16</sup>

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