

**TOWN OF KENDALL
TOWN OF YATES and
TOWN OF CARLTON
LOCAL WATERFRONT REVITALIZATION PROGRAM**

Adopted:

Town of Kendall, August 13, 1998

Town of Yates, April 8, 1999

Town of Carlton, July 14, 1998

Approved:

NYS Secretary of State Randy A. Daniels, August 16, 2002

Concurred:

U.S. Office of Ocean and Coastal Resource Management, January 5, 2004

This Local Waterfront Revitalization Program has been adopted and approved in accordance with provisions of the Waterfront Revitalization of Coastal Areas and Inland Waterways Act (Executive Law, Article 42) and its implementing regulations (6 NYCRR 601). Federal concurrence on the incorporation of this Local Waterfront Revitalization Program into the New York State Coastal Management Program as a Routine Program Change has been obtained in accordance with the provisions of the U.S. Coastal Zone Management Act of 1972 (P.L. 92-583), as amended, and its implementing regulations (15 CFR 923).

The preparation of this program was financially aided by a federal grant from the U.S. Department of Commerce, National Oceanic and Atmospheric Administration, Office of Ocean and Coastal Resource Management, under the Coastal Zone Management Act of 1972, as amended. Federal Grant No. NA-82-AA-D-CZ068.

The New York State Coastal Management Program and the preparation of Local Waterfront Revitalization Programs are administered by the New York State Department of State, Division of Coastal Resources, 41 State Street, Albany, New York 12231.



STATE OF NEW YORK
DEPARTMENT OF STATE
41 STATE STREET
ALBANY, NY 12231-0001

GEORGE E. PATAKI
GOVERNOR

September 18, 2002

RANDY A. DANIELS
SECRETARY OF STATE

Honorable John Becker
Supervisor
Town of Kendall
1873 Kendall Road
Kendall, NY 14476

Dear Supervisor Becker:

It is with great pleasure that I inform you that I have approved the Town of Kendall, Town of Carlton, and Town of Yates Local Waterfront Revitalization Program, pursuant to the Waterfront Revitalization of Coastal Areas and Inland Waterways Act. Everyone who participated in the preparation of this program is to be commended for developing a comprehensive intermunicipal management program that promotes the balanced preservation, enhancement, and utilization of the valuable resources of the coastal area.

I am notifying state agencies that I have approved your Local Waterfront Revitalization Program and am advising them that their activities must be undertaken in a manner consistent with the program, to the maximum extent practicable.

I look forward to working with you, as you endeavor to revitalize and protect your waterfront.

Sincerely,

Randy A. Daniels

RAD:mo\gn



STATE OF NEW YORK
DEPARTMENT OF STATE
41 STATE STREET
ALBANY, NY 12231-0001

GEORGE E. PATAKI
GOVERNOR

September 18, 2002

RANDY A. DANIELS
SECRETARY OF STATE

Honorable Roger Millis
Supervisor
Town of Carlton
14341 Waterport Carlton Road
Albion, NY 14411

Dear Supervisor Millis:

It is with great pleasure that I inform you that I have approved the Town of Kendall, Town of Carlton, and Town of Yates Local Waterfront Revitalization Program, pursuant to the Waterfront Revitalization of Coastal Areas and Inland Waterways Act. Everyone who participated in the preparation of this program is to be commended for developing a comprehensive intermunicipal management program that promotes the balanced preservation, enhancement, and utilization of the valuable resources of the coastal area.

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Sincerely,

Randy A. Daniels

RAD:mo\gn



STATE OF NEW YORK
DEPARTMENT OF STATE
41 STATE STREET
ALBANY, NY 12231-0001

GEORGE E. PATAKI
GOVERNOR

September 18, 2002

RANDY A. DANIELS
SECRETARY OF STATE

Honorable Russell Martino
Supervisor
Town of Yates
PO Box 484
Lyndonville, NY 14098

Dear Supervisor Martino:

It is with great pleasure that I inform you that I have approved the Town of Kendall, Town of Carlton, and Town of Yates Local Waterfront Revitalization Program, pursuant to the Waterfront Revitalization of Coastal Areas and Inland Waterways Act. Everyone who participated in the preparation of this program is to be commended for developing a comprehensive intermunicipal management program that promotes the balanced preservation, enhancement, and utilization of the valuable resources of the coastal area.

I am notifying state agencies that I have approved your Local Waterfront Revitalization Program and am advising them that their activities must be undertaken in a manner consistent with the program, to the maximum extent practicable.

I look forward to working with you, as you endeavor to revitalize and protect your waterfront.

Sincerely,

Randy A. Daniels

RAD:mo\gr

TOWN OF KENDALL

Nadine P. Hanlon

OFFICE OF THE TOWN CLERK

1873 KENDALL ROAD

KENDALL, NY 14476

Tel No: (585) 659-8721 Fax No: (585) 659-8203

www.townofkendall.com

RESOLUTION # 67 – ADOPTION OF KENDALL-YATES-CARLTON LOCAL WATERFRONT REVITALIZATION PROGRAM

MOVED BY Councilman Clow, seconded by Councilman Weisenburg

WHEREAS, the Towns of Kendall, Yates and Carlton initiated preparation of a Local Waterfront Revitalization Program in cooperation with the New York State Department of State, pursuant to Article 42 of Executive Law; and

WHEREAS, a Draft Local Waterfront Revitalization Program and Draft Environmental Impact Statement were prepared and circulated by the Department of State to potentially affected federal, state and local agencies; in accordance with the requirements of Executive Law, Article 42 and Part 617 of the implementing regulations for Article 8 of the Environmental Conservation Law; and

WHEREAS, a Final Environmental Impact Statement was prepared and accepted by the Kendall Town Board; and

WHEREAS, the Kendall Town Board has reviewed the proposed State Environmental Quality Review Act (SEQRA) Findings Statement attached hereto;

NOW, THEREFORE, BE IT RESOLVED, that the Kendall Town Board hereby adopts the SEQRA Findings Statement and directs the Town Supervisor to sign said Statement; and be it

FURTHER RESOLVED, that the Kendall-Yates-Carlton Local Waterfront Revitalization Program is hereby adopted and that the Town Supervisor is authorized to submit the Local Waterfront Revitalization Program to the New York State Department of State for approval, pursuant to the Waterfront Revitalization of Coastal Areas and Inland Waterways Act.

Ayes: All

No: None

I hereby certify that the above resolution is a true and correct transcript of the resolution duly adopted by the Town Board of the Town of Kendall on the 13th day of August, 1998, at a regular scheduled meeting of the Town Board of the Town of Kendall, Orleans County, New York, held at the Kendall Town Hall, 1873 Kendall Road, Kendall, New York.

Dated this 3rd day of December, 2001 at Kendall, New York



Nadine P. Hanlon

Town Clerk of the Town of Kendall

**TOWN CLERKS OFFICE
TOWN OF CARLTON**

14341 Waterport Carlton Road
Albion, New York 14411

(716) 682-4358
(716) 682-3356



Pamela Rush
Town Clerk

ADOPTION OF KENDALL-YATES-CARLTON LOCAL WATERFRONT REVITALIZATION PROGRAM

MOVED by Councilman Rush, seconded by Councilman Cichocki

WHEREAS, the Towns of Kendall, Yates and Carlton initiated preparation of a Local Waterfront Revitalization Program in cooperation with the New York State Department of State, pursuant to Article 42 of Executive Law; and

WHEREAS, a Draft Local Waterfront Revitalization Program and Draft Environmental Impact Statement were prepared and circulated by the Department of State to potentially affected federal, state and local agencies; in accordance with the requirements of Executive Law, Article 42 and Part 617 of the implementing regulations for Article 8 of the Environmental Conservation Law; and

WHEREAS, a Final Environmental Impact Statement was prepared and accepted by the Carlton Town Board; and

WHEREAS, the Carlton Town Board has reviewed the proposed State Environmental Quality Review Act (SEQRA) Findings Statement attached hereto;

NOW, THEREFORE, BE IT RESOLVED, that the Carlton Town Board hereby adopts the SEQRA Findings Statement and directs the Town Supervisor to sign said Statement; and be it

FURTHER RESOLVED, that the Kendall-Yates-Carlton Local Waterfront Revitalization Program is hereby adopted and that the Town Supervisor is authorized to submit the Local Waterfront Revitalization Program to the New York State Department of State for approval, pursuant to the Waterfront Revitalization of Coastal Areas and Inland Waterways Act.

Ayes: three
No: two

I hereby certify that the above resolution is a true and correct transcript of the resolution duly adopted by the Town Board of the Town of Carlton on the 14th day of July, 1998, at a regular scheduled meeting of the Town Board of the Town of Carlton, Orleans County, New York, held at the Carlton Town Hall, 14341 Waterport Carlton Rd., Albion, NY 14411.

Dated the 8th day of December, 2001 at Albion, New York

Pamela E. Rush
Pamela E. Rush, Carlton Town Clerk



TOWN CLERK
TOWN OF YATES
8 SOUTH MAIN STREET
P.O. BOX 484
LYNDONVILLE, NY 14098 - 0484

LARRY BROWN
716-765-9716 Phone
716-765-2961 FAX

RESOLUTION NO. 49-04/99

Offered by Councilman Stelianou, who moved its adoption.
Seconded by Councilman Bow.

**RESOLUTION OF THE YATES TOWN BOARD ADOPTING THE TOWNS OF KENDALL,
CARLTON, AND YATES LOCAL WATERFRONT REVITALIZATION PROGRAM**

WHEREAS, the Towns of Kendall, Yates, and Carlton jointly initiated preparation of a Local Waterfront Revitalization Program in cooperation with the New York State Department of State, pursuant to the Waterfront Revitalization of Costal Areas and Inland Waterways Act, Article 42 of the Exective Law; and

WHEREAS, a Draft Local Waterfront Revitalization Program and Draft Environmental Impact Statement were prepared and circulated by the Department of State with potentially affected State, Federal, and Local Agencies in accordance with the requirements of Executive Law, Article 42 and Part 617 of the implementing regulations for Atricle 8 of the Environmental Conservation Law; and

WHEREAS: a Final Environmental Impact Statement for the Local Waterfront Revitalization Program was prepared and accepted by the Town; and

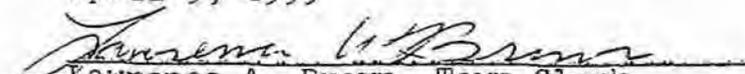
WHEREAS, the Town adopted all local laws necessary to implement the Local Waterfront Revitalization Program;

NOW, THEREFORE, BE IT RESOLVED, that the Town of Yates hereby adopts the Towns of Carlton, Kendall, and Yates Local Waterfront Revitalization Program and that the Town Supervisor is authorized to submit the Local Waterfront Revitalization Program to the New York State Secretary of State for approval pursuant to the Waterfront Revitalization of Costal Areas and Inland Waterway Act.

Adopted. 5 Ayes; 0 Nays.

TOWN OF YATES)
COUNTY OF ORLEANS)
STATE OF NEW YORK)

I hereby certify that the foregoing is a true and correct transcript of a resolution duly adopted by the Town Board of the Town of Yates on the 8th day of April, 1999.
Dated at Lyndonville, New York
April 9, 1999


Lawrence A. Brown, Town Clerk



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL OCEAN SERVICE
OFFICE OF OCEAN AND COASTAL RESOURCE MANAGEMENT
Silver Spring, Maryland 20910

JAN - 5 2004

Mr. George R. Stafford
Director, Division of Coastal Resources
New York Department of State
41 State Street
Albany, New York 12231

Dear Mr. Stafford:

The Office of Ocean and Coastal Resource Management (OCRM) concurs with your request to incorporate the Town of Kendall, Yates, and Carlton Local Waterfront Revitalization Program (LWRP) into the New York State Coastal Management Program as a Routine Program Change (RPC). We did not receive any comments objecting to incorporating the LWRP as a RPC. This approval assumes you will make no further changes to the document in addition to the ones submitted.

Pursuant to your RPC submission, OCRM has identified the following new or revised enforceable policies: 1, 2, 5, 7, 9, 11, 12, 15, 16, 17, 18, 19, 20, 21, 22, 23, 25, 26, 27, 37, and 39. Other changes to the state's enforceable policies based on the LWRP are essentially the same as those found in state law under 19 NYCRR, Part 600.5.

In accordance with the Federal Coastal Management Regulations, 15 CFR 923.84, Federal Consistency will apply to the enforceable policies contained in the final Towns of Kendall, Yates, and Carlton LWRP after you publish notice of our approval.

Sincerely,

John R. King
Acting Division Chief



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Where LWRPs are in Effect

SECTION I
WATERFRONT REVITALIZATION AREA BOUNDARY

SECTION I: WATERFRONT REVITALIZATION AREA BOUNDARY

The Waterfront Revitalization Area (WRA) boundary in Orleans County follows Lake Ontario and runs inland to include major tributaries that contribute to the lake and lands that provide for water-related activities. In this manner, planning for the WRA can coordinate and accommodate both the critical natural resources that attract use and the uses that capitalize on those resources. The boundary is large enough to encompass critical resources and uses, but not so large as to be unmanageable or too remote from the resources and uses to insure a reasonable relationship with the coast. Map 1.1 shows the Waterfront Revitalization Area WRA boundary lines for the Towns of Kendall, Yates and Carlton.

A. Waterside Boundary

The waterside boundary of the Towns of Kendall, Yates and Carlton WRA coincides with the mean high landward line along Lake Ontario (248.8' above sea level - International Great Lakes Datum) from the Town of Yates westward boundary with the County of Niagara, to the Town of Kendall easterly boundary with the County of Monroe.

B. Inland Boundary

Beginning at the Lake Ontario mean high water line at the Niagara County line, south along the County line to Lake Shore Road, east on Lake Shore Road in the Town of Yates, south on NYS Route 63, east on Lake Shore Road, south on Foss Road a distance of 3600 feet to the boundary between parcels 3-1-32, and 3-1-36 east between these parcels to the boundary between parcels 3-1-36 and 3-1-33, south between these parcels and the extension of this line to NYS Route 18, east along NYS Route 18 a distance of 2720 feet to the boundary between parcels 15-1-3 and 15-1-4, north between these parcels to the boundary between parcels 15-1-4 and 15-1-2, east between these parcels and the extension of this line to the boundary between parcels 4-1-15 and 4-1-14, north between these parcels to Lake Shore Road, east on Lake Shore Road into the Town of Carlton to where Lake Shore Road intersects the western boundary of Lakeside Beach State Park, south along the Park boundary to where it intersects the one hundred year flood line on the north side of Johnson Creek (or 100 feet from the Creek, whichever is greater), southwest along this line to where it intersects Church Street, southwest along Church Street to NYS Route 18, southwest along NYS Route 18 into the Town of Yates to where it intersects the 100 year flood line on the north side of Johnson Creek (or 100 feet from the Creek, whichever is greater), southwest along this line to the boundary of the Village of Lyndonville, east along this boundary to where it intersects the 100 year flood line on the east side of Johnson Creek (or 100 feet from the Creek, whichever is greater), northwest along this line (excluding the tributaries) into the Town of Carlton to NYS Route 18, east along NYS Route 18 to where it intersects the 100 year floodline on the west side of Oak Orchard River (or 100 feet from the River, whichever is greater), southwest along this line to the intersection of Clarks Mills Road, south along Clarks Mills Road to a point intersecting the 100-year flood plain and continuing easterly along the flood plain to a point X feet south of Penn Central lands, continuing easterly parallel with this land, to a point 250 feet east of Park Avenue, north along a line 250 feet east of and parallel to Park Avenue to its intersection with Park Avenue at a point 250 feet east of the intersection of the north - south segment of Park Avenue with the east - west segment of Park Avenue, east along Park Avenue to where it intersects NYS Route 98, north along NYS Route 98 to where it intersects the 100 year flood line on the south side of Marsh Creek (or 100 feet from the Creek, whichever is greater), east along this line to Bill's Road, north on Bill's Road to Marsh Creek Road, west along Marsh Creek Road to a point 250 feet east of NYS Route 98, north along a line 250 feet east of and parallel to NYS Route 98 to its intersection with the LOSP, east along the southern boundary of the LOSP to the

extension of the boundary between parcels 8.00-1-30.1 and 8.00-1-29.1, east along this extension and between these parcels to the boundary between parcels 8.00-1-30.1 and 8.00-1-5.11, north between these parcels to Lake Shore Road, across Lake Shore Road to the LOSP, east along the LOSP into the Town of Kendall to a point 500 feet west of its intersection with NYS Route 237, south along a line 500 feet west of and parallel to NYS Route 237 to a point 500 feet south of Lake Shore Road, east along a line 500 feet south of and parallel to Lake Shore Road and its easterly extension to a point 500 feet east of NYS Route 237, north along a line 500 feet east of and parallel to NYS Route 237 to its intersection with the LOSP, east along the LOSP to a point 200 feet west of NYS Route 272 (Orleans - Monroe County Line Road), south along a line 200 feet west of and parallel to NYS Route 272 to a point 200 feet south of Lake Shore Road, east along a line 200 feet south of and parallel to Lake Shore Road, north along the Monroe County line to the Lake Ontario mean high water line.

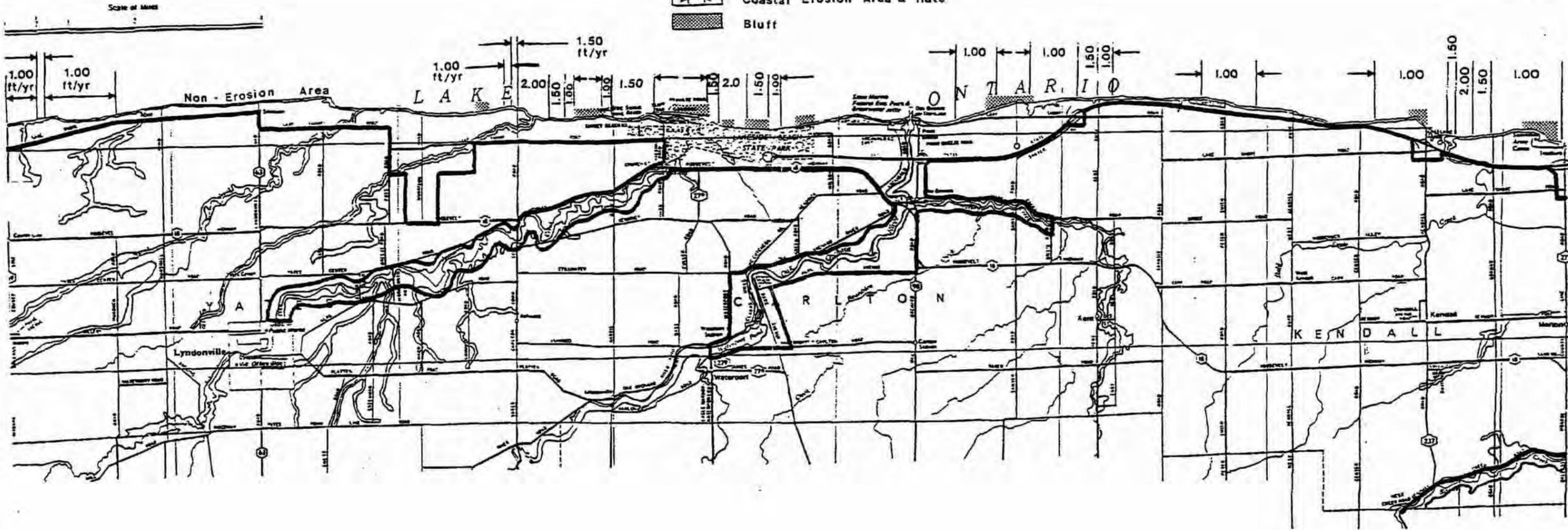
The boundary also includes a separate area beginning at the intersection of the Monroe County line and Creek Road, southwest along Creek Road to its intersection with NYS Route 237, southwest along NYS Route 237 to its intersection with West Creek Road, southwest along West Creek Road and its southwesterly extension to the Town of Murray line, east along the Town of Murray line to where it intersects the 100 year flood line on the southeast side of Sandy Creek (or 100 feet from the Creek, whichever is greater), northeast along this line to where it intersects the Monroe County line, north along the Monroe County line to the point of beginning.

ORLEANS COUNTY
NEW YORK

K-Y-C LWRP
MAP 2.10 Flood Hazard Areas, Coastal Erosion Hazard Areas & Bluffs



-  Flood Hazard Area
-  Coastal Erosion Area & Rate
-  Bluff

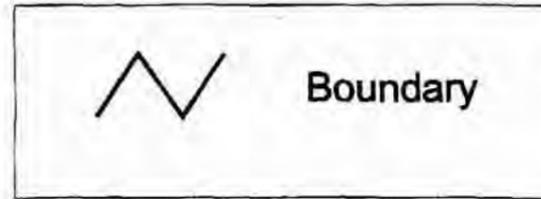
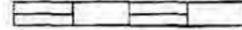


K Y C - LWRP

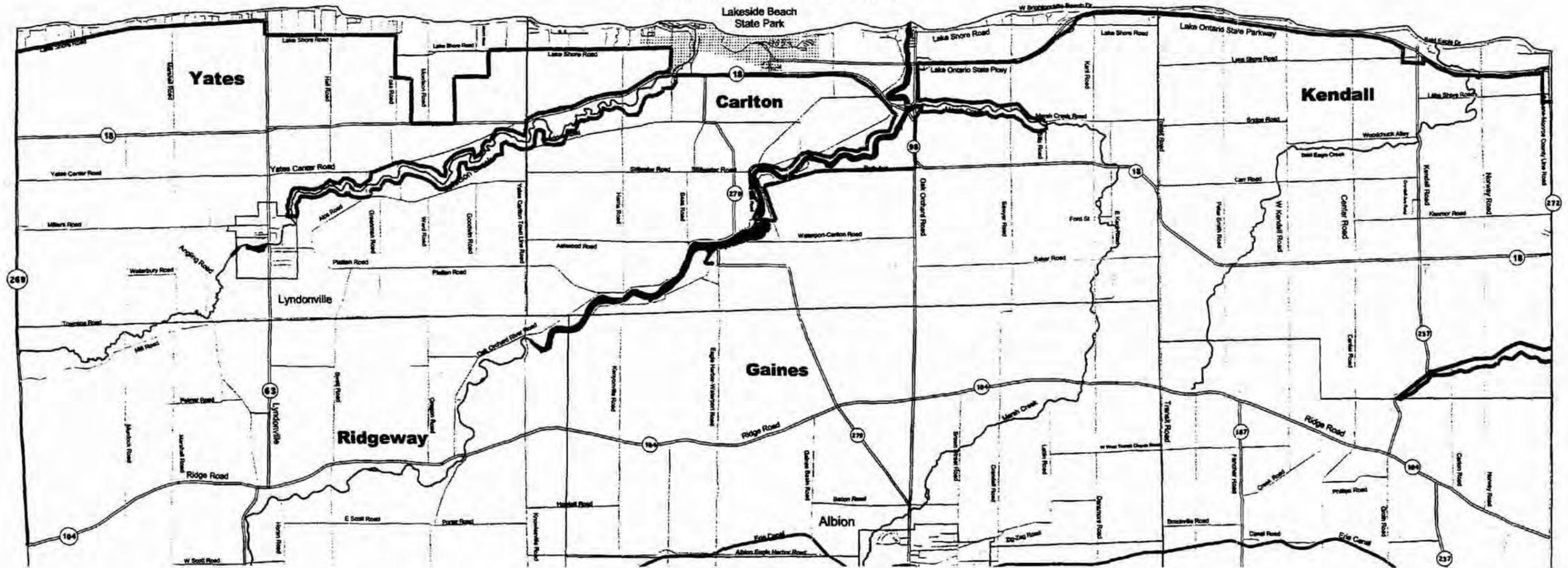
Map 1.1 Waterfront Revitalization Area (WRA) Boundary

ORLEANS COUNTY
NEW YORK

0 0.5 1 1.5 2 Miles



LAKE ONTARIO



SECTION II
INVENTORY AND ANALYSIS

SECTION II: INVENTORY AND ANALYSIS

A. POPULATION CHARACTERISTICS AND LAND USE

The Orleans County shoreline Towns of Kendall, Carlton and Yates possess varied land use and socioeconomic characteristics. This section will describe these characteristics, so important to community life and development.

1. Socioeconomic Characteristics

Although the three lakeshore towns possess the same Lake Ontario shoreline and similar size population, there are considerable differences among the towns reflecting different opportunities, historical development and geography.

a. Historic Overview

Orleans County is located on the fertile Lake plain in Western New York State along Lake Ontario (see Map 2.1). The County is the smallest in both population (38,496) and area (396 square miles) among the eight western counties. It is located between the Rochester and Buffalo/Niagara Falls metropolitan areas which have introduced significant urban influences into parts of the County. Nearly 40% of the County's employed residents work outside the County. Although rural, the County is part of the federally designated Rochester Standard Metropolitan Statistical Area (SMSA).

The proximity to the urban areas has had a pronounced effect upon the County's development patterns. The historic Ridge Road (Route 104) first served as an Indian trail, then as a war route during the Revolutionary War and War of 1812 connecting the Genessee River with Lewiston and Fort Niagara. The County, however, remained largely undeveloped until the 1820's when the Erie Canal was constructed through the central part of the County. Growth came rapidly to the area particularly through the central corner of Holley, Albion (the County seat) and Medina. This central, east-west corridor contains over one-third of the total County population.

The northern towns remained sparsely populated and largely in agriculture or forests until the 1870's. At that time, a new railroad, the Rochester-Lockport-Buffalo route, was laid through the towns approximately two miles inland from the lake. Communities such as Lyndonville, Ashwood, Carlton Station, Kent, Kendall, and Morton grew along the line; only Lyndonville ever incorporated as a village.

The railroad had a dramatic effect upon the development of the lakeshore towns. Not only did the railroad strengthen agriculture, create communities based on the agricultural trade, and stimulate development, it also caused the lakeshore towns to develop an independent character. They were no longer so dependent upon the "canal communities" for trade and livelihood, although substantial linkages remained. The railroad also opened a new era of lakeshore resorts, most notably Shadigee, Point Breeze, Lakeside, and Troutburg (adjacent to the Salvation Army Camp),

that brought city residents via the railroad to posh resorts. Although major settlements did not develop at these places (except Shadigee), they nevertheless developed as concentrations of second homes and tourist trade. At Shadigee, a pier was built into the lake with cross lake shipping and passenger service prevailing into the 1930's.

The period from the 1920's to about the mid 1950's was a time of declining prominence of the shoreline and declining growth in shoreline towns. The great depression brought a dramatic end to shoreline resort activity and was a severe blow to agriculture. The coming of World War II hastened an out-migration of youth and ex-farmers to rapidly expanding factories in Erie, Niagara, Monroe and Genessee counties. This trend continued into the early 1950's. The end of rail passenger service on the "Hojack" railroad line, as it had come to be known, also occurred at this time.

The 1950's in New York State was a time of major industrial expansion and a degree of affluence in New York State never before known in the United States. Second cars and cottages became demand items. In spite of the lakeshore towns' relative isolation, cottages and second homes were constructed in rapid numbers. Between 1950 and 1960 the lakeshore towns' combined population of 5,204 jumped 22% to 6,343, compared to the County's 15% increase. Carlton's population increase alone exceeded 46%! The trend continued into the 1960's with another 11% increase to 7,026 in 1970.

The late 1960's and 1970's saw another major change in the area. Plans were announced in the 1960's for a major state park (Lakeside Beach State Park) and construction of a parkway from Niagara Falls, through the Orleans County shoreline and into Rochester. Although tightened State finances caused these plans to be substantially scaled back (the Robert Moses State Parkway ended near Youngstown and the Lake Ontario State Parkway at Lakeside), in 1972 the thirty mile, four lane Lake Ontario State Parkway (LOSP) between Lakeside Beach State Park and Charlotte within the City of Rochester opened. This road now provided a direct, limited access highway to shoreline areas. The shoreline towns' population growth, which had exceeded the County's growth rate since the 1950's, now soared to triple the County rate. Carlton, by the 1980's, had become the County's second fastest growing town, with Kendall tied for third fastest.

b. People and Housing

In 1980, 7,653 people resided in the shoreline towns. The U.S. Bureau of Census estimates that the population increased by 7.4% from 1980 to 1986.

The median age of area residents is 29.4 years, versus 30.5 years for the County as a whole.

While the population of the area increased 9% between 1970 and 1980, the number of housing units increased much more rapidly. This general

trend is common as household composition has changed and family sizes have become smaller.

Cottages comprise 42% of Yate's total non-village housing (migrant farm housing units are also included in this category but are a very small proportion of these units).

Median housing values and income (described later) vary dramatically among the three towns. Kendall's median housing value is the County's third highest, reflecting the high income levels of Monroe County and its real estate market. By contrast, Yates has the County's lowest (excluding village) housing values, and Carlton the second lowest.

c. **Income, Education and Occupation**

The wide variance in median housing values is reflective of similar variances in income, education and place of work. Kendall has the County's highest median household income at \$22,145 (1979), while Yates, outside of the village, has the County's lowest among towns, at \$14,972. (The Villages of Medina and Albion have lower median incomes.) Households under the poverty level number a County high of 13% in Carlton, 10% in Yates and 8% in Kendall; the County average is 10%. Ironically, Kendall's poverty rate increased 35% between 1970 and 1980, while Yates and Carlton's increased 20%, and the County as a whole, 10%.

The three towns are part of three, separate school districts. The Town of Kendall, located entirely in the Kendall Central School District, has 70% of its residents with a high school degree or advanced education. Carlton, located in the Kendall, Albion, and Lyndonville districts, has 59% of its residents with a high school degree or higher education level. The Town of Yates, located primarily in the Lyndonville Central School District, has a 62% completion rate.

The largest occupation category employing Carlton and Yates residents, at 17% and 20%, respectively, was machine operators, assemblers and inspectors. Precision production craftsmen and repairs was the largest category in Kendall at 26%, with the machine categories at 16%. Those engaged in farming, fishing and forest occupations in Carlton, Kendall and Yates were 11%, 8%, and 8.5%, respectively.

Higher income jobs exist in the industrial Niagara Frontier and Monroe County. Therefore, figures on occupation and income take on added meaning when occupation location is factored in. In Kendall, those who work out of the County exceed locally employed workers by nearly a 2.5 to 1 ratio. In Carlton the ration is one to one, while in Yates it is 2.5 to 1. Although Yates has the lowest commuter rate, some local employers in Lyndonville have highly trained and well paid work forces. Lyndonville has the highest percentage of professionals, managers, and administrators of any municipality in the County by a large margin. However, very few of the people have chosen to live outside the Village, thereby depressing income and related figures in Yates.

d. Taxes

The County of Orleans conducted a revaluation program in the early 1980's resulting in a 100% full value taxing system. During that revaluation process, lakeshore property owners saw substantial increases in their assessments. Lakeshore assessments have continued to increase at higher rates than on non-lakeshore properties. The completion of the I-390/LOSP is generally acknowledged as having made shoreline property more valuable due to reduced commuting times of up to 15 minutes to Rochester.

There are only two special districts (other than fire and lighting) within the WRA. The entire Town of Carlton is a water district with a special tax levy. Differential rates are in effect for service and non-service areas. (Water service areas are described in the infrastructure subsection.) A small water district also parallels Route 63 beginning at Shadigee.

2. Land Use

The real property tax roll of 1986 was used as the basis for examining land use and cover within the WRA. Data were aggregated into five general categories: Residential, Agricultural, Recreational, Commercial, and Vacant/Transitional. Surface water and floodplain areas were not included in the land use calculations due to their limitations for development. The exception is the Johnson Creek floodplain in the Towns of Carlton and Yates.

a. Coastal Overview

The total land area within the coastal area is approximately 6314 acres (containing 2138 properties), stretching over a length of 25 miles (see Map 2.2). For purposes of the LWRP, the WRA is divided into three subareas: East (Town of Kendall), Central (Town of Carlton) and West (Town of Yates). The dominant land use is agriculture, comprising 40% of the total coastal land area. However, the distribution of agricultural uses varies markedly among the towns, concentrating in the Town of Carlton.

Residential property accounts for nearly 22% of total coastal land area. The predominant settlement pattern is strip development year-round homes and seasonal cottages, with riparian rights to the shoreline. Of the 1212 residential properties, 854, or 71%, are used for seasonal residence, indicating that second homes are thriving in the coastal area. Approximately 70% of these properties are owned by persons residing outside Orleans County.

Over one-fifth of the coastal land area (885 parcels) is in vacant or transitional status. This consists primarily of small, unoccupied lots in residential subdivisions along the coast and an assemblage of land in single ownership in the Town of Yates. Nearly 35% of these vacant properties have riparian rights to the shoreline.

Nearly one-fifth of the WRA is devoted to recreational use. This is likely to increase as the area's sport fishery exerts continued pressures for recreational and support facilities. Boating accounts for 80% of all public recreational facilities and is primarily oriented to the non-resident population. Public camping comprises 30% of all recreational facilities, ranging from tenting areas to service sites and cottages. Commercial support facilities, located near recreation facilities, occupy only .4% of the coastal land area. The distribution of these land uses among the three towns is highly variable.

b. Kendall

The Town of Kendall contains 11.5% of the coastal area due to the proximity of the coastal boundary to the shoreline. Predominant land use is residential and recreational. Fifty-four percent of residential property is seasonal use, 17 percentage points below the coastal average. Nearly 80% of these seasonal units are in absentee ownership. With 104 year-round units, the Town is witnessing growth due to direct access to the Rochester area. The concentration of recreational facilities is located on the eastern portion of the shoreline on two properties, Eagle Creek Marina and the Salvation Army summer camp.

c. Yates

The Town of Yates comprises 28% of total coastal area. The primary land use is residential, while the vacant/transitional category consumes a vast area of the Town's coastal region. Seasonal cottages account for 94% of all dwellings, nearly double that in Kendall and 23% above the WRA average. An 800 acre group of parcels known as the Morrison Site, owned by the New York State Electric and Gas Company (NYSEG), represents the majority of vacant land. The remainder of vacant land is situated along the coast and the Johnson Creek floodplain.

d. Carlton

The Town of Carlton encompasses nearly 60% of total coastal area and is characterized by concentrations of residential, agricultural and recreational uses. One-half, or 607, of the residential properties in the entire coastal area are located in Carlton, and 63% of these are occupied seasonally. The agricultural category contains 1738 acres, 40% of which is in three parcels located on the east side of Point Breeze. Agricultural intensity of this area has diminished over the years with the removal of large orchards and the conversion to dairy production. This same area has also been optioned at various times for non-agricultural development (see subsection B). Recreational uses are concentrated in the Town of Carlton primarily because of the sport fishery and direct access to Lake Ontario. Over 87% of the recreational acreage in the coastal area is located in the Town. However, 731 of the 925 acres are taken up in the Lakeside Beach State Park. The remaining acreage consists of small private campgrounds, private marinas and boat liveries, Orleans County Marine Park (11 acres) and Oak Orchard Marine Park (80 acres).

B. WATER-DEPENDENT AND -ENHANCED USES

Water-dependent uses are land uses, structures and/or economic activities that would not exist without a waterfront location. Water-enhanced uses are land uses that receive added value or importance because of proximity to a shoreline. Frequently, they function as support services for water uses. Water-dependent uses play an essential role in determining a shore's economic importance, and public acceptance of its worth as a public resource needing careful planning.

1. Overview of the Shoreline

The Orleans County waterfront is dominated by water-enhanced uses. These uses, as shown on Map 2.3, are primarily shoreline cottages, second homes, and the Lake Ontario State Parkway. Water-dependent uses are predominantly marinas, public and private docks/launches, a federal breakwater, a utility-owned reservoir and dam, and water purification plants. There are no goods transfer points, swimming facilities, processing plants, scientific facilities or other similar uses on the waterfront.

a. Kendall

The Kendall shoreline contains one water-dependent use, Eagle Creek Marina and charter boat service. Water-enhanced uses include cottages and second homes, the Lake Ontario State Parkway, and the Salvation Army Camp near the Monroe County line.

b. Yates

The Yates shoreline is primarily in water-enhanced uses consisting almost entirely of cottages and second homes. The only water-dependent uses are a small boat launch at the Lakeland recreation area, and the Lyndonville water treatment plant and intakes at Shadigee.

The NYSEG Morrison Site, the largest privately owned assembly of parcels on the County shoreline, is not considered water-dependent or -enhanced due to its inactive underutilized status. However, this property holds the potential for those kinds of uses.

c. Carlton

Carlton's diverse lake and stream shorelines contain the area's greatest number of water-dependent uses. These uses include: several marinas, charter boat services, boat launching facilities, the Albion water treatment plant, and the Niagara Mohawk hydroelectric dam at Waterport.

The hydro facility was constructed in 1921. One turbine generating unit was installed in the initial construction, and a second unit was installed in 1924. The turbines operate under 78 feet of head and provide approximately 4.65 megawatts of capacity, with average annual generation of 11.5 million kilowatts/hour. The powerhouse is cast concrete, and the dam is a 760 foot long, 82 foot high earth fill structure with a concrete core. The facility requires a constant supply of water, and

in the summer may need to augment supplies by diverting water from the Erie Canal.

Numerous water-enhanced uses in Carlton include: a large number of seasonal and second homes, restaurants that cater to the fishing traffic, bait and tackle shops, and a campground near Waterport.

2. Problems and Opportunities

a. Demand For Water-Dependent Uses

The demand for water-dependent uses, particularly recreational facilities, is driven by the cold water sports fishery resource of Lake Ontario. Various studies and surveys show a continual and increasing demand for such uses dating from the late 1970's, and relate directly to State policies on salmonid fish stocking and facility development.

The impact of non-resident anglers fishing in Orleans County is significant. According to Sea Grant Extension (1988), non-resident fishing sales in Orleans County increased by 22,117 since 1972, the highest of any Great Lakes county.

The County's dependence on non-resident anglers is higher, by a large margin, than neighboring counties and the State average.

According to a Sea Grant Report, anglers spent \$1.8 million in Orleans County in 1984. During the 1988 Empire State/Lake Ontario (ESLO) fishing derby, non-resident anglers spent an estimated \$679,376 in Orleans County over the four days of the derby.

Demand for access to the sport fishery is also demonstrated in the large number of licensed fishing charter services. In the early 1970's there were perhaps ten captains based in Orleans County. Today there are 96, concentrated in Oak Orchard River. Competition for dock space is keen since most charter captains do not own adjacent lands, and the available space is limited to the lower reach of Oak Orchard River, downstream of The Bridges.

Pressures for development of this area will continue to be exerted since the policy on the upper reach of the Oak Orchard River is intended to discourage commercial growth and preserve the natural features of the area.

b. Problem

While Point Breeze is consistently ranked among the three most popular boat launching areas during the ESLO Derby, anglers report deficiencies in public restrooms, boat launch sites, fishing information, parking and hotels/motels. These needs, in addition to the need for boat slips and fish cleaning stations, were confirmed in a study prepared for the Orleans County Tourism Advisory Board Fishery Committee (Development Planning Services, 1988).

The principal deterrent to further growth in recreational water-dependent uses has been high development costs, resulting, principally, from the general scarcity of shoreline land, and the fragmented and uncoordinated development review process. Shore land costs and demand for property have increased rapidly in the last few years, largely the result of the 1983 linkage of the Lake Ontario State Parkway and Interstate 390 (the Rochester beltway), cutting up to fifteen minutes in travel time to Rochester. Kendall is now a 25 minute drive from Rochester, while Carlton is a 35 to 40 minute drive.

While the Parkway provides vehicular access to Lakeside Beach State Park, Point Breeze, and Eagle Creek Marina, it limits pedestrian access to the shore, particularly in Kendall. Thus, the Parkway acts as a barrier to development of water-dependent and -enhanced uses. The predominance of cottage strip development and use of private roads for access also limits development opportunities.

Additionally, the financial community views the future prospects for seasonal recreation facility development cautiously. Financing has either been denied or speculative lending terms (higher interest rate and high equity to debt ratio) have been imposed.

c. Opportunities

State policies to fund public access programs, as outlined in the "Strategic Plan for Economic Development through Expansion of Waterway Access to the Great Lakes" (December, 1982), while being generally welcomed, have compounded the dilemma of private operators. The public initiatives are viewed by merchants and lenders as subsidized competition to private marinas, boat docking storage and launching sites, and further reduce lending possibilities.

However, the New York State Urban Development Corporation, in cooperation with the New York State Department of Economic Development, has developed an incentive program for tourism destination development. A recent allocation of \$2.5 million was made under the Regional Economic Development Partnership Program to provide funding for construction of new facilities where: 1) a shortage of tourism-related attractions or services has deterred business growth, and 2) the proposed facility would significantly increase overall business activity and the marketability of a location as a tourism destination.

The lag in development of facilities owned by the New York State Office of Parks, Recreation and Historic Preservation (OPRHP) Genesee Region during the 1970's, compared to master plans for those facilities, has affected recreational development. Master plans for Lakeside Beach State Park and Oak Orchard Marine Park (west side) were indefinitely delayed during that period. This uncertainty stymied other public and private development plans for similar projects. The above-mentioned strategic plan, the first scheduled parks improvement plan in years, appears to hold the promise of multi-year funding and action.

The completion of the Oak Orchard Marine Park west side launch adds a needed water-dependent use; however, the facility competes for scarce State funding with its own launch ramp on the east side (see subsection C3 below). The OPRHP has considered closing the east side ramp while keeping the parking lot and comfort station open. The K-Y-C Board considers both facilities necessary to accommodate the number of boating anglers using the Point Breeze area. (The estimated number of users of the east side ramp in 1988 was 126,000.) Ownership of the east side facility by a local municipality would present an opportunity to maintain and enhance its use.

Another past State policy which affected shoreline land use was the elimination of more capital expenditures at Lakeside Beach State Park, resulting from funding cutbacks and the curtailment of further western expansions of the Parkway. While the Parkway is not likely to be completed, the "Strategic Plan," coupled with a positive attitude exhibited by the Parks Commission Management in the 1980's, suggest that these facilities will be completed. Should swimming facilities and access to Lake Ontario be incorporated at Lake Beach State Park, this facility would become a water-enhanced use.

C. UNDERUTILIZED, ABANDONED AND DETERIORATED SITES

Much of the development of the shoreline has occurred in the last thirty years. Prior to that time, shoreline development concentrated at Shadigee (Yates) and Point Breeze (Carlton), with the remainder of the shoreline either farmed or leased to seasonal cottage development (see subsection 1). Deteriorated and abandoned sites arose in areas of concentrated use in and along the Oak Orchard River, where public or private financial resources were lacking. Also, the lack of a marketing strategy for locations such as the Morrison site resulted in their underutilization. As a consequence, shoreline revitalization is needed in scattered concentrations rather than along the entire shoreline. Nonetheless, elements of deterioration are present at waterside accessory uses (docks and camps) and in the form of substandard lot sizes for seasonal and year-round housing, some of which do not receive even minimal municipal services due to the existence of private roads on the properties. These private roads have a further inhibiting effect on backlot development.

Map 2.4 shows underutilized, abandoned and deteriorated sites along the entire shoreline. The subsections below describe these sites and present development constraints and opportunities.

1. Morrison Site

The Morrison Site, as it is locally known, is an 800 acre undeveloped parcel of land in the Town of Yates, owned by New York State Electric & Gas (NYSEG). It represents the largest privately owned undeveloped parcel of shoreline frontage in Orleans County, and one of the largest such parcels remaining on Lake Ontario's entire shoreline.

Beginning in the 1960's, NYSEG began assembling parcels of land in the Town of Yates and the neighboring Town of Somerset in Niagara County for the purpose of constructing an atomic electric generating station. Under an Article

XII proceeding of the Public Service Commission law, NYSEG had to select and acquire a preferred site (Somerset) and an alternate site (Yates) for power generation purposes; both sites had to undergo extensive scrutiny for licensing.

Although the New York State Atomic and Space Development Authority (ASDA) certified the site was suitable for construction of an atomic power plant in 1973, continued public opposition, the 1973 Arab Oil Embargo and the discovery of an earthquake fault near the area, caused NYSEG to abandon plans for Yates and concentrate on Somerset. The Somerset site was approved in 1977 and a coal-fired facility opened on the site in August, 1984. Nonetheless, the ASDA purchased from NYSEG the first rights of refusal to purchase the site for future use for \$376,546 on January 18, 1974; those rights remain in effect today.

In 1981, the County of Orleans Industrial Development Agency (COIDA) obtained approval from the New York State Public Service Commission, the New York State Energy Office, New York State Energy Research and Development Authority (NYSERDA) and the NYSEG Board of Directors to purchase a one year option and first rights of refusal on the property for the purposes of developing a \$25 million Roll-On-Roll-Off transshipment facility between New York State and Toronto. Although the project never materialized due to under-financing, the IDA first rights of refusal did not revert back to NYSERDA (the successor agency of the ASDA) until 1984. The Public Service Commission, however, still has not revoked its approval to sell the parcel to Orleans County should it and NYSEG come to terms. The NYSERDA rights remain unknown.

When the COIDA was seeking to purchase an option from NYSEG, it encountered unusual delays from NYSERDA. It was later to come to light that NYSERDA, using the first rights of refusal granted it in the 1974 agreement, was investigating the site (along with two others in Yates), for the location of a State operated toxic and hazardous waste disposal plant and therefore delayed its release to the COIDA. (NYSERDA selected a site in Sterling in Cayuga County but it was never built.) Local officials were alarmed when the news became public after the Sterling announcement. They realized that NYSERDA could have overridden local zoning and used eminent domain to acquire the site with the Town having little legal recourse to question or stop the project.

The combination of these three, major development proposals have caused local officials to realize the vulnerable position they are in regarding undesirable use of that parcel. It has also brought a realization of the development potential of the site and its current underutilized state.

The Ontario Shore Land Committee, a group of concerned citizens and local investors, had in 1986 proposed to acquire the site for a multi-use development. A feasibility study indicated a market potential for camping, flea markets, a pioneering village, senior citizen housing, and light industrial and commercial growth. The group later incorporated, but recently dissolved after a suitable developer could not be found.

NYSEG will reportedly entertain offers to purchase the site for less than the original \$1.6 million asking price. In particular, the 3000 feet of frontage property is now being marketed for development that would be consistent with

Town of Yates zoning policies. NYSEG has suggested residential development to a depth of 400 feet along the lakeshore, should public water be extended to the site.

The LWRP will set forth desirable development for the site, and, through the LWRP consistency provisions, give the Town the enforcement ability to prevent undesirable uses.

2. Oak Orchard Marine Park (east side)

Oak Orchard Marine Park is located at the mouth of Oak Orchard River at the federal channel and breakwater occupying both the east and west sides of the channel (see Map 2.4). The federal facilities consist of two 1000 foot jetties and a 550 foot long pond concrete breakwater equipped with navigational aides creating a Harbor of Refuge. They were completed in 1975 by the US Army Corps of Engineers. The State facilities total 81 acres with 1000 feet of stream frontage and 800 feet of lake frontage. The properties were acquired in the late 1960's.

The east side of the park is a five acre site consisting of a three-bay boat launch, parking for 25 car/trailer combinations, restrooms and a handicapped fishing location. The site is subject to intensive use and congestion. The site is fully developed and is unlikely for expansion due to lack of available land. The east side ramp remains in a state of disrepair. A cooperative effort among State, county and local governments may help to revitalize this facility for safe use. (See also Public Access, subsection D.)

3. Bennett Farm

The Bennett Farm is a 1000 acre dairy farm divided by the Lake Ontario State Parkway at Point Breeze (see Map 2.4). The northern 480 acres has significant frontage on Lake Ontario and Oak Orchard River. The site wholly surrounds the Route 98 exit (Point Breeze) of the Parkway. A public water supply fronts the property which is zoned for commercial and recreational use. These factors point to the prime development potential for recreational facilities.

In 1980, a Rochester construction firm, Canrel Construction, began quietly acquiring options on lands in the area for the purpose of developing a convention center hotel, year round resort and condominiums. The cornerstone of the proposal was acquisition of the Bennett Farm and the land under the Parkway Bridge (now Orleans County Marine Park). The firm planned to locate their resort at the Parkway exit with hopes of developing a larger marina on Oak Orchard under The Bridges. However, due to economic factors, the project had not materialized by 1982.

In December 1988, Western Basin Development Corporation, with some of the principals of the Canrel group, announced a proposal for a similar resort complex encompassing nearly 1,500 acres. The multi-phased project called for a marina extension, renovation of an existing golf course, a 300 site campground, a 100 unit motel, and restaurant to be completed in 1989. A second marina, sports center, and condominium project would be developed later. However, necessary land transfers did not take place and required permit applications were not

submitted to the various local, county and State agencies. It became apparent that even the minor parts of the project would not proceed.

The site remains a dairy farm and is not being utilized at its highest and best use for the Point Breeze area. Nor does it serve as an attractive gateway to this popular fishing area due to the use and deteriorated condition of the structures.

4. Salvation Army Camp

The Salvation Army Camp at Troutburg, in the Town of Kendall, is a 130 acre quasi-public recreational facility occupying 5/8 mile of lake frontage. The site was originally purchased in 1940 by the Salvation Army to serve as a children's summer camp for underprivileged children in the Rochester and Orleans County area. By 1950 the facility served over 300 such children and currently serves nearly 600 clients, age 6 to 12, referred by area social welfare departments. On-site amenities include an in-ground pool and bath house, eight dormitories, court game areas, a chapel, dining hall, several storage buildings, and a package sewage treatment plant. Access is provided directly at the Lake Ontario State Parkway via State Route 272. A ten foot wide macadam drive provides internal circulation. Security and privacy are afforded by fencing, wooded areas, and hedge rows.

The facility is open to clients approximately eight weeks during the summer (late June to mid-August) in three ten-day sessions and two five-day sessions. The Salvation Army also allows overnight stays to Kendall school students under an arrangement with the district. According to the Salvation Army Rochester service office, there are no current plans for expansion of facilities or season opening, although there is capacity for increased utilization of the site. This seems to present itself in as yet untapped opportunities for lakefront boating, fishing, and swimming access. Multiple use opportunities such as ice skating, cross country skiing, snowmobiling, and ice-fishing in winter remain to be examined.

The primary constraints to enhancement of the facility appear to be Salvation Army policy on public use and liability concerns. There would appear to be benefits the Salvation Army could accrue from operation of a facility serving a larger public including revenues for continued maintenance. Joint ventures with area school systems should be expanded. Any arrangement will require active discussion with local governments.

5. Private Roads

As was reported in previous subsections, cottages and second home development is an extensive land use of the Orleans County shoreline. These developments are nearly 100% served by private roads in Yates, 85% in Carlton, and 75% in Kendall.

In earlier days, private roads were not an issue. Shoreline housing developments were primarily seasonal cottages. Relatively few residents commuted to jobs from these units, even in summer, due to poor roads. That was changed by the Lake Ontario State Parkway.

The opening of the Parkway in 1972 made it feasible for many cottage owners to consider year round residency. Suddenly, the private roads that previously adequately provided summer time access developed chuck holes from spring and fall use. More importantly, residents were reminded by Town officials of the "private" road status of their roads when lakeshore residents petitioned for Town snow plowing services and were denied.

The conversion from seasonal to year round residency accelerated during the 1970's and 80's promoted by a strong Rochester area economy, retirements at these units, the LOSP/I-390 link, and a 1981 tax revaluation resulting in sharp assessment increases in shoreline properties. The matter of private roads is an issue of both potential underutilization and deterioration. With lakeshore residents' assessments likely to rise and more landowners becoming permanent Town residents, the expectation for Town services will increase. Nonetheless, the private roads will continue to be an effective barrier to nearly all Town services. Such a standoff prevents the towns from obtaining any access to their shoreline in this area, while encouraging shoreline owners to neglect their property to deter further assessment increases.

This issue is perhaps one of the most complex and evasive issues in the shoreline area. Conventional subdivision regulations are ineffective as the shoreline area has already been fully developed. The annual cost to the Town to construct and then maintain these roads would be immense, given the minuscule new revenue generated by any increased land values resulting from the new road. Self imposed taxes, through creation of an improvement district, has not been fully explored in any town. However, lakeshore residents are unlikely to impose further taxes upon themselves, particularly the remaining seasonal residents. While the need for solutions to this problem will need to be addressed to forestall future deterioration of these properties, it is unrealistic to expect that a solution will be implemented as a result of this program in the near term. Development of "targeted" projects at the ends of public roads may, however, start to reverse this trend.

6. Waterside Accessory Structures

Several, privately owned accessory structures along Oak Orchard River are in a deteriorated state or are abandoned and detract from the scenic quality of the river gorge. Docks, stairs, camps and boathouses are typical of these structures. Regulatory methods could be used to phase these out of existence if abandoned for a certain period of time. Requirements for upkeep of structures, particularly in the upper reach of the Oak Orchard River, should also be considered.

D. PUBLIC ACCESS AREAS AND RECREATIONAL FACILITIES

In most cases of Lake Ontario shoreline, access and recreation are considered the same issue. Most of the competition for shoreline use is between private, personal use and public or semi-public recreation use.

1. Public Access Issues

a. Public Lands

Public lands or facilities are held by the State, federal or local government in fee simple or less than fee simple ownership. Lands that fall into this category include Lakeside Beach State Park, Oak Orchard Marine Park, Orleans County Marine Park, DEC's Fishing Easements Program and public rights-of-way.

1) Lakeside Beach State Park

Lakeside Beach State Park is a 731 acre public camping facility possessing 1.5 miles of lake frontage. The Park was originally designed for swimming, camping, and day use activities. Located at the western end of the Lake Ontario State Parkway, the Park is 30 miles from Rochester and 35 miles from Youngstown and Fort Niagara State Park.

Although opened in 1972, only the camping facilities and day use area were ever completed. Pool construction was a victim of budget cutbacks, leaving Orleans County the only County on a New York Great Lake or ocean without a State operated swimming facility.

A 5,000 square foot swimming pool has been designed to accommodate 200 swimmers. The OPRHP requested construction funding of \$760,000 in 1991, but monies have not been allocated. None of the six park facilities (tent/trailer, picnic tables, biking, playground, cross-country skiing, snowmobiling) are operated on a year round basis, nor are they water-dependent or -enhanced. The 1983 Statewide Comprehensive Recreation Plan, however, identifies water contact (beach and pool complex) and water access (launching, fishing, marina) development as long term (fifteen years) potential. Environmental education, cultural and performing arts, and special events were also identified as having long term program service potential. However, the feasibility of implementing any of these facilities is based on intensive management planning analysis, and any component could be dropped at any time.

2) OPRHP Land Purchase

Nearly all the land adjacent to Johnson Creek, from the Village of Lyndonville to Lakeside Beach State Park, is privately owned.

Much of this land is used in farming, and as a result, public access to this warm water fishery is severely restricted.

In October, 1987, at the urging of the NYS Department of Environmental Conservation (NYSDEC) and local groups, the OPRHP purchased a 6.6 acre parcel of land on Johnson Creek adjacent to Lakeside Beach State Park (see Map 2.4). The intent of this purchase was to provide an area for cooperative development and maintenance of an access facility by State and local governments. The purpose was to provide parking and boat access to Johnson Creek for small craft and to allow larger craft access to Lake Ontario one mile downstream.

A modest investment of funds and manpower could get site design and development underway in a cooperative venture, among State, county and town governments, and the county federation of sportsmen's clubs, similar to that at the Lake Alice Launch Ramp (see below). Off-site improvements would require navigation markers at the mouth of Johnson Creek due to a constantly changing channel.

3) Oak Orchard Marine Park

The facility, owned and operated by the OPRHP Genesee Parks Region, occupies a prime location at the mouth of Oak Orchard River. The east side facility offers three-slip boat launching, parking, and a comfort station. The five acre site also provides shoreline fishing (the area's only handicapped fishing access point) and scenic vistas. It is one of two publicly owned boat launching facilities in the county.

The west side of the park, a 76 acre parcel, until recently remained undeveloped except for a small parking facility. In May 1989, the facility opened with a four-bay launch ramp, temporary docking for ten boats, parking for 96 car/trailers and 25 cars. A comfort station was added in 1990. The use of the east side facility has continuously grown since its opening in 1980, with 77,000 users in 1984, 120,000 in 1986, and 127,000 in 1987. Extreme boating and automobile congestion occurs frequently, particularly during fishing derbies, due to the site's small size (5 acres), physical constraints, and prime location. A particular problem is the parking conflict caused at the site by those wishing to fish off the jetties or view the area's scenic vista, versus those wishing to launch boats.

4) Orleans County Marine Park

This site was acquired in the late 1960's by the NYS Department of Transportation for construction of the twin Lake Ontario State Parkway bridges over Oak Orchard River. When the property's jurisdiction (east side of the river only) was turned over to the Genesee State Parks Region in the early 1970's, the Region

developed a master plan for this 11.8 acre site, calling for boat launching, docking and comfort facilities. The State budget crisis of the mid-1970's caused the plans for the site to be scrapped.

In December, 1981, the County and the OPRHP executed a 25 year lease to develop the property as a marine park. Several attempts to obtain private involvement did not materialize despite the availability of \$100,000 in State seed money to encourage development. Public/private discussions broke down over issues of providing facilities available to the general public and of charging private developers the equivalent of property taxes through rental fees and gross receipts assessments. Private developers found they could not realize an adequate return on investment under those terms.

Once attempts to solicit private sector involvement had failed, the County issued a Request for Proposals in October 1984 to prepare a site analysis, conceptual plan and design. After reviewing seven alternative designs, the County Legislature chose a phased design approach. Phase I, at an approximate cost of \$600,000, included 72 boat slips, fishing access, a 57-space paved parking area, comfort station, picnic facilities, fencing, walkways, scenic overlooks and signs. Phase I was completed in the Spring of 1988. All 72 slips have been leased under three-year agreements, with a majority of the lessees non-resident boaters. Phase II was completed in 1991 and includes expanded parking for approximately 30 car/trailers, a fish cleaning station, a second comfort station, and a communication center.

Management of the site is now under the County highway department. The management plan was prepared in cooperation with the OPRHP and input from area marina operators. Their involvement was critical in providing services that would not duplicate or compete with those offered by the private sector. This facility is one of only a few open-to-the-public recreation facilities on the upper reach of the river (see Map 2.3).

5) Lake Ontario State Parkway (LOSP)

The Lake Ontario State Parkway extends across 12.5 miles of the Orleans County shoreline from State Route 390 in Monroe County to Lakeside Beach State Park. This limited access highway represents a substantial barrier to public access in the area. In the Town of Kendall, the Parkway's construction in the early 1970's took the Town park and beach on Lake Ontario and most of the Town's shoreline. Besides the dramatic effect this action had on the Town's tax base and lakeshore farm land, the Parkway became a barrier which Town residents could not cross to reach the Lake. Although two Parkway pull-offs (one in Kendall, one in Carlton; see Map 2.3) were built along the LOSP in the early 1980's, the minimal investment placed in them enables little more than shoreline fishing (which is poor due to local shoreline

characteristics in the area) and scenic viewing. Access can only be gained by west bound vehicle travel on the Parkway itself.

A designated biking lane exists along the Parkway from Lakeside Beach State Park east to the County line. No special facilities are provided to bicyclists.

While directional signage appears adequate along the LOSP, maintenance of signs appears sporadic. Information and service facility signage is nonexistent. With numerous recreational and service facilities in the Point Breeze area, the potential exists for such signage at the Point Breeze interchange and Lakeside Beach State Park terminus.

6) The Bridges Project

The hamlet of The Bridges is located at the juncture of the Marsh Creek and Oak Orchard River. Named for its three bridges, it is a waterfront community with numerous marine and commercial developments resembling a New England fishing village. The hamlet serves as a transition point between the commercialized lower reach of Oak Orchard River and the scenic, largely undeveloped area extending south from The Bridges to the Niagara Mohawk power generating dam, near Waterport. The Town of Carlton comprehensive plan policies identify the upper area of the gorge as unique, which character and environmental resources are worth preserving.

The Oak Orchard River Road Bridge (see Map 2.3), a County bridge over 77 years old, which had been flagged as structurally deficient by the NYSDOT, had restricted upstream access by large vessels due to its low vertical distance to the river. As a result, intensive marina development is limited upstream of this area. This bridge was recently replaced with a one-lane bridge crossing over the Oak Orchard River. The replacement bridge is at a slightly higher grade.

The feasibility of constructing a larger north-south bridge over Marsh Creek was evaluated by the NYSDOT. This review determined that the new bridge should be at a scale similar to the old bridge.

A bridge over Oak Orchard River would restrict upstream access, likely prevent the upper gorge from experiencing growth pressures, and maintain upstream areas as separate and distinct from downstream areas, preserving their scenic and environmental character. Removal of the bridge would enable further growth of private fishing and boating facilities, and increase property values and development potential to a wide area of the Town. Similarly, it would potentially reduce congestion by spreading out boat launching and docking areas over a wider area than the 1.8 miles between the lake breakwater and The Bridges. Any bridge

improvement program in The Bridges area should strive to retain a physical barrier over Oak Orchard River.

b. Private Lands For Public Use

Private lands allowing public use are typically service oriented businesses such as marinas, boat launches, charter boat services, and other water-dependent uses described earlier. Other privately owned properties allow access either informally or by formally sanctioned means, such as leases or easements.

1) NYS Department of Environmental Conservation Public Fishing Rights Program

This program involves the public purchase of permanent fishing access easements, allowing the public to fish along a tributary stream on a 33 foot deep strip of land. In Orleans County, the NYSDEC is offering fishing easements for \$11,200. per mile on Johnson and Marsh creeks, and \$20,000. per mile on Oak Orchard River and Sandy Creek. (None are authorized for Waterport Pond because it is not a stream.) The NYSDEC has notified property owners along tributaries in the County, however, that to date, no easement agreements have been executed within the WRA, due largely to a lack of funding. Opportunities to assist in local marketing of this program should be explored further.

In the Spring of 1989, the NYSDEC completed an appropriation of lands at Park Avenue Extension (see Map 2.3) under this program. Parking access is now being evaluated. Access to this area is particularly important during the fall salmon run, up Oak Orchard River.

2) Ends of Roads

The area around the termini of public roads offers opportunities for small scale recreational development. Private road ends, which exist mainly in the form of fire lanes, however, restrict expansion of public access. The area at Shadigee at the end of State Route 63 has an improved parking area constructed on land owned by the Village of Lyndonville for their water treatment plant. Nearby is a small restaurant and cottages. Access to the water is restricted there, however, due to a high bluff.

3) Niagara Mohawk Power Corporation Lands

This public utility operates a hydroelectric generating facility on Waterport Pond (locally known as Lake Alice) and a reservoir on upper Oak Orchard River in the hamlet of Waterport. The utility also owns land surrounding Waterport Pond and along Oak Orchard River. Two parcels on Waterport Pond characterize the formal/informal access issue (see Map 2.3).

The tail race at the dam bottom is a popular fishing area year round for salmon, brown trout and steelhead trout. Access to the dam on the company's private roads and paths leading from the top of the gorge to the gorge bottom is not restricted, although under Public Service Commission rules, Niagara Mohawk is not required to provide public access. The land is posted, however, to reduce any liability to the company in the event of accidents and personal injury.

This unofficial access point has generated concern as littering, fish cleaning, and occasional public disturbances occur due to the area's relative isolation. The County Fishery Committee organized a meeting, in 1986, among involved parties to address these problems. An annual plan was put in place providing sanitary facilities, information displays and brochures. Financial and program support are provided by the Town of Carlton, Orleans County, OPRHP, and Niagara Mohawk. This low key effort has apparently solved most of the problems with public access. With the construction of a privately operated fish cleaning station, nearby, additional oversight is provided.

Niagara Mohawk's position on Waterport Pond is somewhat different. Informal boater access had been allowed for years at a stone launch ramp. The Orleans County Federation of Sportsmen's Clubs became aware of a safety problem here and approached Niagara Mohawk and the County Legislature for assistance. Cooperatively, and for a nominal investment, a concrete ramp, rip rap, parking and signage were installed.

Unlike the informal dam access, Niagara Mohawk required a lease and insurance coverage from the County. Fluctuating lake levels and the fact that boats are involved on the property are contributing factors to this requirement. Launch ramp and water speed limit rules have been adopted, as well.

Waterport Pond provides multiple recreation pursuits which, at times, are not compatible with one another. As an excellent bass habitat, the lake generates a large amount of high powered bass boat traffic by both students and non-students. Waterport Pond is also popular for water skiing and canoeing due to the relatively calm waters. As a result, conflicts often develop among lake uses seasonally. A Lake Alice Waterfront Owners Association was formed in October, 1988 as a forum to address these and other issues. In a 1990 survey of owners, 83 percent responded that water safety is of great concern.

2. Recreational Opportunities

The continued growth of the Ontario salmon and trout fishing is the greatest recreational opportunity in the area. Since 1979, when restocking of salmonid species returned full swing, more than 5.3 million fish have been stocked annually into Lake Ontario and its tributaries. As reported previously, the

economic impact of sport fishing upon Orleans County in 1984 was \$1.8 million. A later study revealed that Orleans County generates the lowest amount of sport fishing of three area lakeshore counties (Development Planning Services, 1988).

The phenomenal success of the stocking program, combined with strong legislative acceptance, is likely to insure its continuance well into the future. However, necessary direct and indirect support facility development has lagged well behind the rapid growth of sport fishing. Parking congestion, a deficit of accommodations and lodging, and a shortfall in boat slips have resulted (Development Planning Services, 1988).

There is a critical need for additional launching sites, parking, and most particularly, lodging facilities to generate increased angler expenditures in the County. Despite the fact that Oak Orchard River is considered the second most popular fishing location on Lake Ontario (after Sodus Point), fishermen will go to areas where facilities are available to accommodate them.

a. Seaway Trail

The potential for a scenic touring trail along Lake Ontario, Lake Erie and the St. Lawrence River was recognized in the mid-1960's at both the national and State level. In 1978, the New York State Legislature passed legislation officially designated the Seaway Trail, a corridor extending from Massena in St. Lawrence County to Niagara Falls in Niagara County. The Trail was later extended to Fair Haven and then to Ripley at the Pennsylvania border, covering 454 miles and running through 64 municipalities (see Map 2.6).

Seaway Trail, Inc. was created in 1978 to represent the Trail region as a tourist destination and to promote regional economic development through tourism. Seaway Trail, Inc. maintains offices in Oswego and operates on a \$500,000 annual budget supported by State budget appropriations and member municipalities.

In 1984, the Trail was dedicated a National Recreation Trail as a result of a National Park Service study of the area and is the longest such trail in the United States. Comprehensive planning for trail use was begun in 1987, resulting in a Seaway Trail Action Plan highlighting the Trail's tourism resources and markets, and presenting a framework for trail development.

The Plan divides the Trail into ten "development zones," for which individual plans will be formulated. Zones are delineated based upon physiography, demography, resources, themes, image, and product. Orleans County comprises Development Zone 4. Opportunities for touring spurs and loops include the Seaway Trail/Erie-Barge Canal linkage and the development of the history theme as related to the coast, canal and cobblestone architecture.

A signage program was undertaken consisting of a War of 1812 theme of 51 historic markers along the Trail. Two information kiosks have been supplied by Seaway Trail which the County has erected at Lakeside

Beach State Park and Orleans County Marine Park. The kiosks contain a Seaway Trail map, County tourist destinations, and locally placed promotional material. Service signs should be considered along the LOSP, as indicated in subsection D1.

E. SCENIC RESOURCES

Scenic resources include both natural and cultural features of the landscape. A particular combination of landform and surface attributes defines a "character area" with a distinct visual identity. The scenic quality of these character areas is directly related to accessibility, presence of unique features, presence of eyesores, landscape diversity and a host of other abstract and measurable dimensions. Several character areas are identifiable in the WRA. These areas and scenic vistas are described below, along with opportunities and limiting factors (see Map 2.5).

1. Oak Orchard River Gorge

The Oak Orchard River Gorge character area, extending from the Waterport hydroelectric dam to the area of Orleans County Marine Park, is a scenic corridor providing a diversity of visual experiences. The river flows in a series of entrenched meanders cut into the shale bed, forming steep 50 foot cliffs. The walls and rim of the gorge are covered with a mixed hardwood and evergreen forest. The river, itself, supports a variety of aquatic plants, fish, and birds.

To fully experience this area access must be gained by boat. The lands bordering the river are, for the most part, in private ownership, restricting public access. One opportunity for land side access is the Orleans County Marine Park, which offers a scenic overlook of the gorge. Acquisition of scenic easements along narrow strips of private land bordering the gorge offers another, albeit costly, approach.

Numerous neglected and dilapidated structures dot the banks of the gorge, detracting from its scenic quality. Examples include deteriorated boat houses, slap dash camp structures, docks constructed of rubber tires, and various structural debris. Many of these structures extend far into the boating channel due to considerable siltation along the shoreline. Few, if any, of these structures are removable from the water, and are thus subjected to weathering and stresses of ice, further contributing to deterioration. An avenue of protection, which has been explored by the Town of Carlton, is the designation of a preservation overlay zoning district.

The Oak Orchard Gorge character area contains two subareas, one at Waterport Dam and the other at The Bridges. Each has its own amenities and problems.

a. Waterport Dam Area

The Waterport Dam character area contains a hydroelectric dam and a waterfall on the abandoned Hojack rail line. The deep gorge contrasts sharply with the generally flat terrain of the surrounding area, and the man-made features of the hydro facility accentuate the depth of the gorge. The area below the dam is a popular place for salmon fishing during the fall spawning run, as it is the first impassable barrier on Oak Orchard

River. The unimproved land on the west side of the river, at the brink of the falls, offers a scenic view of the foliage and the river gorge, and has potential for public access improvement. See also subsection D1 for public access issues.

b. The Bridges

The Bridges is a fishing hamlet, quintessentially New England in character, situated at the confluence of Oak Orchard River and Marsh Creek. It represents the transition point between the relatively undeveloped upstream reach of Oak Orchard River, and the more heavily developed recreational/commercial area downstream. As a transition area it is quaint yet subjected to water pollution and access pressures. In addition, public parking is limited and restricts full enjoyment of this very active area by tourists.

2. Lake Ontario Vistas

The Seaway Trail corridor follows the Lake Ontario State Parkway to Lakeside State Park, then continues westerly on Route 18. Two fishing access pull-offs on the LOSP provide a panoramic view of Lake Ontario; direct access, however, is limited to west bound traffic. East bound, there is a five mile distance between Parkway interchanges. There are no public facilities (picnic tables or historic markers) at the pull-offs. The LOSP portion of the Seaway Trail also bypasses the scenic opportunity at The Bridges, although it passes in close proximity to it. The Orleans County Tourism Advisory Board (the official I LOVE NEW YORK Tourist Promotion Agency) encourages use of the Seaway Trail, emphasizing the nearby scenic and recreational features through a self-guided tour map and brochure.

Northerly oriented roads terminating at the Lake Ontario shoreline offer limited opportunities to experience a lake vista. Full public access to lake vista is provided at the Point Breeze jetty via Point Breeze Road. At Shadigee, in the Town of Yates, a lake vista opportunity has recently been lost with construction of a fence at the Lyndonville water treatment plant. Elsewhere, most roads are privately owned fire lanes which limit public accessibility. Land at the road ends is also largely in private ownership, allowing no parking or expansion for access.

F. HISTORIC AND ARCHEOLOGICAL SITES AND STRUCTURES

Several historic and architecturally significant structures and sites could enhance the scenic and cultural aspects of the coastal area, if properly protected. These structures and sites are of local importance and for the most part rest in private ownership. None have been nominated for listing on either the State or national registers of historic places.

1. Kendall

At the present location of Eagle Creek Marina lies a Norwegian settlement site dating to 1825. A log house, now in private ownership, is believed to be one of the original buildings of the settlement.

2. Yates

On the north side of Lake Shore Road, near the Town Line Road, stand two cobblestone houses. They are exemplary of this type of architecture of the early to mid 1880's. Both are privately owned. On the south side of Lake Shore Road stands a privately owned six-sided house circa 1840-50. An accessory barn, with numerous advertising signs covering the roof, however, detracts from the site. A state historic marker also stands on the property.

3. Carlton

At The Bridges are four Italian style villas exhibiting the Gothic style of the mid 1850's. These structures are privately owned. Long-term preservation of these and two other stone buildings on Route 18 in Carlton depends on the owners' interests in *maintaining* the property, and may be questionable due to the high costs of appropriate materials.

The Oak Orchard River area has long been known for its early occupation by Indian tribes. On the west side of Oak Orchard River, near Point Breeze, lies a prehistoric Indian site originally reported in 1959. Four 25 foot square excavation units produced over 600 netsinkers, fishbones, and approximately two pounds of pottery, indicating heavy Iroquoian occupation dating to 1400 A.D. Depth of the occupation zone varied from 13 to 20 inches. The site was locally considered to be the most heavily occupied fishing village in Orleans County.

Later, in 1970, SUNY College at Brockport conducted limited excavation at the site. The site again yielded netsinkers, hammerstones, pottery shards, and fragments of bone. Excavation and artifact analysis indicated a second cultural affiliation, probably Owasco, dating from 600 to 800 A.D.

4. Opportunities For Preservation

The cobblestone structures in the WRA have particular historic significance to Lake Ontario, as most of these structures were built between 1825 and 1860 using water washed stone, gathered from the lake. The Orleans coastal area is within a concentrated region of cobblestone architecture along southern Lake Ontario, where 90 percent of the cobblestone buildings in the world are found within a 75 mile radius of Rochester, New York. The Cobblestone Society, a non-profit organization, was established in 1960 to preserve these structures and provide information on this lost art of building. A resource center serves as archive for pictorial and narrative histories of such structures across North America and provides preservation and information to the cobblestone homeowner.

The NYS Office of Parks, Recreation and Historic Preservation (OPRHP), in planning for boat access development at Oak Orchard Marine Park, conducted an archeological assessment of the adjacent Indian fishing site. In March, 1984, the OPRHP commissioned the Research Division of the Rochester Museum and Science Center to assess the archeological sensitivity of the project area and to evaluate the cultural resource base. Survey methods included interviews, site walkover, subsurface excavation, and laboratory analysis.

In addition, the site of the Lake View House Hotel, circa 1850-1900, was identified and examined. Information from prehistoric fishing villages is considered extremely rare and the local site is estimated to contain much information.

The report concludes that while both sites are considered significant cultural resources, only the Indian village site would appear to be directly and adversely impacted by the marina development. Should the OPRHP concur with these findings, the Center recommends conducting further investigations to determine if the site qualifies for inclusion in the National Register of Historic Places.

The three towns have established historic districts. Development in these districts is subject to site plan approval and certain requirements to minimize development impacts on buildings or uses of historic or architectural significance.

G. SIGNIFICANT FISH AND WILDLIFE HABITATS

Three significant fish and wildlife habitats have been designated in the WRA of Orleans County pursuant to 19 NYCRR 602.4. (See Appendix A for a detailed description of these habitats.) The designated habitats, Oak Orchard Creek, Johnson Creek and Sandy Creek, became effective October 15, 1987. In addition, one wetland has been designated under the State Freshwater Wetlands Act, 6 NYCRR Part 662 (see Map 2.7).

The designated habitats and wetland all are tributary to Lake Ontario, the smallest (7,340 square miles) and most easterly of the Great Lakes. These habitats serve wildlife endemic to this area as well as migratory water fowl. Some species may face depletion as winterers, breeders, or migrants in the area.

While the fundamental purpose of the habitat program is to preserve the viability of designated habitats, development is not assumed to be necessarily detrimental to a habitat and will be evaluated on a case by case basis. A number of habitat types offer opportunities for marina, campground and other recreational development. In these instances, the benefits and cost of development must be balanced with those of the habitat. The significant habitats in the WRA are described below.

1. Oak Orchard Creek

The Oak Orchard Creek habitat extends approximately six miles from the mouth at Point Breeze to the Waterport Dam, and includes the entire stream channel and associated islands and wetlands. The habitat also includes an approximate two mile segment of Marsh Creek, which flows into Oak Orchard Creek about one mile south of Point Breeze. (A one mile segment of Marsh Creek is a State designated Class I Freshwater Wetland encompassing 35.5 acres.)

The hamlet of The Bridges is a point of transition in land and water usage along the Creek. The area above the hamlet is relatively undeveloped with minimal habitat disturbance, while the segment below the hamlet is intensively developed with marinas, boat launches, residences and bulkheading. Large areas of emergent wetland vegetation and submergent aquatic beds occur in undisturbed shoreline areas bordering along this lower section of the Creek.

Oak Orchard Creek is the largest stream in Orleans County, and is one of about ten major tributaries in the Great Lakes Plain ecological region of New York. Undisturbed tributary streams that provide habitat for major spawning runs by salmonids and other lake-based fish populations are especially important in this region. Beds of emergent and submergent aquatic vegetation in the Creek contribute to the maintenance of fish populations and serve as valuable habitats for wildlife.

Large concentrations of chinook and coho salmon and brown trout migrate from Lake Ontario into the Creek each fall, from late August through December (September - November, primarily), when salmonids ascend tributary streams to spawn (although unsuccessfully in most instances). Steelhead (lake-run rainbow trout) migrate into Oak Orchard Creek during the fall and between late February and April. These fish populations are the result of an ongoing effort by the NYSDEC to establish a major salmonid fishery in the Great Lakes through stocking. A combination of siltation from runoff, slow upstream water flow, and high water temperatures has inhibited development of natural spawning habitats. The continuation of an aggressive fish stocking program is, therefore, critical to the maintenance of the fish population and the sport fishing industry. This industry generates a large economic impact seasonally and during area fishing derbies.

Oak Orchard Creek also contains a diverse warm water fishery. The area supports substantial natural reproduction by smallmouth bass, northern pike, rock bass, black crappie, brown bullhead, and largemouth bass. Oak Orchard Creek also provides a limited smelt fishery in the spring.

The wetlands and undisturbed woodlands bordering the Creek provide valuable habitats for wildlife that are uncommon in Orleans County's WRA. A variety of bird species inhabit the area, including great blue heron, greenbacked heron, mallard, wood duck, belted kingfisher, marsh wren, common yellowthroat, red-winged blackbird and swamp sparrow. During spring and fall migrations, Oak Orchard Creek and Marsh Creek serve as resting and feeding areas for locally significant concentrations of waterfowl. Other wildlife include muskrat, mink and raccoon.

The fish and wildlife resources associated with Oak Orchard Creek attract a significant amount of recreational use, although access to the area is limited by the steep banks and private land ownership. This is one of the most popular recreational fishing streams on Lake Ontario, due to the large salmonid runs in the area. Fishing pressure is concentrated below the confluence of Oak Orchard and Marsh creeks, and in the area immediately below Waterport Dam. The intervening segment offers abundant warm water fish species accessible by small boat or canoe.

Concentrated residential and commercial development at Point Breeze, the area's prime fishing center, is suspected of introducing pollution into the Creek from poorly functioning septic systems. Non-point source pollution, such as agricultural runoff, is also believed to be delivering high loadings of phosphorus to streams. It has also been suspected that dredging of streams removes bottom material and a food source essential to fish habitat. The bass population has experienced localized losses as a result. Finally, upstream water withdrawals

may diminish water quality at least temporarily. Water withdrawals, stream bed disturbances and effluent discharges are of particular concern during fish spawning runs.

2. Johnson Creek

The Johnson Creek habitat extends approximately seven miles from the hamlet of Lakeside on Lake Ontario to a low dam (the first impassable barrier) in the Village of Lyndonville. The Creek is bordered by woody vegetation along portions upstream of the Harris Road crossing. Downstream, the vegetation turns to grass and brush growth. From the State Route 18 crossing at Kuckville, downstream, the land use changes to seasonal and year-round residential use. The last mile of the Creek flows through the undeveloped west end of Lakeside Beach State Park.

Johnson Creek is second in size to Oak Orchard River and supports largemouth and smallmouth bass, northern pike, walleye, and whitesucker. In the fall (late August through December), however, concentrations of coho and chinook salmon enter the stream to spawn (although unsuccessfully in most instances). Although these species are not stocked in Johnson Creek, they are stocked by the NYSDEC in other tributaries of Lake Ontario, and many move into Johnson Creek during the fall spawning run. Other salmonids present in the Creek during this period include brown trout and steelhead (lake-run rainbow trout).

The fall salmonid run has the potential for attracting large numbers of anglers; however, access opportunities are limited to areas downstream of the Harris Road crossing, with the prime opportunity on Lakeside Beach State Park land. Much of the upstream reach is not navigable by even canoe during the summer due to low water depth and reduced flow. The spring runoff debris literally dams the entire channel, requiring several portages.

3. Sandy Creek

Sandy Creek flows through the towns of Hamlin (Monroe County), Kendall and Murray. The habitat includes the Creek channel and associated wetlands and islands, extending approximately fourteen miles from the mouth of Sandy Creek (at Sandy Harbor Beach) to the confluence of the west and east branches of Sandy Creek, just south of NYS Route 104. While woody vegetation borders most of its length, the lower three miles of the Creek, including a wetland, have been degraded by livestock grazing, shoreline property development and use of motorboats.

Sandy Creek is one of about ten major New York tributaries to Lake Ontario. Despite a variety of habitat disturbances, Sandy Creek has significant spawning runs (unsuccessful in most instances) of coho and chinook salmon in the fall (late August through December). Coho salmon and steelhead (lake-run rainbow trout) are stocked in Sandy Creek by the NYSDEC. Spawning runs occur as far inland as Albion on the West Branch, and Holley on the East Branch, but actual population levels in these reaches are not well documented. Brown trout occur only in the lower reaches of Sandy Creek during the fall spawning period. From the County Route 19 bridge, in the hamlet of North Hamlin, downstream to the mouth of Sandy Creek, there is also a productive warm water fishery. Warm

water species present include northern pike, smallmouth bass, and brown bullhead. Smallmouth bass spawning activity throughout Sandy Creek produces a large portion of the smallmouth bass population in this section of Lake Ontario.

4. Freshwater Wetlands

Freshwater wetlands in the WRA provide both natural and economic benefits. Not only do they support aquatic plant and animal life and migratory bird species, but they also serve as settling basins for silt which would otherwise obstruct streams and harbors. This capacity to absorb and hold water also controls flooding. In addition, wetlands offer recreational opportunities for fishing, hunting, hiking and birdwatching.

The NYSDEC has identified and mapped one wetland, pursuant to the Freshwater Wetlands Act, in the WRA. This wetland is designated a Class I Freshwater Wetland (#KT-9) and occupies 35.5 acres on approximately one mile of Marsh Creek in the Town of Carlton (see Map 2.7).

5. Lake Ontario and its Shoreline

This relatively deep lake is part of the Saint Lawrence Seaway, discharging into the St. Lawrence River and linked with Lake Erie by the Niagara River and Welland Canal, and with the Hudson River by the Erie-Barge Canal. It serves as municipal water supply, cold water sport fishery, recreation resource, and as a link in Great Lakes shipping commerce.

An emerging threat to the Lake Ontario ecosystem is the recent discovery of a small freshwater mollusk called the zebra mussel (*Dreissena polymorpha*), so named for the alternating light and dark bands along its elongated shell. This organism poses serious problems for boating and shipping, sport fishing and water supplies (see subsection N), with enormous economic and environmental costs.

Zebra mussels are native to the Black and Caspian Seas and other European waters and are believed to have been transported to the Great Lakes in the ballast tanks of European freighters. The mussel is introduced when the ballast tanks are discharged. First discovered in Lake St. Clair in June 1988, the mussel spread eastward to the Niagara River by January 1990.

The range of the mussel could expand to inland waterways through the Erie-Barge Canal by attaching itself to boat hulls, turtles and crayfish. They colonize lakeshores and riverbanks, and nearly any hard surface to a density of 100,000 per square yard and may accumulate to six inch depths on shallow lake bottoms.

The impacts on sport fishing are manifested in a depletion of microscopic plants (phytoplankton) and algae that are eaten by zooplankton which are, in turn, consumed by bait fish which are then eaten by large predator fish. If the bait fish are no longer available as forage, then trout, salmon, walleye and other sport fish species will be depleted. New York Sea Grant estimates the annual impact on the sport fishery to be \$27 million for Lake Ontario.

With regard to the lakeshore and nearby agricultural lands (excluding the tributaries previously described), these areas are of seasonal value to migrating waterfowl, shorebirds and songbirds. Waterfowl, migrating in the spring and fall, often use farm fields heavily for feeding and resting. Woodlots and areas of mixed vegetation are important to many species of songbirds. As elsewhere along the lake, bald eagles and other raptors are known to fly along the shore when migrating.

6. Opportunities for Habitat Improvement

The Town of Carlton has amended their zoning ordinance to create a stream preservation overlay district along the Oak Orchard River, from The Bridges upstream to Waterport Dam. The district would enhance the State Habitat designation by controlling land development a certain distance from the shore in an area of local environmental concern. Erosion, scenic quality and development intensity are main features in the Town's intent to preserve this tourism resource.

The Town of Carlton considers the freshwater wetland along Marsh Creek to be of local significance. The Town zoning ordinance established a Conservation Overlay District upon this and other wetlands to promote their preservation. The guidelines and regulations of the Freshwater Wetlands Act have been adopted and incorporated by reference into the ordinance.

The Orleans County Sanitary Code regulates the installation of individual household septic systems to ensure adequate operation. This will help reduce the cumulative effects of non-point sewage seepage to the habitat.

With regard to zebra mussel control, various biological and physical methods are available. Studies have shown, for example, that use of diving ducks have been successful in some European lakes at water depths less than fifteen feet.

H. AGRICULTURE

Agriculture is the predominant industry in Orleans County, with a 1987 market value of agricultural products sold totaling \$50.8 million. Market value of products has continually risen (by 26 percent since 1978) despite a decrease in the number of farms and a stable amount of land in farms. Just over 60 percent, or 152,000 acres, of the total land area in the County is farm acreage according to the 1987 Census of Agriculture, 2414 acres of which are situated in the WRA.

The demand for certain crops produced may be lowered with the departure of several food processing companies (e.g. H.J. Heinz, Birds Eye, Lipton, and Albion Produce).

Although a large portion of the WRA is covered with "unique" soils identified by the Soil Conservation Service, and soil classes 1 through 4, no more than 38 percent of the WRA is in active agriculture. Agricultural districts have been created, under Article 25AA of the State Agriculture and Markets Law, in the Town of Kendall (Districts 3 and 4), in the Town of Carlton (District 9) and in the Town of Yates (District 10). Portions of these districts overlay the WRA (see Map 2.8).

1. Problems

Although development pressures on these agricultural lands are not great, potential conflicts exist in two specific coastal areas with regard to unique soil designations and soil classes 1 to 4. The Morrison Site in the Town of Yates, and Point Breeze in the Town of Carlton (see Section IV), represent potential conflicts between agricultural preservation and development potential.

Virtually the entire Morrison Site (see subsection C1) is covered with soil classes 1 to 4, although only portions of the site are actively farmed. Farming is practiced through lease arrangements between the owner, New York State Electric and Gas Company (NYSEG), and farmers. However, rental rates are reportedly less than half that for nearby farmland along State Route 18. NYSEG continues to market the entire site for industrial or mixed use development, while farmers petitioning for creation of the Yates Agricultural District have recognized the site's development potential by excluding it from the district.

Recreational development pressures have been brought to bear on the Point Breeze area, south along State Route 98, to The Bridges hamlet. Much of this area contains soil classes 1 to 4.

In 1981 a development firm acquired options on 2,000 acres of farmland, largely the Bennett Farm property, for resort condominium development. In 1988 a similar project was proposed, including condos, camping, an inland harbor, motel and public parking. Although neither project materialized, continued pressures are expected due to the expanding sport fishing industry in this area and recent development of public fishing facilities. Much of this area has also been excluded from Agricultural District 9.

2. Analysis and Opportunities

It is apparent that a relatively small portion of the WRA is in active farming even though most of this area exhibits high quality soils. Agricultural use in the WRA constitutes only 1.5 percent of the total county-wide agricultural land supply. However, orchard crops, such as apples and cherries, thrive in the WRA because of the tempering effects of Lake Ontario. Cool temperatures in the Spring delay blossoming and provides protection from frost damage.

Orchard crops are situated in unique soil areas and do not conflict with development opportunities, and enjoy protection through agricultural districts. The agricultural districts have been created (and proposed) with planning forethought, including areas of viable farming, excluding areas with development potential.

The Morrison Site and Point Breeze are well-defined areas of potential growth which will not take large tracts of farmland when developed. Nor will they promote scattered, low density growth. In addition, there is very little alternative land in the WRA suitable for commercial or industrial growth. Strip residential development dominates the coastline, leaving isolated "back lots" with no infrastructure or access.

Point Breeze is a high density area with infrastructure in place. A need exists for facilities that support the growing sport fishing industry here. Local zoning policies discourage agriculture and encourage recreational and commercial uses in this area. The Town of Carlton real property tax base and personal income are among the lowest in the County. A major recreational complex could add significantly to the area economy in property and sales taxes and jobs.

I. WATER QUALITY

The coastal area's water resources, both on the surface and underground, are an important public asset and have influenced the present character and extent of uses along the lakefront and tributary fringe. Water quality will play a large role in the future character of the area. Maintaining high quality water offers advantages in health, recreation, scenery, and economic vitality, and is dependent on the proper use and management of this resource and its surrounding land resources. This subsection describes surface water limnology and groundwater resources in the coastal area, water quality problems associated with land use, and opportunities for abatement of problems.

1. Surface Water

The WRA's major surface water resources are Oak Orchard River, Johnson and Marsh Creeks, and Lake Ontario into which these streams drain. Oak Orchard River measures 4.8 miles in length from Waterport Dam to its mouth, and drains 223 square miles of land downstream of the dam. Marsh Creek is tributary to Oak Orchard River. Its drainage area, downstream of its confluence with Beardsley Creek, is 39 square miles and measures 1.06 miles from that point to The Bridges. The coastal boundary encompasses 10.5 miles of Johnson Creek from its mouth to the Lyndonville Village line. Its drainage area is 113 square miles.

Maintaining good stream habitat quality is necessary to support the fish species. To this end, agricultural management programs for reducing non-point phosphorus loading of streams have been evaluated by Cornell University, the U.S. Soil Conservation Service, Cooperative Extension, and Soil & Water Conservation Districts. This is part of a statewide effort mandated by the U.S. - Canada Great Lakes Water Quality Agreement. A \$300,000 research program has been initiated to demonstrate remedial measures to control agricultural non-point runoff of phosphorus to Oak Orchard River.

The present and desired uses of these waters and suitability for varied uses is directly tied to water quality.

Only the coastal waters (Class A) are suitable for the widest range of uses, including water supply, bathing, and fishing. The highest uses in the tributaries are limited to fishing and boating. Water quality problems are evident, to varying degrees, on the coastal waters and tributary streams.

In 1981, the NYSDEC identified segments of Oak Orchard River as "stressed" due to several non-point pollution sources. Sources outside the WRA include urban storm runoff and combined storm sewer overflows in the villages, and Class D stream runoff. Within the coastal region failing on-lot septic systems are the most widespread contributors. Cropland and pasture runoff occur both within

and outside the WRA. Several farm feed lots bordering Johnson Creek allow livestock into the channel. In addition, several municipal, industrial and commercial point-source discharges affect the stream and lake water quality.

NYSDEC PERMITTED DISCHARGES

FACILITY NAME	FACILITY LOCATION	RECEIVING WATERS
Salvation Army Camp	Town of Kendall	Groundwater
Village of Lyndonville Sewage Treatment Plant	Village of Lyndonville	Johnson Creek
Lakeside Beach State Park	Town of Carlton	Johnson Creek
Village of Albion Water Treatment Plant	Town of Carlton	Lake Ontario
Village of Lyndonville Water Treatment Plant	Town of Yates	Lake Ontario
Village of Medina Sewage Treatment Plant	Village of Medina	Oak Orchard River
Black North Inn	Town of Carlton	Oak Orchard River
Harbor Point Country Club	Town of Carlton	Oak Orchard River
Oak Orchard Marine Park	Town of Carlton	Oak Orchard River
Orleans County Marine Park	Town of Carlton	Oak Orchard River
Village of Albion Sewage Treatment Plant	Village of Albion	Sandy Creek-West Branch

Resulting water quality problems are aquatic damage by sedimentation, infectious agents, excess nutrients, and increased oxygen demand.

In 1982, the Orleans County Department of Health discovered significant levels of coliform bacteria in Oak Orchard River at its confluence with Marsh Creek at The Bridges. The total coliform level, which indicates the presence of organics, measured 79,500 parts per 100 m.l. The health standard is less than two parts per 100 m.l. Fecal coliform, which is bacteria originating in the intestinal tract of vertebrates, measured 490 parts per 100 m.l. The high total coliform levels could be due to Marsh Creek draining large areas of land rich in organic and agricultural loadings. Dairy farms, beef cattle, and other domestic farm animals are commonly raised in the area draining to Marsh Creek. In 1982, the County Health Department reported that agricultural runoff could be causing organic and inorganic chemical concentrations in streams.

The fecal coliform levels may be an indication of sewage pollution along Marsh Creek. The tributaries of Marsh Creek, although small, are quite extensive and many are in close proximity to individual residences. The County Health Department reported that, "the fecal coliform levels at Point Breeze give a strong indication of sewage pollution," apparently due to the combination of small residential lots and seasonal high density population. Individual household sewage systems are an ineffective method, and the Health Department recommends a community wide sewage disposal plan. Commercial facilities in the area have upgraded their sewage systems and are continually monitored. Improper boat discharges are also suspected.

The Erie-Barge Canal provides flow augmentation to these streams, fire control, pollution control, flood control, and agricultural irrigation, while creating enhanced salmon stream runs in the growing Lake Ontario sport fishing industry. The canal is supplied largely from the Niagara River and receives various point-source discharges from area industry. Nitrogen and phosphorous levels indicate that canal waters could be considered slightly enriched. Nitrate levels are highest near the agricultural sections of the canal.

2. Groundwater Quality

Orleans County is underlain by sedimentary deposits of sandstone, siltstone, shales, dolomites and limestones formed some 350 million years ago on the bottom of then Lake Iroquois. The WRA consists of a shale unit (Queenston Formation) which can exist to 1000 feet deep, yet depth from the surface is only a few feet.

As noted in subsection N, groundwater is the principal water source for coastal residents; efficient and proper use of this limited resource is critical if it is to continue as a major water source. Both water quality and quantity are erratic in the coastal area, resulting from a combination of man-made activities and natural characteristics. Subdivisions approved in the mid-50's for vaulted privies have been developed with inadequate septic systems due to small lot sizes and poor soil conditions. Development on existing approved subdivisions should meet current standards. The concentration of cottages on small lots with individual septic systems causes localized groundwater pollution problems. This septage infiltration into wells is increased where shallow depth to bedrock occurs. Groundwater yield is often inadequate due to the small size of vertical and bedding plane interstices. Lakeshore wells either dug or drilled into the shale typically yield hard and mineralized water and often produce brackish water. The best areas for springs, shallow wells, and aquifers are in soils dominated by sand and gravel, which are a scarcity in the coastal area.

3. Existing and Proposed Abatement Efforts

The Village of Medina sewage treatment plant (STP), which discharges into Oak Orchard River, was upgraded to secondary treatment in 1986 with the installation of an aerobic digester. The facility design flow is 2 million gallons per day (g.p.d), and the plant is expected to remove 6,000 g.p.d. of sludge (at 4 percent solids). The Village of Lyndonville STP, which discharges effluent to Johnson Creek, was converted to secondary treatment in 1981 with the addition of two

rotating biodisc contactors. The plant's design flow of effluent is 150,000 g.p.d., and it is estimated that 15 tons per year of dry sludge is removed.

The investigation of non-point pollution sources has gained renewed State attention. In 1984, the NYSDEC, in cooperation with the County Health Department, began research to assess the delivery of phosphorus to Lake Ontario from cultivated Elba and Manning mucklands in the Oak Orchard River watershed.

At the federal level, the Clean Water Act was amended in 1987 to include a new section 319 authorizing federal assistance for non-point source programs. It also required the states to prepare a non-point source assessment and management program. The assessment report lists priority water bodies found to be impaired by non-point pollution. Although none of the tributaries in Orleans County are currently listed, provisions are made to nominate additional water bodies impacted by non-point pollution.

Sandy Creek is within the Lake Ontario West Basin, as defined by the Rochester Embayment Remedial Action Plan. County officials are members of a subcommittee overseeing the west basin study, which will include a stream survey in the summer of 1990. The survey will identify erosion problems, point and non-point source discharges, land use and other water quality factors. As data are gathered on County tributaries they may then be considered for priority water problem status based on impairment.

J. FLOOD HAZARD AREAS

Certain areas of flat terrain along the shores of Lake Ontario and its tributaries are subject to flooding. The most serious problems are along the lakeshore where there are no bluffs. The flooding potential is an important consideration when guiding land use in these areas. Flooding could seriously threaten property and lives. In addition, new development could aggravate the flooding problem by creating impermeable surfaces and by removing vegetation, thereby increasing surface runoff.

1. Principal Flooding Program

The HUD Federal Insurance Administration studied in detail the entire lengths of Oak Orchard River, Johnson and Marsh Creeks, and the Lake Ontario shoreline. These studies found that the flood plains of the tributary streams are mostly wooded and agricultural areas and are moderately populated. The studies conclude that, "Stream flooding exists in areas along the streams where the banks and terrain abutting the streams are relatively flat and unable to contain flood levels within the channel. Due to the topography, these areas are susceptible to frequent minor flooding, but because of uniform rainfall distribution, they are not subject to high peak flows."

"Most of the stream flood problems occur in agricultural areas and residential developments along the streams being studied. The floods in the spring are normally caused by snow and ice melts. Thunder storms during the growing season cause some cropland flooding, but the extent of flooding is usually minimal. Coastline flooding is significant in areas where there are no bluffs to

protect property from inundation. Many cottages are located less than 100 feet from the lake and less than five feet above the mean water level."

On Oak Orchard River, in the Town of Carlton, development conflicts are minimal due to the steepness and depth of the creek's gorge. In addition, the Waterport Dam, operated by the Niagara Mohawk Power Corporation, regulates Oak Orchard River flows for power generation, thereby moderating high and low flow conditions at various times during the year. Water levels on Waterport Pond, however, have fluctuated severely as a result of power generation needs. This has resulted in damage to private in-water structures.

In the Town of Kendall, the designated 100 year coastal flood area extends up Eagle Creek, covering Eagle Creek Marina and crossing the Lake Ontario State Parkway. The marina is a small, commercial harbor with little protection from coastal flooding. The demand for recreational and support facilities has prompted a proposal for expansion of the site and additional in-water facilities. The extent of flooding and conflicts in resource use and preservation will be determining factors in the future operation and development of the marina.

Development conflicts in the Town of Yates are minimal on Johnson Creek, as the floodway and fringe primarily cover agricultural areas and cropland. On Johnson Creek, the flood fringe abuts or crosses some roads and encompasses farm buildings inland.

2. Abatement Efforts

To address these concerns, each of the towns has developed flood management measures which regulate land use in floodplain and flood prone areas, and meet the requirements of the National Flood Insurance Program. All have entered the regular phase of the program, Carlton in November of 1978, Kendall in May of 1978, and Yates in September of 1978, with the second level of insurance now available at actuarial rates. Flood Insurance Rate Maps, delineating flood insurance zones and flood elevation lines, have been completed for each town (see Map 2.10). Each of the coastal towns adopted a local law (revised in 1987) for flood damage prevention. These have been approved by the NYSDEC.

In the Town of Yates, two culverts have been installed on Town Line Road over Johnson Creek to accommodate high flows. Also, the elevation of the road bed has been raised.

K. COASTAL EROSION HAZARD AREAS

The coastal features of Orleans County range from low, gently rolling topography to high bluffs. Each landform is affected in varying ways and extent by lake wave action. The processes of both erosion and accretion are at work on the shoreline, eroding soil from the shore and transporting and depositing it by prevailing lake currents to the east. The magnitude of resulting property damage has a direct relation to the number, type, and proximity of structures on the shoreline, property value, and vulnerability. The control of erosion is addressed by both structural and regulatory means.

1. Problems and Issues

The rate of coastal retreat is variable along the Orleans County lakeshore depending on wave energy, geology, topography, human activity and other factors. Several structural hazard areas and natural protective features (bluffs) have been designated along the shoreline in accordance with the State Coastal Erosion Hazard Area Program (CEHA) (see Map 2.10). The bluffs rise to a height of approximately ten feet. These erosion-prone areas are receding at an average rate of one foot or more per year. During storm periods unprotected areas have lost 5 to 10 feet of shoreland to the lake, yet no principal or accessory dwelling units have been lost. Older cottage developments are situated in these erosion-prone areas. In some instances, cottages are located within a few feet of the edge of bluffs or are even overhanging a bluff, supported by stilts. However, the dangerous practice of locating structures too close to the edge of bluffs and other erosion-prone areas will be prevented in the future by local and State CEHA regulations which require safe setbacks (see K3).

Many of the structures used to protect the erosion areas are visually unattractive. They may also impact fish habitats and affect silt deposition patterns. However, it is not possible at this point to identify the cumulative effects of these structures.

Elsewhere along the Orleans County lakeshore, in the low-lying areas, littoral drift redeposits eroded material which, in turn, interferes with boating access. An example of this process occurs at the mouth of Johnson Creek, where the channel is continually shifting and shallow gravel shoals have formed.

Erosion also occurs along the tributaries to Lake Ontario. In one instance of considerable importance at the Point Breeze jetty/breakwater complex, fluvial drift originating along Oak Orchard River has filled the channel mouth, at a rate of 500 cubic yards per year, to 4 to 5 feet below the water's surface. This has, in turn, caused unsafe and inadequate navigation conditions for deep draft recreational sailing vessels. At issue is the maintenance of a passable channel at Point Breeze, the principal lake access point for pleasure boaters and fishermen in Orleans County. Dredging the mouth of the Creek would not only provide safe passage, but would also stimulate the waterfront area and increase recreation benefits.

2. Structural Control

Construction types of shoreline protection structures vary widely and very few appear to offer permanent protection. A range of structural types are used, primarily by individual land owners, including varying sizes of rip rap, concrete revetments, massive concrete blocks, concrete poured over low bluffs, and timber revetments. According to U.S. Army Corps of Engineers data, lakeshore defensive structures (breakwalls, rip rap, revetments) numbered 206 in 1982 (see figure below). The majority of these structures (77%) were constructed prior to 1969, and since that time only 48 structures (protecting 6400 feet of lakeshore) have been added.

NUMBER OF EROSION CONTROL STRUCTURES

	BUILT BEFORE 1969	BUILT AFTER 1969	TOTAL
YATES	42	37	79
CARLTON	68	9	77
KENDALL	48	2	50
TOTAL	158	48	206

Source: U.S. Army Corps of Engineers, Buffalo Region (1982 data)

Currently, protection is provided to approximately 6.5 miles of property frontage, or 26.8 percent of total County lakeshore.

In 1973, the Federal Operation Foresight Program provided \$5,000 grants for erosion control to shoreline owners who incurred damages caused by Hurricane Agnes. Few landowners used the funds for protection devices. Those devices that were constructed offer a certain degree of protection not obtained elsewhere.

These structures are, usually, formed concrete revetments extending along several properties, gabions, or stone levies, yet even these are being undercut by hydraulic impact of waves. They defend approximately 4,800 feet, or 3.8 percent of the County's lakeshore. Emplacement of rip rap is one of the most common methods of stabilization used by individual property owners. Placed in discontinuous fashion, wave action erodes the coastline around and ultimately behind rip rap and other structures.

3. Regulatory Controls

The three towns have established Waterfront Residential districts with setbacks of 20 feet. This is an improvement over previous setbacks which were as little as 5 feet in certain instances. In addition, the Coastal Erosion Hazard Area program is now in effect in the three towns (Kendall and Yates have both adopted local CEHA regulations acceptable to NYSDEC; Carlton elected to have NYSDEC administer the State CEHA regulations for the Town.) In designated erosion-prone areas, setback requirements may be more restrictive than local zoning setbacks.

L. AIR QUALITY

The WRA is located within the Genesee/Finger Lakes Air Quality Control Region. A manual air quality monitoring site is located in the Village of Albion.

Two specific air pollution generators are the New York State Electric and Gas, Inc. coal-fired power plant at Somerset, Niagara County, five miles west of the Orleans County line, and the Lake Ontario State Parkway within the WRA. Although the area is subject to prevailing westerly winds, neither source presents major air quality concern.

The Somerset Generating Station went into service in August, 1984, with a generating capacity of 625,000 Kilowatts. A 600 foot emission stack provides local protection while the plant's flue gas desulfurization system, commonly called a "scrubber," removes up to 90 percent of the sulfur dioxide emitted in the plant gases. It is regarded as a state-of-the-art facility.

Lake Ontario State Parkway extends from Lakeside Beach State Park, in Carlton, easterly to the City of Rochester. Its length in the County is approximately 12.5 miles. Highway counts reveal that average daily traffic volumes do not contribute significantly to air quality degradation, although average flows do fluctuate widely due to seasonal tourism and fishing activities.

Total suspended particulates are well below State and federal ambient air quality maximum standards, according to the NYSDEC Division of Air Resources.

M. SOILS AND TOPOGRAPHY

The topography of the Orleans County WRA, which is located in the Ontario Lake Plains, is characterized by gently to moderately sloping landforms. The lakefront often descends gently to the level of the gravel shore. In localized areas the edge of the lakeshore rises abruptly in a bluff ranging up to 10 feet in height (see Map 2.10).

Soils near the lakeshore are dominated by the Collamer-Niagara Association on nearly level to sloping topography (see Map 2.11). These soils are deep, poorly to moderately drained, and have a seasonal high water table. Seasonal wetness, moderately slow to slow permeability, and erosion hazard pose the primary limitations for farm use and development.

Inland, along Johnson Creek, the Teel Wayland Association covers the flood plain with deep, moderately well drained to very poorly drained soils. These soils are nearly level and have a seasonal high water table often at or near the surface. Farm use and development are limited by the high water table and susceptibility to flooding, yet potential is good for recreation.

The upper reaches of Oak Orchard River are dominated by two associations. The Hilton-Appleton Association has deep, moderately well drained and somewhat poorly drained soils on nearly level to gently sloping topography. They exhibit a seasonal high water table perched generally above the moderately slowly permeable substratum. Drainage is the main limitation for farm and non-farm uses as much of this association is nearly level. The Alton-Phelps Association is located on nearly level, gravelly areas and is somewhat excessively drained to moderately well drained. Slopes range from 0 to 8 percent. Soils have a temporary high water table during wet periods. The course texture, droughtiness, and seasonal high water table are the primary limitations for farming and development. Soils in this association have potential for fruit and vegetable crops, gravel pits and recreation.

N. INFRASTRUCTURE AND PUBLIC FACILITIES

1. Public Water Supply

There are two public water systems located in the WRA, in the Towns of Carlton and Yates, which provide only limited service to this area (see Map 2.9). The

Village of Albion takes its water supply from Lake Ontario through an intake and water purification plant (constructed in 1963), located on the shore adjacent to Wilson Road, in the Town of Carlton. A 24-inch intake extends 1,500 feet into Lake Ontario at a fixed level 18 feet below mean lake level. The maximum capacity of the plant is reportedly 2.6 million gallons per day (m.g.d.). A 16-inch transmission main extends from the plant south along Wilson Road, Route 18, and Route 98 to the Village of Albion.

With one exception, the distribution system is a "deadend" type, with terminal lines branching from the transmission main. An 8-inch line serves Lakeside Beach State Park and residents of Oak Orchard On-The-Lake. A 10-inch line has been extended north along Oak Orchard Road to serve the Point Breeze area. This then branches easterly on Lake Shore Road with an 8-inch line. In 1988, an 8-inch line was extended from the main along Park Avenue and Park Avenue Extension. There are no storage facilities located in the WRA.

The Village of Lyndonville also uses Lake Ontario as its supply source and maintains a water filtration plant on the shore at Shadigee, at the terminus of Route 63 in the Town of Yates. The plant, constructed in 1922, draws water from the lake via a 10-inch intake extending 800 feet into the lake. The plant has a rated capacity of 0.2 m.g.d. A 10-inch transmission main follows Route 63 south to the Village, serving the coastal hamlet of Shadigee. There are no storage facilities located within the coastal boundary. In 1984, the Lyndonville Village Board commissioned a study of the 60-year old system. The final report, completed in November, 1984, recommends redesign of the water intake pipe into the lake, replacement of the existing filter system, replacement of two 40-year old pumps at the station, and distribution improvements in the Village at an estimated cost of \$46,021. The report recommends making these priority improvements over a nine month period. No service expansions are immediately contemplated for the coastal area.

There is no water distribution system within the coastal boundary in the Town of Kendall. In all three towns on the lakefront, supplies from individually dug or drilled wells are generally inadequate under heavy usage and during dry periods.

The general lack of public water supplies contributes to a lowered fire insurance rating on lakeshore structures. None have an "A" rating (highest), although at Point Breeze and Waterport areas, structures within 5 miles of the Waterport fire station and within 1,000 feet of a hydrant have a "B" rating. Most areas along the coastal area have a "C" rating. This situation is worsened by the fact that fire companies cannot utilize lake water due to debris which clogs pumps and hoses. These factors, together with private maintenance of fire lanes, inefficient north-south vehicle routes, and the State parkway, as a barrier present a serious fire hazard to lakeshore residents.

A major, immediate impact on public water intakes results from zebra mussel infestation (see subsection G5). Water intake structures draw a continuous flow of water laden with the microscopic plants which the zebra mussel feed on. They may colonize any surface or pipeline in the water distribution system, obstructing water flow and causing corrosion. Physical control methods, such as scraping of intake pipes, pipe screening, chlorination and flushing with heated water, may add ten percent to the cost of supplying drinking water.

2. Opportunities for System Expansion

Opportunities for expansion of the water supply distribution system appear limited. The relatively long distances between residences or clusters of homes, with an overall low housing density, are inhibiting factors. The Town of Yates explored the feasibility of service along Lakeshore Road; service to waterfront cottages, however, was infeasible. The Village of Lyndonville supply system reportedly does not have excess capacity; the Village of Albion system, however, does have potential for expansion. The Towns of Kendall and Yates may have greater opportunities for service extension by tapping into nearby systems in Monroe and Niagara counties. This may be the alternative of choice since the zebra mussel may inhibit supply capacity at existing water intakes.

3. Public Sewer Services

There are no public sewage facilities located within the WRA. All systems are private, on-lot septic tanks with leach fields. Significant pollution problems have been discovered on Oak Orchard River in the relatively dense areas of Point Breeze and The Bridges, indicating septic tank failure. This issue is addressed in greater detail in subsection I.

4. Transportation Facilities

The coastal area depends entirely on the local road and highway system to meet its transportation needs (see Map 2.1). The Lake Ontario State Parkway is the area's major east-west corridor, extending from Lakeside Beach State Park in Carlton, through Kendall to Rochester. This is a limited access parkway, with five interchanges in Orleans County, and is restricted to non-commercial vehicles. The State parkway is the sole limited access arterial in the coastal area.

The State parkway and State Route 18 are the area's links in the Seaway Trail System. Both are seasonal use routes as indicated by large fluctuations in traffic volume during peak and off-peak periods. Peak summer traffic nearly doubles off-peak volumes in Spring and Fall.

Lakeshore Road, a County highway, runs east-west through the entire WRA, primarily serving local residents. Private fire lanes give lakeshore cottage residents access to Lakeshore Road.

The main north-south route serving the WRA is State Route 98, which runs north from the New York State Thruway interchange at Batavia. South of The Bridges this route becomes Point Breeze Road, extending 1.2 miles to the State parkway interchange and beyond to Point Breeze. Traffic volumes on this section showed an increase of over ten percent between 1979 and 1980. Route 18 and Marsh Creek Road converge at The Bridges.

5. Transportation and Safety Issues

The ability of existing roadways to conveniently, efficiently, and safely serve present and future travel demands is directly related to highway condition and maintenance, as well as adjacent land use. The magnitude of existing traffic concerns and potential new coastal development indicate a need for coordinated

land development/transportation planning activities among local, State, and federal government agencies.

The deep gorge carved by Marsh Creek at The Bridges results in steep highway grades, while two stop signs further slow north-south travel. Severe winter weather conditions and congestion during the summer tourism season aggravate traffic flow and create hazardous driving conditions. At The Bridges, a County bridge spanning Oak Orchard River was replaced, as was the bridge over Marsh Creek which was closed.

Highway conditions vary throughout the WRA; only a few road sections, however, are highly rated. Development pressures on already deteriorated transportation facilities will increase safety hazards to pedestrians and cyclists. This is of particular concern because this program should encourage growth of recreational facilities, which may include pedestrian traffic. Route 18 is of special concern because of its Seaway Trail designation. Maintenance has been deferred, resulting in potholes, cracks, disintegration of the shoulder, and debris. Wider lane width and shoulders, with a designated bicycle lane, are needed to accommodate both anticipated demand and traffic safety.

Concentrated development at Point Breeze presents unique problems and opportunities not found in other areas of the coast. The growing sport fishing industry attracts anglers here to gain access to Lake Ontario and its tributaries, exerting increasing pressures for expansion and development of facilities. Demand for improved highway facilities is increasing with the development pressures evolving at Point Breeze. Orleans County Marine Park, Oak Orchard Marine Park, and the Bennett Farm, which are served by public water and the adjacent State parkway interchange, represent opportunities for development.

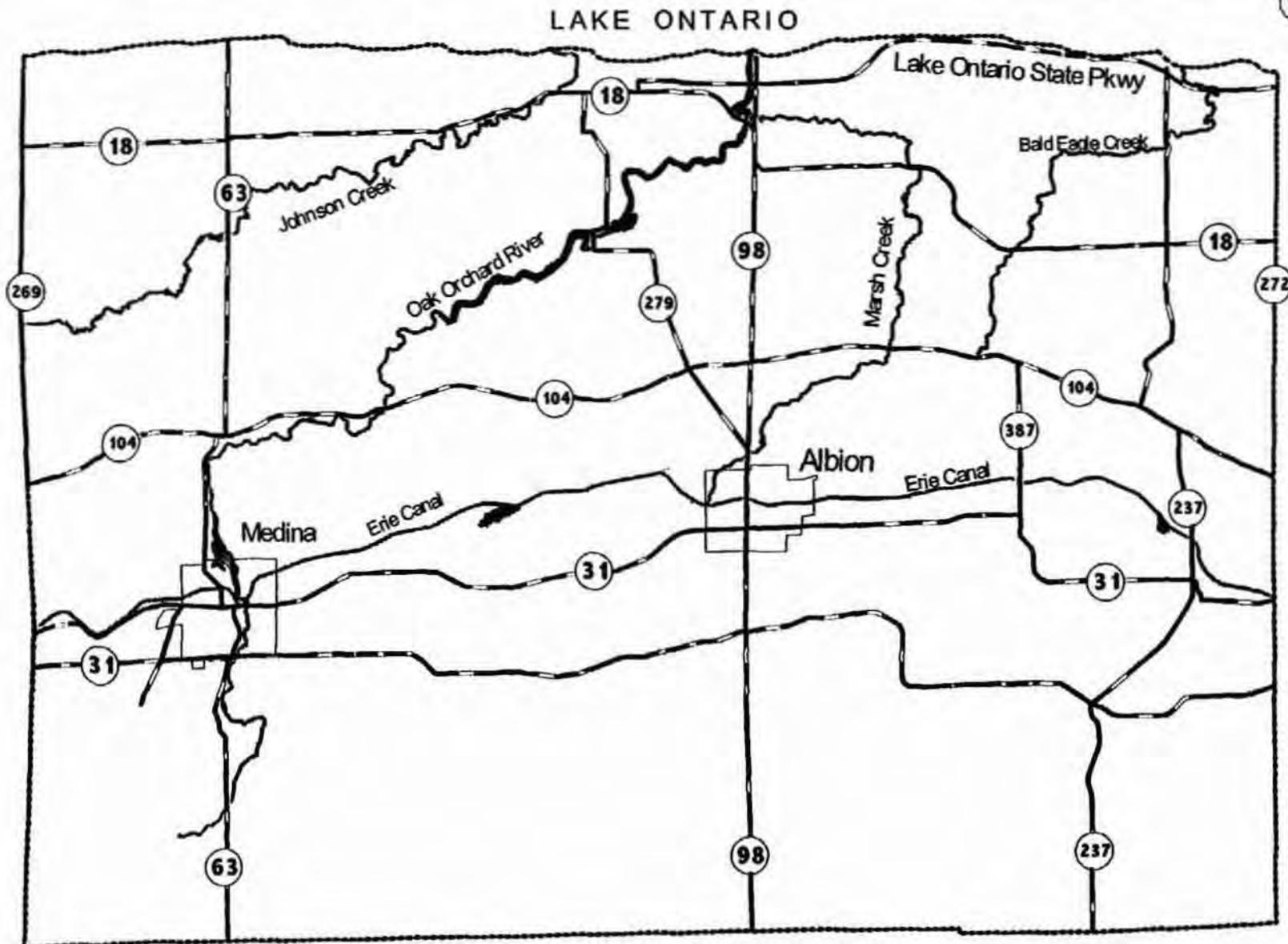
The parkway connection with Route 390 in Rochester also decreases the travel time to Orleans County. However, the State parkway works both as a development incentive and a physical barrier to growth. The resulting growth pattern will likely be compact north of the parkway. Because of the existing mixed-use character of Point Breeze (open space wetland, recreational, commercial, agricultural, and residential) and small lot sizes, continued in-fill and concentration of uses could result in further traffic and parking congestion, incompatible uses, and water pollution.

New development along the coastal area will result in concomitant traffic demands, with a need to improve both north-south and east-west transportation corridors. Continuous coordination of waterfront projects and highway infrastructure projects will need to be achieved to ensure efficiency and comprehensiveness in waterfront planning. The local County representative to the Genessee Transportation Council should be the liaison to encourage coordination of local development and the five-year Transportation Improvement Program. County and State highway officials have begun the discussion stage of a process to solve the transportation problems at Point Breeze and The Bridges.

K-Y-C LWRP

Map 2.1 Location

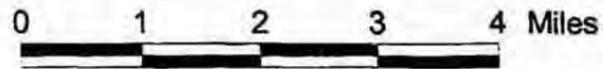
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K-Y-C - LWRP

Map 2.3 Water-Dependent and -Enhanced Recreational Facilities

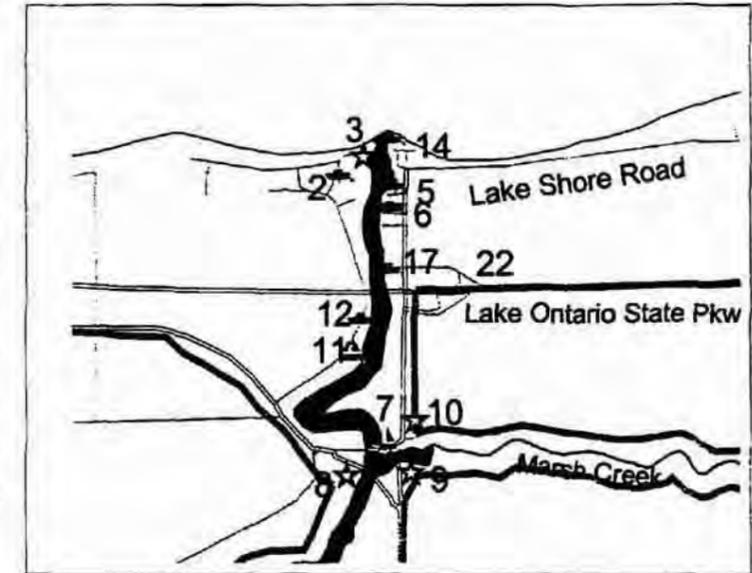
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NEW YORK**



Water Dependent Sites

- ☆ Bait and Tackle
- ⚓ Boat Launch
- 🏕️ Campground
- 🎣 Fishing Access
- ⚓ Marina
- 🚰 Pull-Off
- 🏞️ State Park
- ⚓ Yacht Club
- ⚓ Boundary

- | | |
|--------------------------------------|----------------------------------------|
| 1. Bald Eagle Marina | 12. Leonard's Marina |
| 2. Oak Orchard Marine Park | 13. Niagara Mohawk Property |
| 3. Point Breeze Bait and Tackle | 14. Oak Orchard Marine Park-East |
| 5. Four C's Marina | 15. Lakeside Beach State Park |
| 6. Oak Point Marina | 16. Green Harbor Campground and Marina |
| 7. Point Breeze Yacht Club | 17. Orleans County Marine Park |
| 8. Harry's Bait Shop and Boat Livery | 18. Boat Launches |
| 9. Lizzy's Landing | 19. Salvation Army Campground |
| 10. Narby's Tackle | 20. Parkway Pull-Off |
| 11. Oak Orchard Yacht Club | 21. Fishing Access |
| | 22. Lake Ontario State Parkway |



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Map 2.4 Underutilized, Abandoned and Deteriorated Sites

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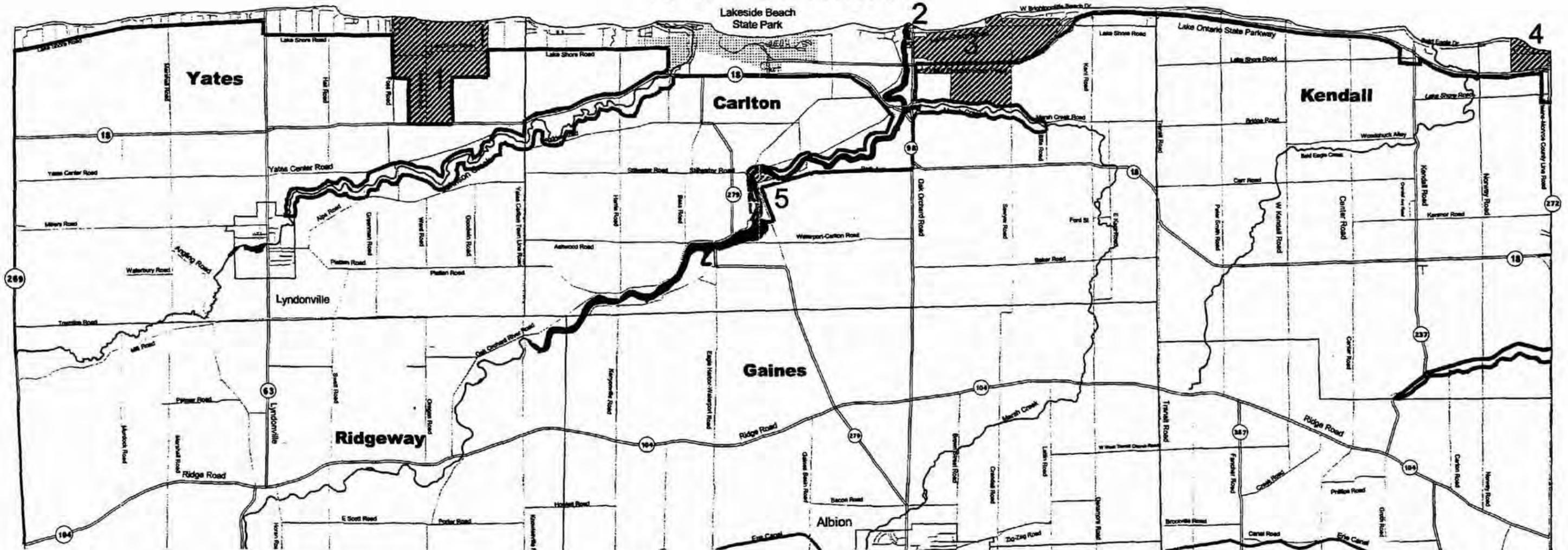


Boundary
 Target Sites

1. Morrison Site
2. Marine Park
3. Bennett Farms
4. Salvation Army Campground
5. State Acquisition Lands



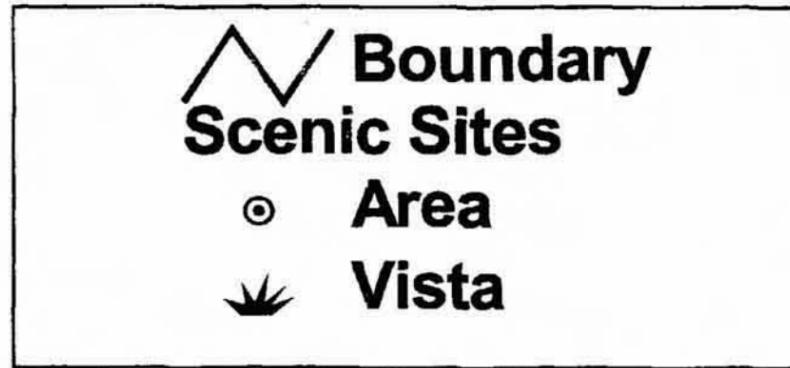
LAKE ONTARIO



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Map 2.5 Scenic Vistas and Areas

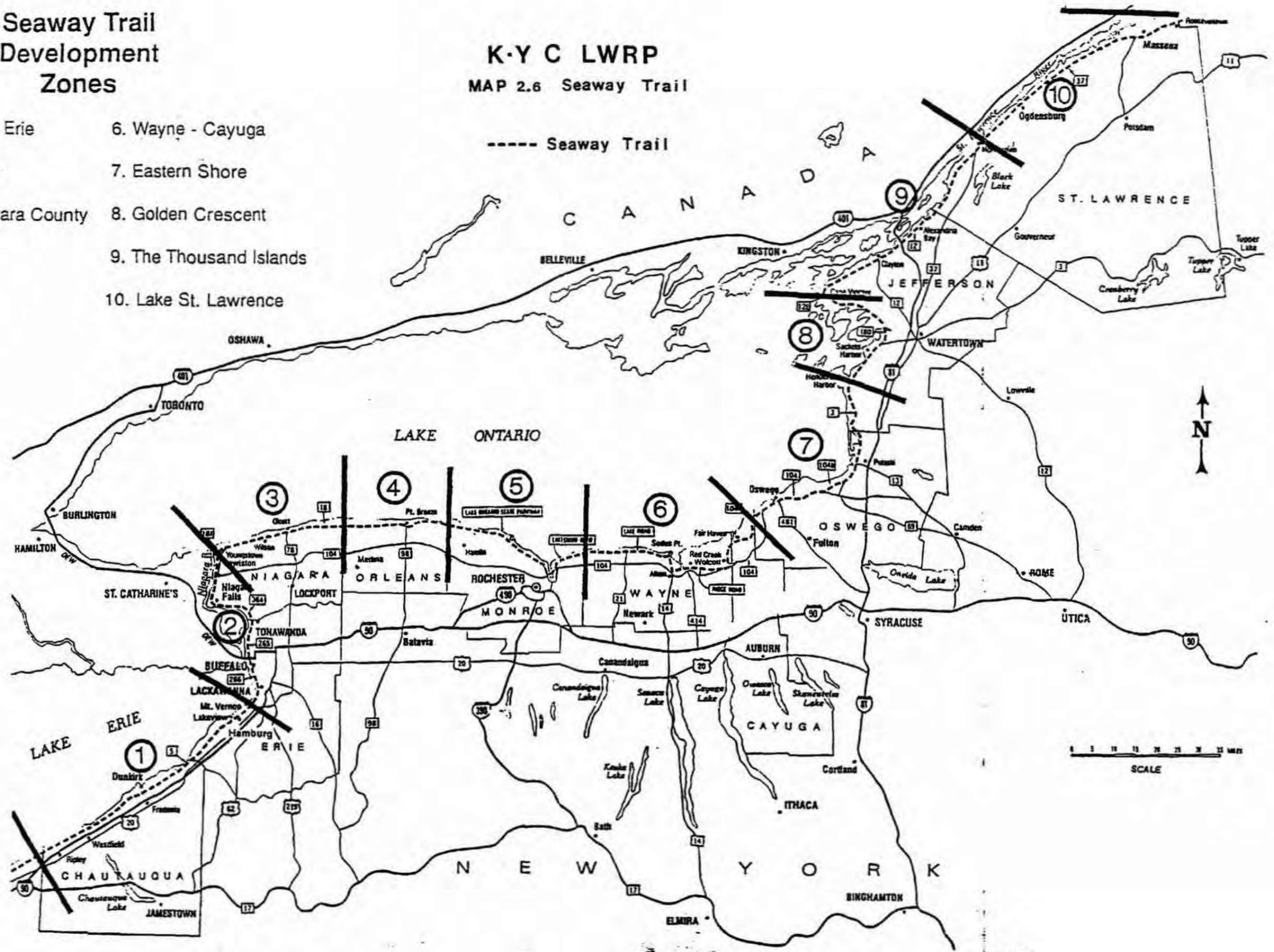
**ORLEANS COUNTY
NEW YORK**



Seaway Trail Development Zones

- 1. Chautauqua - Erie
- 2. Niagara River
- 3. Northern Niagara County
- 4. Orleans
- 5. Monroe
- 6. Wayne - Cayuga
- 7. Eastern Shore
- 8. Golden Crescent
- 9. The Thousand Islands
- 10. Lake St. Lawrence

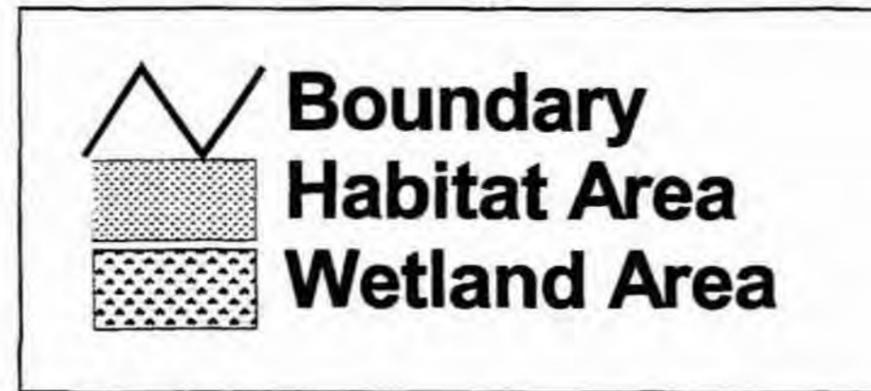
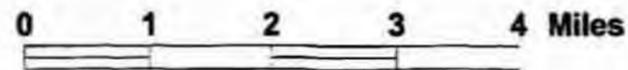
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MAP 2.6 Seaway Trail



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Map 2.7 Significant Fish and Wildlife Habitat Areas/Freshwater Wetlands

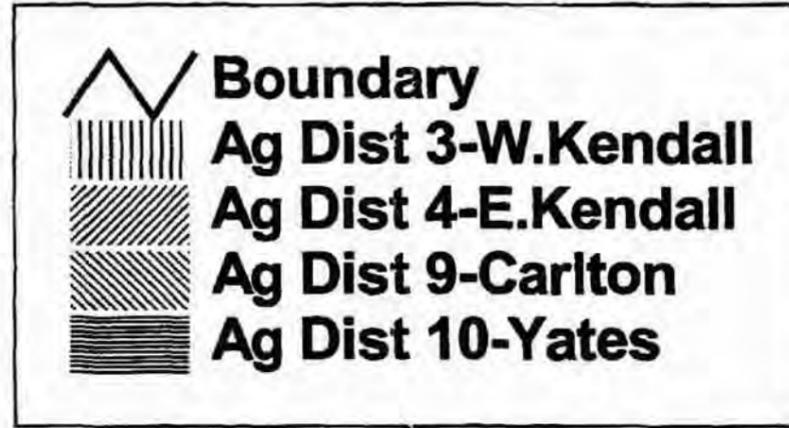
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NEW YORK**



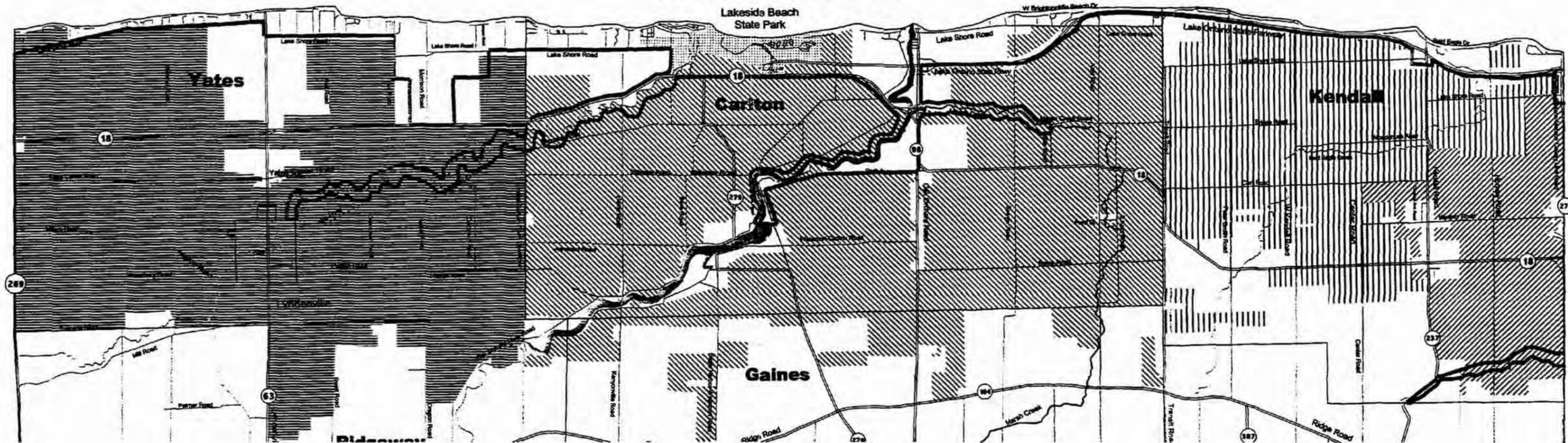
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Map 2.8 Agricultural Districts

**ORLEANS COUNTY
NEW YORK**



LAKE ONTARIO



SECTION III

WATERFRONT REVITALIZATION PROGRAM POLICIES

SECTION III: WATERFRONT REVITALIZATION PROGRAM POLICIES

- POLICY 1** **RESTORE, REVITALIZE, AND REDEVELOP DETERIORATED AND UNDERUTILIZED WATERFRONT AREAS FOR COMMERCIAL, INDUSTRIAL, CULTURAL, RECREATIONAL AND OTHER COMPATIBLE USES.**
- POLICY 1A** **REVITALIZE AREAS OF EXISTING DETERIORATION: POINT BREEZE, THE BRIDGES, LAKELAND, AND SHADIGEE.**
- POLICY 1B** **CONCENTRATE RECREATIONAL DEVELOPMENT IN UNDERUTILIZED AREAS SUCH AS BENNETT FARM, MORRISON SITE, GREEN HARBOR, EAGLE CREEK MARINA AND THE SALVATION ARMY CAMP.**
- POLICY 1C** **ENCOURAGE RENOVATION OF PUBLIC AND PRIVATE ROADS (ROUTE 18, FIRE LANES) IN THE WRA TO SERVE WATERFRONT USES.**

Explanation of Policy

The Orleans County waterfront is long and diverse, and contains numerous facilities that are either deteriorated or underutilized. Some areas possess both characteristics and should be afforded a higher improvement priority (e.g., actions that address both should take precedence).

Deteriorated areas are boat and fishing recreation facilities that are in need of repair and require in-water maintenance to fully utilize. The single area with the greatest need is Oak Orchard River at Point Breeze. While there are excellent public facilities at the mouth of the harbor (Oak Orchard Marine Park), private docks and services lining the creek are in fair to poor condition, overcrowded, lack adequate parking and boat storage, and contain limited support services. To the south is The Bridges, an area of three bridges with a deteriorated hotel and houses. Other deteriorated areas include Lakeland (boat launch and tower), Shadigee (restaurant and cottages), and Green Harbor (marina, campground and launch).

Underutilized areas represent substantial needs in the coastal areas. These areas include:

A. KENDALL

1. Eagle Creek Marina. Expansion of existing boat launch, dockage and mooring facilities to meet rising demand for fishing and recreational boating in the eastern WRA. Accommodation of more suitable public access to lessen conflict with adjacent residential land use.
2. Salvation Army Camp. Expansion of public access to adjacent waterfront recreation facilities currently restricted to private use.

In addition, deteriorated roads along the waterfront have discouraged the use of coastal facilities and resources. The deteriorating condition of Route 98 (an access arterial) and inadequate road shoulders influence waterfront tourism. Route 18 must be improved to enable the Morrison site to develop.

B. YATES

Morrison Site. Marine and recreational support services as well as mixed-use (commercial, industrial) opportunities.

When an action is proposed in the above identified locations regarded as suitable for development, the following guidelines will be used:

1. Priority should be given to uses which are dependent on a location adjacent to the water;
2. The action should enhance existing and anticipated uses;
3. The action should serve as a catalyst to private investment in the area;
4. The action should improve the deteriorated condition of a site and, at a minimum, must not cause further deterioration;
5. The action must lead to development which is compatible with the character of the area, with consideration given to scale, architectural style, density, and intensity of use;
6. The action should have the potential to improve the existing economic base of the community and, at a minimum, must not jeopardize this base;
7. The action should improve adjacent and upland views of the water and, at a minimum, must not affect these views in an insensitive manner; and,
8. The action should have the potential to improve opportunities for multiple uses of the site, if appropriate.
9. If an action is proposed to take place outside of a given deteriorated, underutilized waterfront area suitable for redevelopment, and is either within the relevant community or adjacent coastal communities, the agency proposing the action must first determine if it is feasible to take the action within the deteriorated, underutilized waterfront area in question. If such an action is feasible, the agency should give strong consideration to taking the action in that area. If not feasible, the agency must take the appropriate steps to ensure that the action does not cause further deterioration of that area.

C. CARLTON

Point Breeze. Bennett Farm planned for support services (retail, motel, restaurant, parking), recreation (cultural/tourist facilities) and residential uses enhanced by new dockage and water-dependent facilities (harbor, launching, mooring).

- POLICY 2** **FACILITATE THE SITING OF WATER-DEPENDENT USES AND FACILITIES ON OR ADJACENT TO COASTAL WATERS.**
- POLICY 2A** **PROMOTE THE SITING OF RECREATIONAL USES ALONG THE WATERFRONT INCLUDING USES THAT PROVIDE FOR SWIMMING, FISHING, BOATING AND FACILITIES THAT ENHANCE THOSE USES.**
- POLICY 2B** **ENCOURAGE THE DEVELOPMENT OF WATER-DEPENDENT RECREATIONAL USES NOT CURRENTLY AVAILABLE IN THE WATERFRONT (E.G., SWIMMING AND MARINE SERVICES) TO DIVERSIFY AND REINFORCE COASTAL USES.**
- POLICY 2C** **PROMOTE THE SITING/TARGETING OF WATER-DEPENDENT USES WHERE EXISTING INVESTMENTS IN SIMILAR FACILITIES HAVE BEEN MADE TO EXPAND THE EFFECT OF THOSE USES COMMENSURATE WITH DEMAND (E.G., POINT BREEZE, LAKELAND, GREEN HARBOR, EAGLE CREEK MARINA).**
- POLICY 2D** **ENCOURAGE THE SITING OF WATER-ENHANCED USES IN ADJACENT AREAS UPLAND FROM THE WATERFRONT AND SHORE.**

Explanation of Policy

The Orleans County shoreline is dominated by cottages, second homes and arterial highways (Lake Ontario State Parkway). There are no swimming, goods transfer, processing plants, scientific or other similar water-dependent uses in the WRA.

Carlton's waterfront contains the greatest number of water-dependent uses, located at Point Breeze, Green Harbor and the Waterport Dam. Principal uses shall be: boat launching, dockage, marina service/storage/repair, recreational fishing, swimming, hydroelectric generation, and flood/erosion protection. These shall be afforded priority over non water dependent uses. Preference will be given to the development of swimming facilities at Lakeside Beach State Park due to its absence in the area.

Major water-dependent use priorities at the Oak Orchard Marine Park on Oak Orchard River include marine dockage and launching (west side) and fishing and docks (east side). Expansion of boating and fishing facilities and services should eventually occur at Bennett Acres. Fishing and scenic recreation use will be promoted in the Waterport Dam/river gorge area.

Other areas of consideration for siting of water-dependent uses include Lakeland (boat launching), Morrison Site (boat harbor and services, swimming), Green Harbor (fishing, swimming and boat mooring), Eagle Creek Marina (boat launching and dockage) and the Salvation Army Camp (swimming, fishing). Projects in these areas will be advanced for water-dependent uses over other uses and include enhancement or creation of marine services through breakwalls and/or other protection structures (e.g. Morrison, Green Harbor, Bennett Farm and Eagle Creek Marina).

Water-enhanced uses will be given priority over non-water related uses in nearshore areas. These include: retail support services and water-enhanced recreation at Bennett Farms, public use of the Salvation Army Camp, and camping/recreation facilities in the Waterport Dam area. These will be sited upland from critical coastal lands which are more valuable for water-dependent uses.

If there is no immediate demand for a water-dependent use, but a future demand is reasonably foreseeable, temporary non-water-dependent uses should be considered preferable to a non-water-dependent use which involves an irreversible, or nearly irreversible commitment of land. Parking lots, passive recreational facilities, outdoor storage areas, and non-permanent structures are uses or facilities which would likely be considered as "temporary" non-water-dependent uses.

The traditional method of land allocation, i.e., the real estate market, with or without local land use controls, offers little assurance that uses which require waterfront sites have access to coastal waters. To ensure that such water-dependent uses can continue to be accommodated, government agencies will avoid undertaking, funding, or approving non-water dependent uses when such uses will preempt the reasonably foreseeable development of water-dependent uses. In promoting water-dependent uses, consideration will be given the following issues:

1. The coastal area has, and will be given, favored treatment with respect to public funding and services.
2. Where possible, consideration shall be given to providing water-dependent uses with property tax abatements, loan guarantees, or loans at below market rates.
3. New water-dependent development will be actively promoted with assistance from the State and the Orleans County Industrial Development Agency (advertising campaigns and public hearings). In addition, a list of sites available for non-water-dependent uses will be maintained by each coastal community in order to assist developers seeking alternative sites for proposed projects (both water and non-water-dependent).
4. Local zoning districts favoring waterfront uses should be established as an effective tool of local government in assuring adequate opportunities for the development of additional water-dependent and water-enhanced uses in the coastal area.

See Policies 1, 19, 20, 21.

POLICY 3 THE STATE COASTAL POLICY REGARDING THE DEVELOPMENT OF MAJOR PORTS IS NOT APPLICABLE TO KENDALL, YATES AND CARLTON.

POLICY 4 THE STATE COASTAL POLICY REGARDING THE STRENGTHENING OF THE ECONOMIC BASE OF SMALLER HARBOR AREAS IS NOT APPLICABLE TO KENDALL, YATES AND CARLTON.

POLICY 5 ENCOURAGE THE LOCATION OF DEVELOPMENT IN AREAS WHERE PUBLIC SERVICES AND FACILITIES ESSENTIAL TO SUCH DEVELOPMENT ARE ADEQUATE.

**POLICY 5A CONCENTRATE DEVELOPMENT AROUND THE POINT BREEZE
AREA AND SHADIGEE WHERE TRANSPORTATION ACCESS,
PUBLIC WATER AND PUBLIC/PRIVATE LAND INVESTMENTS
HAVE ALREADY BEEN MADE.**

Explanation of Policy

The only portions of the waterfront with public services are Shadigee (Yates) and Point Breeze (Carlton). This is comprised of public water and highways. Point Breeze simultaneously enjoys arterial access to the Lake Ontario Parkway and the principal build-up of existing commercial-recreation facilities. New development opportunities that are in proximity to these areas include: the Bennett Farm, Oak Orchard Marine Park (west side of the creek), Orleans County Marine Park, Lakeside Beach State Park and the Morrison site. The lack of public sewers or substantial private systems place a significant limit on the intensity of development without new sewer investments.

Appropriate projects must demonstrate: adequacy of services, protection or enhancement of coastal resources, and beneficial impacts on tax rates in the area.

The above policy is intended to: strengthen existing development; foster an orderly pattern of growth; increase the productivity of existing public services and moderate the need to provide new public services in outlying areas; and, preserve open space in sufficient amounts.

The following guidelines will be considered when assessing the adequacy of existing infrastructure and public services for substantial new development:

1. NYS Touring Route 18 or any adjacent or alternative vehicular transportation routes shall safely accommodate the peak traffic generated by the proposed development.
2. The municipal water supply system in the Point Breeze area presently operates within its designed 2.6 million gallon a day capacity. The consumptive and fire fighting water needs of new development shall be accommodated by the system.
3. Schools, police and fire protection, and health and social services are adequate to meet the needs of the population expected to live, work, shop, or conduct business in the area as a result of the development.

New development in the Point Breeze and Shadigee areas will necessitate additional improvements to the public water and sewage infrastructure. Those federal, State and local agencies charged with allocating funds for investments in water and sewer facilities should give high priority to the needs of these areas so that full advantage may be taken of existing infrastructure in promoting waterfront revitalization.

Exceptions are made in recognition that certain forms of land development may and/or should occur at locations which are not within or near areas of concentrated development. Thus, this coastal development policy does not apply to the following types of land development projects and activities:

1. Economic activities which depend upon sites at or near locations where natural resources are present, e.g., lumber industry, quarries.

2. Land development which, by its nature, is enhanced by a non-urbanized setting, e.g., a resort complex, campground, second home developments.
3. Land development which is designed to be a self-contained activity, e.g., a small college, and academic or religious retreat.
4. Water-dependent uses.
5. Land development which, because of its isolated location and small-scale, has little or no potential to generate and/or encourage further land development.
6. Uses and/or activities which, because of public safety considerations, should be located away from populous areas.
7. Rehabilitation or restoration of existing structures and facilities.
8. Land development projects which are essential to the construction and/or operation of the above uses and activities.

See Policies 1, 2.

**POLICY 6 EXPEDITE PERMIT PROCEDURES IN ORDER TO FACILITATE
THE SITING OF DEVELOPMENT ACTIVITIES AT SUITABLE
LOCATIONS.**

Explanation of Policy

For specific types of development activities and in areas suitable for such development, State agencies and local governments participating in the Local Waterfront Revitalization Program will make every effort to coordinate and synchronize existing permit procedures and regulatory programs, as long as the integrity of the regulations' objectives is not jeopardized. These procedures and programs will be coordinated within each agency. Also, efforts will be made to ensure that each agency's procedures and programs are synchronized with other agency's procedures at each level of government. Finally, regulatory programs and procedures will be coordinated and synchronized between levels of government and, if necessary, legislative and/or programmatic changes will be recommended to provide one-stop application/processing procedures at the local level.

When proposing new regulations, an agency will determine the feasibility of incorporating the regulations within existing procedures, if this reduces the burden on a particular type of development and will not jeopardize the integrity of the regulations' objectives.

While each government in the WRA will process coastal reviews within its jurisdiction, the Orleans County Department of Planning and Development will coordinate environmental reviews (Type I Actions) and consistency of policy application between communities through the SEQRA process. Individual actions in the coastal area will be consolidated by each Town Board (with review by the Planning Board). Simultaneous referrals to appropriate agencies will be undertaken to expedite the review process and initiate State/local permit processes necessary.

The complex activities and environmental sensitivities on Oak Orchard River should be evaluated in advance by the US Army Corps of Engineers and the NYSDEC to establish critical review

procedures and approval criteria/standards for permits. This will vastly expedite the review process for anticipated development.

- POLICY 7** **SIGNIFICANT COASTAL FISH AND WILDLIFE HABITATS WILL BE PROTECTED, PRESERVED, AND WHERE PRACTICAL, RESTORED SO AS TO MAINTAIN THEIR VIABILITY AS HABITATS.**
- POLICY 7A** **THE OAK ORCHARD CREEK SIGNIFICANT FISH AND WILDLIFE HABITAT WILL BE PROTECTED, PRESERVED, AND WHERE PRACTICAL, RESTORED SO AS TO MAINTAIN ITS VIABILITY AS A HABITAT.**
- POLICY 7B** **THE JOHNSON CREEK SIGNIFICANT FISH AND WILDLIFE HABITAT WILL BE PROTECTED, PRESERVED, AND WHERE PRACTICAL, RESTORED SO AS TO MAINTAIN ITS VIABILITY AS A HABITAT.**
- POLICY 7C** **THE SANDY CREEK SIGNIFICANT FISH AND WILDLIFE HABITAT WILL BE PROTECTED, PRESERVED, AND WHERE PRACTICAL, RESTORED SO AS TO MAINTAIN ITS VIABILITY AS A HABITAT.**
- POLICY 7D** **PRODUCTIVE WETLANDS AND MARSH HABITATS OF LOCAL SIGNIFICANCE WILL BE MAINTAINED WHERE IMPORTANT FISH AND WILDLIFE PRODUCTION CAN BE DEMONSTRATED.**
- POLICY 7E** **INSURE THE CONTINUED SUPPLY OF SURFACE WATER THROUGH DIVERSION OF WATER FROM THE ERIE BARGE CANAL TO AUGMENT THE FLOW OF THE OAK ORCHARD RIVER.**

Explanation of Policy

Habitat protection is recognized as fundamental to assuring the survival of fish and wildlife populations. Certain habitats are critical to the maintenance of a given population and, therefore, merit special protection. Such habitats exhibit one or more of the following characteristics: 1. are essential to the survival of a large portion of a particular fish or wildlife populations (e.g. feeding grounds, nursery areas); 2. support populations of rare and endangered species; 3. are found at a very low frequency within a coastal region; 4. support fish and wildlife populations having significant commercial and/or recreational value; and, 5. would be difficult or impossible to replace.

A habitat impairment test must be met for any activity that is subject to consistency review under federal and State laws, or under applicable local laws contained in an approved LWRP. If that proposed action is subject to consistency review, then the habitat protection policy applies, whether the proposed action is to occur within or outside the designated area.

The specific habitat impairment test that must be met is as follows:

In order to protect and preserve a significant habitat, land and water uses or development shall not be undertaken if such actions would destroy or significantly impair the viability of a habitat.

Habitat destruction is defined as the loss of fish or wildlife use through direct physical alteration, disturbance, or pollution of a designated area, or through the indirect effects of these actions on a designated area. Habitat destruction may be indicated by changes in vegetation, substrate, or hydrology, or increases in runoff, erosion, sedimentation, or pollutants.

Significant impairment is defined as reduction in vital resources (e.g., food, shelter, living space) or change in environmental conditions (e.g., temperature, substrate, salinity) beyond the tolerance range of an organism. Indicators of a significantly impaired habitat focus on ecological alterations and may include, but are not limited to, reduced carrying capacity, changes in community structure (food chain relationships, species diversity), reduced productivity and/or increased incidence of disease and mortality.

The tolerance range of an organism is not defined as the physiological range of conditions beyond which a species will not survive at all, but as the ecological range of conditions that supports the species population or has the potential to support a restored population, where practical. Either the loss of individuals through an increase in emigration or an increase in death rate indicates that the tolerance range of an organism has been exceeded. An abrupt increase in death rate may occur as an environmental factor falls beyond a tolerance limit (a range has both upper and lower limits). Many environmental factors, however, do not have a sharply defined tolerance limit, but produce increasing emigration and death rates with increasing departure from conditions that are optimal for the species.

The range of parameters which should be considered in applying the habitat impairment test include:

1. Physical parameters, such as living space circulation, flushing rates, tidal amplitude, turbidity, water temperature, depth (including loss of littoral zone), morphology, substrate type, vegetation, structure, erosion and sedimentation rates;
2. Biological parameters, such as community structure, food chain relationships, species diversity, predator/prey relationships, population size, mortality rates, reproductive rates, meristic features, behavioral patterns and migratory patterns; and
3. Chemical parameters, such as dissolved oxygen, carbon dioxide, acidity, dissolved solids, nutrients, organics, salinity, and pollutants (heavy metals, toxics and hazardous materials).

Oak Orchard Creek, Johnson Creek, and Sandy Creek in Orleans County are designated as Significant Coastal Fish and Wildlife Habitats. They constitute three of about ten major tributaries to Lake Ontario in the Great Lakes Plain ecological region of New York.

Oak Orchard Creek, in the Town of Carlton, is the largest stream in Orleans County. (See Appendix A for a detailed description of this habitat.) The fish and wildlife habitat extends from the mouth at Point Breeze to Waterport Dam, and includes about two miles of Marsh Creek which flows into Oak Orchard Creek at The Bridges. This habitat is particularly significant since it is in generally undisturbed condition and because large concentrations of coho and chinook salmon and brown trout migrate into the creek each fall. The wetlands and undisturbed woodlands bordering the creek also

provide valuable habitats for wildlife that are uncommon in the County's coastal area. This water body is therefore one of the most popular recreational fishing streams on Lake Ontario.

Any activity that substantially degrades water quality, increases temperature or turbidity, reduces flows, or alters water depths in Oak Orchard Creek would adversely affect the fish and wildlife resources of this area. These impacts would be especially detrimental during fish spawning and nursery periods (late February - July for most warmwater species and steelhead, and September - November for most salmonids), and wildlife breeding seasons (April - July for most species). Discharges of sewage or stormwater runoff containing sediments or chemical pollutants could adversely impact on fish or wildlife species.

Of particular concern are the potential effects of upstream disturbances, including water withdrawals, stream bed disturbances, and effluent discharges. Hydroelectric facilities on the creek should only be operated as run-of-river with pondage. Barriers to fish migration, whether physical or chemical, would have significant impacts on fish populations in the creek. Permanent disturbance of wetland vegetation, including submergent beds, through dredging, filling, or bulkheading, would result in a direct loss of valuable habitat area. Enhancement of motorboat access to the area above the confluence of the two creeks could significantly increase human disturbance of the habitat, reducing its potential value to various fish and wildlife species. Existing areas of natural vegetation bordering Oak Orchard Creek should be maintained to provide bank cover, perching sites, soil stabilization, and buffer zones.

Water shall be diverted from the Erie Canal, as needed, to augment water flow and to maintain the creek at depths adequate for fish and wildlife. An agreement between the Canal Corporation and the K-Y-C Lake Ontario Cooperative Board will be developed so as to effectively establish and manage a continuous flow from the Erie Canal.

Johnson Creek is the second largest stream in the County. (See Appendix A for a detailed description of this habitat.) The habitat extends from the hamlet of Lakeside to the Village of Lyndonville, traversing parts of the towns of Carlton and Yates. The Creek is primarily a warmwater fisheries habitat, but in the fall concentrations of coho and chinook salmon enter the stream to spawn.

Any activity that degrades water quality, increases temperature or turbidity, alters water depths, or reduces flows, would adversely affect the fisheries resources in Johnson Creek. These impacts would be especially detrimental during fish spawning and nursery periods (late February - July for most warmwater species and steel-head, and September - November for most salmonids). Discharges of sewage or stormwater runoff containing sediments or chemical pollutants (including fertilizers, herbicides, or insecticides) would adversely impact on fish or wildlife species in the area.

Of particular concern are the potential effects of upstream disturbances, including water withdrawals, stream channel alterations and effluent discharges. In the past, an upstream tributary, Jeddo Creek, has been polluted with pesticide residues, resulting in significant chemical pollution of Johnson Creek, and causing major fish kills. Discharges of toxic chemicals into the creek must be prevented in the future to avoid long term adverse impacts on fisheries resources. Barriers to fish migration, whether physical or chemical, would also have significant effects on fish populations and their recreational use. Clearing of natural vegetation along Johnson Creek, and other activities that may increase bank erosion or eliminate productive channel areas, would reduce habitat quality in Johnson Creek.

The Sandy Creek habitat extends for 22 miles and runs through the southeast corner of the Town of Kendall. (See Appendix A for a detailed description of this habitat.) Spawning runs of species of salmon, trout and bass occur as far inland as the east and west branches of Sandy Creek, upstream of Kendall. The fisheries resources of Sandy Creek provide substantial recreational opportunities for residents of the entire region.

Any activity that degrades water quality, increases temperature or turbidity, alters water depths, or reduces flows, would adversely affect the fisheries resources in Sandy Creek. These impacts would be especially detrimental during fish spawning and nursery periods (late February - July for most warmwater species and steelhead, and September - November for most salmonids). Discharges of sewage or stormwater runoff containing sediments or chemical pollutants (including fertilizers, herbicides, or insecticides) could adversely impact on fish or wildlife species in the area. Efforts should be made to reduce stream disturbance by agricultural activities, especially grazing, through fencing and restoration of natural riparian vegetation. Stream channel alterations, including dredging, filling, or channelization, could reduce the habitat quality in Sandy Creek. Barriers to fish migration, whether physical or chemical, would also have significant impacts on bass and salmonid populations in the creek. Wildlife species occurring in the lower end of Sandy Creek would be adversely affected by further human disturbance or elimination of wetland vegetation. Activities affecting Sandy Creek as far inland as Albion and Holley should be evaluated for potential impacts on the fisheries resources of this area.

POLICY 8 PROTECT FISH AND WILDLIFE RESOURCES IN THE COASTAL AREA FROM THE INTRODUCTION OF HAZARDOUS WASTES AND OTHER POLLUTANTS WHICH BIO-ACCUMULATE IN THE FOOD CHAIN OR WHICH CAUSE SIGNIFICANT SUBLETHAL OR LETHAL EFFECT ON THOSE RESOURCES.

Explanation of Policy

The introduction of both natural and man-made pollutants into local streams, marshes, wetlands and the Lake Ontario shoreline area can destroy fish and wildlife and their habitats. Orleans County, because of its rural character, does not experience the same pollution problems as observed in more urban and industrialized waterfront areas. This does not mean, however, that problems do not exist or that their severity is less. Although the County does not have large point sources of pollution, problems such as agricultural run-off, phosphorus overloads, failing on-site disposal (septic) facilities, and stormwater run-off contribute to generalized non-point source pollution. Potential point sources of pollution do not exist from upstream municipal wastewater treatment plant discharges.

Hazardous wastes are unwanted by-products of manufacturing processes and are generally characterized as being flammable, corrosive, reactive, or toxic. More specifically, hazardous waste is defined in Environmental Conservation Law (§27-0901(3)) as "waste or combination of wastes which because of its quantity, concentration, or physical, chemical or infectious characteristics may: 1. cause, or significantly contribute to an increase in mortality or an increase in serious irreversible, or incapacitating reversible illness; or 2. pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, disposed or otherwise managed." A list of hazardous wastes has been adopted by DEC (6 NYCRR Part 371).

The handling, storage, transport, treatment and disposal of the materials included on this list is being strictly regulated in New York State to prevent their entry or introduction into the environment, particularly into the State's air, land and waters. Such controls should effectively minimize possible

contamination of and bio-accumulation in the State's coastal fish and wildlife resources at levels that cause mortality or create physiological and behavioral disorders.

Other pollutants are those conventional wastes, generated from point and non-point sources, and not identified as hazardous wastes, but controlled through other State laws.

See Policies 30, 33, 34, 36, 37, 39, 40.

POLICY 9 EXPAND RECREATIONAL USE OF FISH AND WILDLIFE RESOURCES IN COASTAL AREAS BY INCREASING ACCESS TO EXISTING STOCKS, AND DEVELOPING NEW RESOURCES.

POLICY 9A PROMOTE THE EXPANSION OF THE FISHERIES OF LAKE ONTARIO AND ITS TRIBUTARIES.

POLICY 9B ENCOURAGE THE SITING AND DEVELOPMENT OF PUBLIC ACCESS FACILITIES IN AREAS WHERE, TO VARYING DEGREES, THESE OPPORTUNITIES ARE ALREADY AFFORDED. AVOID THE SITING OF NEW FACILITIES AND ACCESS POINTS WHICH WILL COMPROMISE SIGNIFICANT HABITATS.

Explanation of Policy

Recreational uses of coastal fish and wildlife resources include consumptive uses such as fishing and hunting, and non-consumptive uses such as wildlife photography, bird watching and nature study.

The sport fishing industry in particular is an important component of the Orleans County economy. The intention is to increase recreational fishing, and in support of this objective, the Pacific salmon and lake trout stocking programs should continue, along with efforts to ensure that existing warmwater fish populations become self-sustaining, once again.

Any efforts to increase recreational use of fish and wildlife resources will be made in a manner which ensures the protection of these resources and which takes into consideration other activities dependent on them. Also, such efforts must be done in accordance with existing State law and in keeping with sound resource management considerations. Such considerations include biology of the species, carrying capacity of the resource, public demand, costs and available technology.

In addition to protecting the fish resources themselves, the upland areas which provide access for fishing must also be protected from overuse. Certain privately-owned areas of the coast, e.g., the area around the Niagara Mohawk Power Corporation's hydroelectric facility on Oak Orchard River, experience large influxes of fishermen at certain times of the year. Where fishermen are using private lands to access fish resources, it will be necessary to maintain cooperative arrangements between the private landowners and local government entities so that the level of use does not degrade the access areas. Should the recreation use of private lands become excessive, resulting in safety hazards or environmental damage, private landowners and local government entities will take steps to control and limit use or expand them elsewhere.

The following additional guidelines should be considered by government agencies as they determine the consistency of their proposed action with the above policy:

1. Consideration should be made as to whether an action will impede existing or future utilization of the State's recreational fish and wildlife resources.
2. Efforts to increase access to recreational fish and wildlife resources should not lead to overutilization of that resource or cause impairment of the habitat. Sometimes such impairment can be more subtle than actual physical damage to the habitat. For example, increased human presence can deter animals from using the habitat area.
3. The impacts of increasing access to recreational fish and wildlife resources should be determined on a case-by-case basis, consulting the significant habitat narrative (see Policy 7) and/or conferring with a trained fish and wildlife biologist.
4. Any public or private sector initiatives to supplement existing stocks (e.g., stocking a stream with fish reared in a hatchery) or develop new resources (e.g., renting private fee-hunting or fee-fishing facilities) must be done in accord with existing State Law.
5. Stocking programs will be directed toward areas where known habitats will support and enhance fish population.
6. Development of artificial habitats or habitat reinforcement should be performed where habitat viability can be demonstrated.
7. The siting of public facilities should be given a higher priority if facilities will be located in areas already affording public access (i.e., the development will improve and upgrade an existing facility) and areas where supporting infrastructure may exist.
8. New developments which are shown to compromise a significant habitat should be given a low priority or not pursued.

See Policies 1, 8, 19, 20, 21, 22.

**POLICY 10 THE STATE POLICY REGARDING DEVELOPMENT OF
COMMERCIAL FISHING IS NOT APPLICABLE TO KENDALL,
YATES AND CARLTON.**

**POLICY 11 BUILDINGS AND OTHER STRUCTURES WILL BE SITED IN THE
COASTAL AREA SO AS TO MINIMIZE DAMAGE TO PROPERTY
AND THE ENDANGERING OF HUMAN LIVES CAUSED BY
FLOODING AND EROSION.**

Explanation of Policy

For the Towns of Kendall, Yates and Carlton, the designated Structural Erosion Hazard Areas, as shown on the Coastal Erosion Hazard Area maps, and Flood Hazard Areas, as shown on the Flood Insurance Rate maps, are described in the Inventory and Analysis. Portions of each Town's Lake Ontario shoreline are designated as Structural Erosion Hazard Areas. In addition to the entire shoreline of Lake Ontario, Flood Hazard Areas have also been identified along the numerous creeks entering the lake.

In order to provide the highest level of protection, buildings and similar structures shall be set back from the shoreline a distance sufficient to minimize damage from erosion or flooding, unless no reasonable prudent alternative site is available, as in the case of hydroelectric generation facilities, piers, docks, and other structures necessary to gain access to coastal waters to be able to function. Guidelines are as follow:

Structural Hazard Areas:

1. A movable structure may be built or placed if no permanent foundation is attached and a temporary foundation is removable; is no closer than 25 feet to the landward limit of a bluff; does not place excessive ground loading on a bluff; and, safeguards are assured in case of shoreline recession or unanticipated erosion.
2. Construction or placement of a non-movable structure or major addition is prohibited.
3. Necessary infrastructure will be regulated.
4. Grading, excavating or other soil disturbance must not direct surface water runoff over a bluff face.

Flood Hazard Areas:

1. Uses vulnerable to floods will be protected against flood damage at the time of initial construction.
2. All buildings or structures shall be securely enclosed on pilings or columns used as structural support and shall be designed and anchored so as to withstand all applied loads of the base flood flow.
3. Building materials and utility equipment shall be resistant to flood damage.
4. All new, replacement or expanded water supply or sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwater into the systems and discharge from the systems into floodwater.
5. Alteration of natural floodplains, stream channels and natural protective barriers involved in the accumulation of flood waters will be minimized.
6. Filling, grading, dredging and other development which may increase erosion will be minimized.
7. Construction of flood barriers which will unnaturally divert flood waters or which will increase flood hazards will be minimized.

See Policies 12, 13, 14

POLICY 12 ACTIVITIES OR DEVELOPMENT IN THE COASTAL AREA WILL BE UNDERTAKEN SO AS TO MINIMIZE DAMAGE TO NATURAL RESOURCES AND PROPERTY FROM FLOODING AND EROSION BY PROTECTING NATURAL PROTECTIVE FEATURES

INCLUDING BEACHES, DUNES, BARRIER ISLANDS AND BLUFFS.

Explanation of Policy

The shoreline along Lake Ontario contains natural protective features located within designated Coastal Erosion Hazard Areas. These are limited to bluffs and wetlands which help to safeguard coastal lands and property from damage, as well as reduce the danger to human life resulting from flooding and erosion. This policy is intended to ensure that activities or development in or near natural protective features mitigate the effects of inadequate site planning, excavation of coastal features, improperly designed structures or other similar actions.

Guidelines for reviewing consistency of coastal area actions with this policy are as follows:

1. **Nearshore area:** Those lands under water beginning at the mean low water line, and extending in a direction perpendicular to the shoreline to a point where mean low water depth is 15 feet, or to a horizontal distance of 1,000 feet from the mean low water line, whichever is greater.
 - a. Excavating, grading, mining, or dredging, which diminishes the erosion protection afforded by nearshore areas is prohibited except for constructing or maintaining navigation channels, bypassing sand around natural and manmade obstructions, or artificial beach nourishment.
 - b. All development is prohibited in nearshore areas unless specifically allowed by these guidelines.
 - c. The normal maintenance of structures may be undertaken without a coastal erosion management permit.
 - d. Clean sand or gravel of an equivalent or slightly larger grain size is the only material which may be deposited within nearshore areas.
 - e. New construction, modification, or restoration of docks, piers, wharves, groins, jetties, seawalls, bulkheads, breakwaters, revetments, and artificial beach nourishment will require evaluation. Docks, piers, wharves, or structures built on floats, columns, open timber, piles, or similar open-work supports having a top surface area of 200 square feet or less, or docks, piers, wharves, or other structures built on floats and removed in the fall of each year are excepted.
2. **Bluff:** Any bank or cliff with a precipitous or steeply sloped face adjoining a beach or a body of water. The seaward limit of a bluff is the landward limit of its seaward natural protective feature. Where no beach is present the seaward limit of a bluff is mean low water. The landward limit is 25 feet landward of the bluff's receding edge, or in those cases where there is no discernible line of active erosion to identify the receding edge, 25 feet landward of the point of inflection on the top of the bluff. (The point of inflection is that point along the top of the bluff where the trend of the land slope changes to begin its descent to the shoreline.)
 - a. Excavating, grading, or mining of bluffs is prohibited except where:

- i. the minor alteration of a bluff is done in accordance with conditions stated in a coastal erosion management permit issued for the construction of an erosion protection structure; or
 - ii. a bluff cut is made in a direction perpendicular to the shoreline to provide shoreline access. The ramp slope of bluff cuts must not be steeper than 1:6 and the side slopes must not be steeper than 1:3, if not terraced or otherwise structurally stabilized. Side slopes and other disturbed non-roadway areas must be stabilized with vegetation or other approved physical means, and completed roadways must be stabilized and provided with appropriate drainage;
- b. Motor vehicle and all terrain vehicle traffic is prohibited on bluffs.
 - c. All development is prohibited on bluffs unless specifically described in these guidelines.
 - d. The normal maintenance of structures may be undertaken.
 - e. The restoration of existing structures that are damaged or destroyed by events not related to coastal flooding and erosion may be undertaken.
 - f. Non-major additions to existing structures may be allowed on bluffs.
 - g. Approval is required for new construction, modification, or restoration of erosion protection structures, walkways, or stairways. Elevated walkways or stairways constructed solely for pedestrian use and built by or for an individual property owner for the limited purpose of providing non-commercial access to the beach are excepted from such approval.
 - h. Active bird nesting and breeding areas must not be disturbed unless such disturbance is pursuant to a specific wildlife management activity approved by the NYS Department of Environmental Conservation.
 - i. Any grading, excavating, or other soil disturbance conducted on a bluff must not direct surface water runoff over a bluff face.

3. Along Oak Orchard River:

- a. The harvesting, cutting, removal or thinning of vegetation which would increase the erosion of the bank, from the mean high water point up the creek bank and including the 25 foot top of bank setback, is consistent with the Town's Stream Overlay District.
- b. The above cutting standard shall not be deemed to prevent the regular mowing of weeds or grass, the removal of diseased vegetation or of rotten and damaged trees or of vegetation that presents a safety, environmental or health hazard. The planting and promotion of vegetation to inhibit erosion is encouraged. When the creek bank is excavated in any way, vegetation to stabilize the bank and prevent erosion must be planted as per specifications of the Department of Environmental Conservation.

See Policies 11, 44.

POLICY 13 **THE CONSTRUCTION OR RECONSTRUCTION OF EROSION PROTECTION STRUCTURES SHALL BE UNDERTAKEN ONLY IF THEY HAVE A REASONABLE PROBABILITY OF CONTROLLING EROSION FOR AT LEAST THIRTY YEARS AS DEMONSTRATED IN DESIGN AND CONSTRUCTION STANDARDS AND/OR ASSURED MAINTENANCE OR REPLACEMENT PROGRAMS.**

POLICY 13A **THE CONSTRUCTION OF EROSION CONTROL DEVICES AND PROTECTIVE STRUCTURES AND THEIR MAINTENANCE ALONG THE LAKE ONTARIO SHORELINE, OAK ORCHARD RIVER, AND JOHNSON, MARSH, SANDY AND BALD EAGLE CREEKS SHALL BE UNDERTAKEN IN A MANNER WHICH ASSURES THE EFFECTIVENESS OF PUBLIC AND PRIVATE INVESTMENT FOR STRUCTURAL EROSION CONTROL TECHNIQUES.**

Explanation of Policy

Construction of erosion protection structures is expensive, often only partially effective over time, and may even be harmful to adjacent or nearby properties. However, in those instances where properly designed and constructed erosion protection structures will be likely to minimize or prevent damage or destruction to public or private property, natural protective features, and other natural resources, construction of erosion protection structures may be allowed. In selecting such structures, riprapping is to be preferred over bulkheads. The construction, modification, or restoration of erosion protection structures is subject to the requirements listed below. When these structures are to be located within a Coastal Erosion Hazard Area, local or State CEHA regulations will apply.

1. All erosion protection structures must be designed and constructed according to generally accepted engineering principles, which have demonstrated success, or where sufficient data is not currently available, a likelihood of success in controlling long-term erosion. The protective measures must have a reasonable probability of controlling erosion on the immediate site for at least 30 years.
2. A long-term maintenance program must be provided, which includes specifications for normal maintenance of degradable materials and periodic replacement of removable materials.
3. All materials used in such structures must be durable and capable of withstanding inundation, wave impacts, weathering, and other effects of storm conditions. Individual component materials may have a working life of less than 30 years only when a maintenance program ensures that they will be regularly maintained and replaced as necessary to attain the required 30 years of erosion protection.
4. No structure can be constructed, erected, placed or altered without providing:

- a. Plans, details and specifications justifying and establishing the need for the facility.
- b. Evidence that the structure and its installation will not harm or destroy key fish and wildlife habitats or other natural features, or that effects of the installation of structures can be mitigated or lessened.
- c. Evidence that the structure has a service life (with routine maintenance) of 30 years and that the structure will not fail and become a danger to navigation or human safety.
- d. Evidence that facilities adjacent to or supported by an erosion control structure will in fact be properly supported by that structure and that the structure will stabilize waterfront lands and facilities.
- e. Evidence that the structure was planned and installed in a manner which essentially is self contained and will not lead to differential erosion on nearby or adjacent shorelines.
- f. Evidence that proper regulatory permits have been obtained from both the US Army Corps of Engineers and NYS Department of Environmental Conservation prior to construction.

See Policies 1, 12, 16, 21.

POLICY 14 ACTIVITIES AND DEVELOPMENT, INCLUDING THE CONSTRUCTION OR RECONSTRUCTION OF EROSION PROTECTION STRUCTURES, SHALL BE UNDERTAKEN SO THAT THERE WILL BE NO MEASURABLE INCREASE IN EROSION OR FLOODING AT THE SITE OF SUCH ACTIVITIES OR DEVELOPMENT, OR AT OTHER LOCATIONS.

Explanation of Policy

Erosion and flooding are processes which occur naturally. However, by his actions, man can increase the severity and adverse effects of those processes, causing damage to, or loss of property, and endangering human lives. Those actions include: the use of erosion protection structures such as groins, or the use of impermeable docks which block the littoral transport of sediment to adjacent shorelands, thus increasing their rate of recession; the failure to observe proper drainage or land restoration practices, thereby causing run-off and the erosion and weakening of shorelands; and, the placing of structures in identified floodways so that the base flood level is increased causing damage in otherwise hazard-free areas.

Erosion control systems will be viewed in a comprehensive manner rather than a piecemeal system of individual approaches. In areas of high erosion potential, this will serve to address the issue of differential erosion.

See Policies 1A, 7, 12, 16, 37.

POLICY 15 **MINING, EXCAVATION OR DREDGING IN COASTAL WATERS SHALL NOT SIGNIFICANTLY INTERFERE WITH THE NATURAL COASTAL PROCESSES WHICH SUPPLY BEACH MATERIALS TO LAND ADJACENT TO SUCH WATERS AND SHALL BE UNDERTAKEN IN A MANNER WHICH WILL NOT CAUSE AN INCREASE IN EROSION OF SUCH LAND.**

POLICY 15A **EXCAVATION AND DREDGING (INCLUDING MAINTENANCE DREDGING) AT OAK ORCHARD RIVER, JOHNSON CREEK, BALD EAGLE MARSH AND SANDY CREEK, AND FOR NEW MAJOR DEVELOPMENTS (MORRISON, BENNETT SITES) SHALL BE CONDUCTED IN A MANNER THAT DOES NOT INCREASE EROSION OR COMPROMISE FISH AND WILDLIFE HABITATS.**

Explanation of Policy

Coastal processes, including the movement of beach materials by water, and any mining, excavation or dredging in nearshore or offshore waters which changes the supply and net flow of such materials can deprive shorelands of their natural regenerative powers. Such mining, excavation and dredging should be accomplished in a manner so as not to cause a reduction of supply, and thus an increase of erosion, to such shorelands. Offshore mining is a future alternative option to land mining for sand and gravel deposits which are needed to support building and other industries.

Guidelines and criteria to further this Policy include:

1. No dredging will be allowed along the five major streams or critical shoreline areas that is inconsistent with the study of each area's particular needs and as embodied in regulatory permits.
2. The disposal of dredge materials will not be allowed in marsh or wetland areas.
3. Dredge material will only be used as structural fill or placed in areas where it can be shown that the material will not lead to further erosion and/or siltation.

See Policies 7, 35, 44.

POLICY 16 **PUBLIC FUNDS SHALL ONLY BE USED FOR EROSION PROTECTIVE STRUCTURES WHERE NECESSARY TO PROTECT HUMAN LIFE, AND NEW DEVELOPMENT WHICH REQUIRES A LOCATION WITHIN OR ADJACENT TO AN EROSION HAZARD AREA TO BE ABLE TO FUNCTION, OR EXISTING DEVELOPMENT; AND ONLY WHERE THE PUBLIC BENEFITS OUTWEIGH THE LONG TERM MONETARY AND OTHER COSTS INCLUDING THE POTENTIAL FOR INCREASING EROSION AND ADVERSE EFFECTS ON NATURAL PROTECTIVE FEATURES.**

Explanation of Policy

Public funds are used for a variety of purposes on the State's shorelines. This policy recognizes the public need for the protection of human life and existing investment in development or new

development which requires a location in proximity to the coastal area or in adjacent waters to be able to function. However, it also recognizes the adverse impacts of such activities and development on the rate of erosion and on natural protective features and requires that careful analysis be made of such benefits and long-term costs prior to expending public funds.

Erosion control structures will be maintained (and may be expanded) along the Lake Ontario State Parkway contiguous to Lake Ontario, to protect New York State's investment in this roadway, and at Lakeside Beach State Park at the mouth of Johnson Creek.

Guidelines and criteria to further this Policy include:

1. Value or life cycle costing of the most successful form of structural erosion control will be utilized before expending new public monies for construction and/or renovation.
2. Comprehensive planning must precede an expenditure (including a benefit cost analysis) to ensure the effectiveness of structural control measures and avoid differential erosion or increased erosion at another site.

See Policies 7, 13, 17.

POLICY 17 NON-STRUCTURAL MEASURES TO MINIMIZE DAMAGE TO NATURAL RESOURCES AND PROPERTY FROM FLOODING AND EROSION SHALL BE USED WHENEVER POSSIBLE.

POLICY 17A LESSEN AND CONTROL THE EROSION POTENTIAL ALONG THE OAK ORCHARD RIVER GORGE WALLS (AT WATER LEVEL) THROUGH REGULATION OF BOATING ACTIVITIES.

Explanation of Policy

Non-structural measures shall include, but not be limited to:

1. Within coastal erosion hazard areas identified under Section 34-104, Coastal Erosion Hazard Areas Act (Article 34, Environmental Conservation Law), and subject to the permit requirements on all regulated activities and development established under that Law, a. the use of minimum setbacks as provided for in Section of 34-108; and b. the strengthening of coastal landforms by the planting of appropriate vegetation on bluffs to achieve an appropriate angle of repose so as to reduce the potential for slumping and to permit the planting of stabilizing vegetation, and the installation of drainage systems on bluffs to reduce runoff and internal seepage of waters which erode or weaken the landforms; and
2. Within flood hazard areas as identified through the National Flood Insurance Program and provided for under Article 36, Environmental Conservation Law, a. the avoidance of risk or damage from flooding by the siting of buildings outside the hazard area, and b. the flood-proofing of buildings or their elevation above the base flood level.

This policy shall apply to the planning, siting and design of proposed activities and development, including measures to protect existing activities and development. To ascertain consistency with the

policy, it must be determined if any one, or a combination of, non-structural measures would afford the degree of protection appropriate both to the character and purpose of the activity or development, and to the hazard. If non-structural measures are determined to offer sufficient protection, then consistency with the policy would require the use of such measures, whenever possible.

In determining whether or not non-structural measures to protect against erosion or flooding will afford the degree of protection appropriate, an analysis, and if necessary, other materials such as plans or sketches of the activity or development, of the site and of the alternative protection measures should be prepared to allow an assessment to be made.

Supplemental guidelines and criteria to further this policy include:

1. Accepted agricultural management practices for plowing and land preparation will be used.
2. Natural vegetation shall be retained on stream banks to the largest practical extent in order to strengthen banks and attenuate overland sedimentation.
3. Stormwater control measures such as select plantings and contouring will be used to mitigate erosion and flooding potential.
4. The size of craft that can use Oak Orchard River (specifically the section between The Bridges and Waterport Dam) will be controlled by one or more of the following measures:
 - a. Retain or replace the bridge structures to limit access to larger craft.
 - b. Boats shall be operated in a manner that lessens bank erosion and siltation caused by wakes.
 - c. Limitation will be placed on boat length and motor size.

See Policies 11, 12, 14.

POLICY 18 TO SAFEGUARD THE VITAL ECONOMIC, SOCIAL AND ENVIRONMENTAL INTERESTS OF THE STATE AND OF ITS CITIZENS, PROPOSED MAJOR ACTIONS IN THE COASTAL AREA MUST GIVE FULL CONSIDERATION TO THOSE INTERESTS, AND TO THE SAFEGUARDS WHICH THE STATE HAS ESTABLISHED TO PROTECT VALUABLE COASTAL RESOURCE AREAS.

POLICY 18A IN ORDER TO PROTECT COASTAL RESOURCES AND EXISTING AND PROPOSED WATER-DEPENDENT USES, THE WATER LEVELS OF LAKE ONTARIO SHALL BE MAINTAINED AT A MINIMUM SUFFICIENT TO GUARANTEE ITS VIABILITY, USE AND SAFETY BY FEDERAL, STATE AND LOCAL GOVERNMENT ACTIONS, THEIR AGENCIES AND PUBLIC UTILITIES.

POLICY 18B OAK ORCHARD RIVER SHALL BE MAINTAINED AT A MINIMUM SUFFICIENT TO GUARANTEE ITS VIABILITY, USE

**AND SAFETY BY FEDERAL, STATE AND LOCAL GOVERNMENT
ACTIONS, THEIR AGENCIES AND PUBLIC UTILITIES.**

Explanation of Policy

Proposed major actions may be undertaken in the WRA if they will not significantly impair valuable coastal waters and resources, thus frustrating the achievement of the purposes of the safeguards which the State has established to protect those waters and resources. Proposed actions must take into account the social, economic and environmental interests of the State and its citizens in such matters that would affect natural resources, water levels and flows, shoreline damage, hydroelectric power generation, and recreation.

Oak Orchard River and Lake Ontario water levels are controlled by the Niagara Mohawk Power Corporation (owner of Waterport Dam), the NYS Canal Corporation, a subsidiary of the NYS Thruway Authority (Erie Canal flow augmentation to Oak Orchard River), and the International Joint Commission (Lake Ontario and the Great Lake Basin). To the maximum extent practicable, water levels should be such that existing habitats and water-dependent uses remain viable. Any efforts to substantially change the water levels must include the assessment of social, economic and environmental effects on the WRA, and the waterfront resources that form the basis of economic activity in the three coastal towns.

**POLICY 19 PROTECT, MAINTAIN, AND INCREASE THE LEVEL AND TYPES
OF ACCESS TO PUBLIC WATER-RELATED RECREATION
RESOURCES AND FACILITIES.**

**POLICY 19A PROTECT AND MAINTAIN ACCESS TO AREAS OF EXISTING
PUBLIC INVESTMENT INCLUDING LAKESIDE BEACH STATE
PARK, OAK ORCHARD MARINE PARK AND ORLEANS COUNTY
MARINE PARK.**

**POLICY 19B INCREASE PEDESTRIAN ACCESS TO PUBLIC FISHING
RESOURCES ALONG LAKE ONTARIO, MARSH CREEK, OAK
ORCHARD RIVER (BELOW THE BRIDGES AND AT WATERPORT
DAM), JOHNSON CREEK, SANDY CREEK, AND WATERPORT
POND VIA PUBLIC RIGHTS-OF-WAY AND PRIVATE LAND
EASEMENTS.**

**POLICY 19C ENCOURAGE THE DEVELOPMENT OF PUBLIC ACCESS TO
SHORELINE AREAS COINCIDENT WITH NEW RECREATION AT
SHADIGEE, MORRISON AND BENNETT SITES.**

**POLICY 19D PROMOTE THE UTILIZATION/DEVELOPMENT OF LAKESIDE
BEACH STATE PARK IN ACCORDANCE WITH THE 1983
STATEWIDE COMPREHENSIVE RECREATION PLAN.**

Explanation of Policy

The majority of the Orleans County shoreline is in private ownership. Public access is limited to Lakeside Beach State Park, Oak Orchard Marine Park and Orleans County Marine Park. Facilities in the Point Breeze area are oversubscribed and unable to meet seasonal demands for boat launchings, parking, vehicle access and support facilities.

In addition, the lack of public lands along area streams and creeks where fish migrations occur limits access and use of prime fishing resources. Streams include upper Oak Orchard River, Marsh, Sandy, and Johnson Creeks. Additional public easements at various locations along these streams would help to meet the need for access. Traditionally, the public has gained access to the Oak Orchard River by crossing private lands at the base of the Waterport Dam. Niagara Mohawk owns these lands. The informal arrangement allowing access is likely to continue, provided that safety issues do not arise and continuing use does not degrade the area.

The policy calls for achieving balance among the following factors: the level of access to a resource or facility, the capacity of a resource or facility, and the protection of natural resources. The particular water-related recreation resources and facilities which will receive priority for improved access are public beaches, boating facilities, fishing areas and waterfront parks.

The following guidelines will be used in determining the consistency of a proposed action with this policy:

1. The existing access from adjacent or proximate public lands or facilities to public water-related recreation resources and facilities shall not be reduced, nor shall the possibility of increasing access in the future from adjacent or proximate public lands or facilities to public water-related resources and facilities be eliminated, unless in the latter case, estimates of future use of these resources and facilities are too low to justify maintaining or providing increased public access.
2. Any proposed project to increase public access to public water-related recreation resources and facilities shall be analyzed according to the following factors:
 - a. The level of access to be provided should be in accord with estimated public use. If not, the proposed level of access to be provided shall be deemed inconsistent with the policy.
 - b. The level of access to be provided shall not cause a degree of use which would exceed the physical capability of the resource or facility. If this were determined to be the case, the proposed level of access to be provided shall be deemed inconsistent with the policy.
3. The State, federal, Orleans County and Towns of Kendall, Carlton and Yates governments will not undertake or fund any project which increases access to a water-related resource or facility that is not open to all members of the public.
4. Major new developments proposed at Shadigee, Morrison Site, and Bennett Farm will include access opportunities to public resources for launching and fishing of the lake and creek. These include fishing access and pier facilities at Shadigee, and new harbor access at the Morrison site.

Pursuant to State guidelines, in their plans and programs for increased public access to public water-related resources and facilities, State agencies shall give priority in the following order to projects located: within the boundaries of the Federal-Aid Metropolitan Urban Area and served by public transportation; within the boundaries of the Federal-Aid Metropolitan Urban Area, but not served by public transportation; outside the defined Urban Area boundary and served by public transportation; and, outside the defined Urban Area boundary but not served by public transportation.

- POLICY 20** ACCESS TO THE PUBLICLY-OWNED FORESHORE AND TO LANDS IMMEDIATELY ADJACENT TO THE FORESHORE OR THE WATER'S EDGE THAT ARE PUBLICLY-OWNED SHALL BE PROVIDED AND IT SHALL BE PROVIDED IN A MANNER COMPATIBLE WITH ADJOINING USES.
- POLICY 20A** PROMOTE INCREASED/IMPROVED ACCESS TO LAKE ONTARIO ALONG THE LAKE ONTARIO STATE PARKWAY.
- POLICY 20B** ENCOURAGE THE DEVELOPMENT OF ACCESS TO LAND AROUND THE WATERPORT DAM AND WATERPORT POND OWNED BY THE NIAGARA MOHAWK POWER CORPORATION.
- POLICY 20C** ENCOURAGE THE USE OF PUBLIC STREET ENDS FOR WATERFRONT ACCESS COMPATIBLE WITH ADJACENT USES AND IN CONJUNCTION WITH NEW MULTI-USE PROJECTS IN THE COASTAL AREA.

Explanation of Policy

Most of the Orleans County shoreline is privately developed and accessible by private roads or fire lanes. Major public shoreline ownership exists in the Lakeside Beach State Park (limited seasonal use and access), the Lake Ontario State Parkway right-of-way, and numerous street ends. The Parkway, which presents a formidable barrier to the Lake Ontario shore, has two unimproved turn-offs, accessible from the westbound direction only. The Town of Kendall lost considerable access when the Parkway was constructed along the foreshore and the turnoffs should be assessed for public use.

There is also a need for continued access to the Oak Orchard River for fishing. The Niagara Mohawk Power Corporation owns the land around Waterport Dam and has allowed public access in certain areas around the dam. The County, Town of Carlton, and State agencies should continue to work cooperatively with Niagara Mohawk to maintain access. However, future bridge improvement and replacement across Oak Orchard River at The Bridges should maintain existing restrictions on boating in the gorge so as to protect/preserve critical fish resources there.

In coastal areas where there are little or no recreation facilities providing specific water-related recreational activities, access to the publicly-owned lands of the coast at large (e.g. vacant street ends) should be provided for numerous activities and pursuits which require only minimal facilities for their enjoyment. Such access would provide for walking along a shoreline or to a vantage point from which to view the lakeshore. Similar activities requiring access would include bicycling, birdwatching, photography, nature study, beachcombing, fishing and hunting.

The following guidelines will be used in determining the consistency of a proposed action with this policy:

1. The existing level of public access within public coastal lands or waters shall not be reduced or eliminated.
2. The possibility of increasing public access in the future should not be precluded by proposed actions, including construction of public facilities; prevent the provision, except at great expense, of convenient public access to public coastal lands and

waters; sale, lease, or other conveyances of public lands that could provide public access to public coastal lands and waters; or, construction of private facilities which physically prevent public access to public coastal lands and waters.

3. Public access from the nearest public roadway to the shoreline and along the coast shall be provided by new land use or development such as at Kuckville where adjacent Johnson Creek is available to Route 18 and the Lake Ontario State Parkway (Kendall) where the lakeside right-of-way is planned for improved fishing, picnic access and linkage of existing pull-offs.
4. Improvements in access to public water-related resources and facilities at the Waterport Dam/Waterport Pond shall be provided in accordance with estimated levels of use through a boat launch to Waterport Pond and trails to the dam from Park Avenue and Clarks Mills Road.
5. State, federal, Orleans County, and Towns of Kendall, Carlton and Yates government agencies will not undertake or fund any project which increases access to a water-related resource or facility that is not open to all members of the public.

POLICY 21 WATER-DEPENDENT AND WATER-ENHANCED RECREATION WILL BE ENCOURAGED AND FACILITATED, AND WILL BE GIVEN PRIORITY OVER NON-WATER-RELATED USES ALONG THE COAST.

POLICY 21A WATER-DEPENDENT RECREATION DEVELOPMENT WILL BE CONCENTRATED IN THE OAK ORCHARD RIVER NORTH OF THE BRIDGES, MORRISON SITE, BALD EAGLE CREEK AND SHADGEE/LAKELAND AREAS AND AFFORDED PRIORITY OVER NON-WATER-DEPENDENT RECREATION DEVELOPMENT.

Explanation of Policy

Water-related recreation includes such obviously water-dependent activities as boating, swimming, and fishing as well as certain activities which are enhanced by a coastal location and increase the general public's access to the coast such as pedestrian and bicycle trails, picnic areas, scenic overlooks and passive recreational areas that take advantage of coastal scenery.

Provided the development of water-related recreation is consistent with the preservation and enhancement of such important coastal resources as fish and wildlife habitats, aesthetically significant areas, historic and cultural resources, agriculture and significant mineral and fossil deposits, and provided demand exists, water-related recreation development is to be increased and such uses shall have a higher priority than any non-coastal dependent uses, including non-water-related recreation uses. In addition, water-dependent recreation uses shall have a higher priority over water-enhanced recreation uses. Such water-dependent recreation must be coordinated with the operation of existing water-dependent uses such as Niagara Mohawk's hydroelectric facility.

The development of water-dependent recreation uses is the focus of this LWRP. The areas identified for appropriate waterfront uses include: the Point Breeze area, the Morrison Site, Eagle Creek Marina (boat launching and swimming), and the Shadigee/Lakeland area (fishing pier), plus linear opportunities for linkage of these areas by trails/paths along Lake Ontario and Oak Orchard River (see Policy 19C, 20A, 20B).

The Point Breeze area includes the Bennett Farm property (1000+ acres) and Lakeside Beach State Park. The Farm represents an opportunity for support services and water-enhanced recreation development to complement marine facilities in Oak Orchard River. West of Point Breeze, the Lakeside Beach State Park offers camping and day use. However, the need to complete planned facilities is of crucial importance in enhancing recreation opportunities in the Point Breeze area (especially swimming, hiking and complementary support services).

In the Oak Orchard River, between The Bridges and Waterport Dam, no additional commercial boat dockage should be allowed, and the size of boat motors and boat speeds will be limited. Non-motorized boating will be encouraged all along the river, from the lake to the dam.

The Town of Carlton and Orleans County will jointly encourage the completion of the Lakeside Beach State Park Master Plan and development of the OPRHP land adjacent to the park for recreation development and lake access.

The Morrison site represents another significant opportunity for recreation development. This vacant 740 acre parcel can support fishing, hiking, swimming and tourist facilities complementary to water-dependent use of the waterfront. An excavated marina at this site is also possible. The following guidelines would apply to an excavated marina at the Morrison site or any other lakeshore location (e.g. the Bennett Farm):

1. The site is of low relief necessitating a minimum of excavation.
2. The site is not near a significant habitat or wetland.
3. Consideration is given to the effects of excavation on the surrounding groundwater levels.
4. Excavated material is not allowed to enter the lake.
5. All marina basin excavation is done prior to basin flooding; a dike is maintained between the excavation site and adjoining lake and kept in place until completion of basin construction.
6. Earth banks around the basin are adequately stabilized.
7. Basin design minimizes the need for future dredging.

POLICY 22 DEVELOPMENT, WHEN LOCATED ADJACENT TO THE SHORE, WILL PROVIDE FOR WATER-RELATED RECREATION, AS A MULTIPLE USE, WHENEVER SUCH RECREATIONAL USE IS APPROPRIATE IN LIGHT OF REASONABLY ANTICIPATED DEMAND FOR SUCH ACTIVITIES AND THE PRIMARY PURPOSE OF THE DEVELOPMENT.

Explanation of Policy

The WRA possesses numerous underused areas where multiple-uses can be compatible with water-related recreational uses. These are the Bennett Farm (boating, tourism), Lakeside Beach State Park (swimming), Morrison Site (boating, camping), the Salvation Army Camp (swimming and public access), and the Bald Eagle Creek area. Whenever actions are proposed for the above areas and

other areas adjacent to the shore, the proposals should incorporate recreational uses to the maximum extent permitted by existing law, or at least demonstrate why a reasonable demand for such uses cannot be foreseen.

The types of development which can generally provide water-related recreation as a multiple use include but are not limited to:

- parks;
- highways/parkways;
- power plants;
- sewage treatment facilities;
- mental health facilities;
- hospitals;
- schools, universities;
- nature preserves;
- large residential subdivisions (50 units);
- shopping centers; and
- office buildings.

Prior to taking action relative to any development in the waterfront, public agencies and private developers should consult with the State Office of Parks, Recreation, and Historic Preservation, and with the municipality in which the development is to locate, to determine appropriate recreation uses based on adopted plans. The project developer should provide the OPRHP and the municipality with the opportunity to participate in project planning.

Appropriate recreation uses which do not require any substantial additional construction shall be provided at the expense of the project sponsor provided the cost does not exceed 2% of total project cost.

In determining whether compelling reasons exist which would make inadvisable recreation as a multiple use, safety considerations should reflect a recognition that some risk is acceptable in the use of recreational facilities.

Whenever a proposed development would be consistent with the LWRP policies and the development could, through the provision of recreation and other multiple uses, significantly increase public use of the shore, then such development should be encouraged to locate adjacent to the shore.

POLICY 23 PROTECT, ENHANCE, AND RESTORE STRUCTURES, DISTRICTS, AREAS OR SITES THAT ARE OF SIGNIFICANCE IN THE HISTORY, ARCHITECTURE, ARCHEOLOGY, OR CULTURE OF THE STATE, ITS COMMUNITIES, OR THE NATION.

Explanation of Policy

The three towns do not possess any designated National or State historic resources. There are however several sites of local historic significance in the coastal area. They include: the hamlet of The Bridges with its gothic style historic villas; cobblestone structures; a six-sided house; and an early 19th century Norwegian settlement site. Refer to the Inventory and Analysis for more information about these sites.

The coastal region also includes areas of archaeological value where archaic Indian artifacts have been found. These sensitive areas are generally located in the vicinity of Oak Orchard River and Johnson Creek. Given the possibility of the existence of archaeologically significant sites within the waterfront area, public agencies shall contact the NYS Office of Parks, Recreation and Historic Preservation when a development is proposed to determine the appropriate protective measures which will be incorporated into development decisions.

These historic and archeological resources shall be protected and enhanced. Means to protect these resources include the consideration and adoption of any techniques, measures, or controls to prevent a significant adverse change to the resource. A significant adverse change includes but is not limited to:

1. Alteration of, or addition to, one or more of the architectural, structural, ornamental or functional features of a building, structure or site that is a recognized historic, cultural or archeological resource or component thereof. Such features are defined as encompassing the style and general arrangement of the exterior of a structure and any original or historically significant interior features including type, color and texture and building materials; entry ways and doors; fenestration; lighting fixtures; roofing, sculpture and carving; steps; rails; fencing; windows; vents and other openings; grillwork; signs; canopies; and other appurtenant fixtures and, in addition, all buildings, structures, outbuildings, walks, fences, steps, topographical features, earthworks, paving and signs located on the designated resource property. (To the extent they are relevant, the Secretary of the Interior's "Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings" shall be adhered to.)
2. Demolition or removal in full or part of a building, structure, or earthworks that is a recognized historic, cultural, or archeological resource or component thereof, to include all those features described in the above paragraph plus any other appurtenant fixture associated with a building structure or earthwork.
3. All proposed actions within 500 feet of the perimeter of the property boundary of the historic, architectural, cultural, or archeological resource and all actions within an historic district that would be incompatible with the objective of preserving the quality and integrity of the resource. Primary considerations to be used in making judgement about compatibility should focus on the visual and locational relationship between the proposed action and the special character of the historic, cultural, or archeological resource. Compatibility between the proposed action and the resource means that the general appearance of the resource should be reflected in the architectural style, design material, scale, proportion, composition, mass, line, color, texture, detail, setback, landscaping and related items of the proposed actions. With historic districts this would include infrastructure improvements or changes, such as street and sidewalk paving, street furniture and lighting.

This policy shall not be construed to prevent the construction, reconstruction, alteration, or demolition of any building, structure, earthwork, or component thereof of a recognized historic, cultural or archeological resource which has been officially certified as being imminently dangerous to life or public health. Nor shall the policy be construed to prevent the ordinary maintenance, repair, or proper restoration according to the U.S. Department of Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings of any building, structure, site or earthwork, or component thereof of a recognized historic, cultural or archeological resource which does not involve a significant adverse change to the resource as defined above.

POLICY 24 **THE STATE COASTAL POLICY REGARDING THE PROTECTION OF SCENIC RESOURCES OF STATEWIDE SIGNIFICANCE IS NOT APPLICABLE TO KENDALL, YATES AND CARLTON.**

POLICY 25 **PROTECT, RESTORE OR ENHANCE NATURAL AND MAN-MADE RESOURCES WHICH ARE NOT IDENTIFIED AS BEING OF STATEWIDE SIGNIFICANCE, BUT WHICH CONTRIBUTE TO THE OVERALL SCENIC QUALITY OF THE COASTAL AREA.**

Explanation of Policy

The Orleans County coastal area contains diverse, high quality natural and cultural features, that, in combination constitute the area's scenic resources. They include the Waterport Dam area, Oak Orchard River gorge, The Bridges, Orleans County Marine Park and vistas along Lake Ontario. The Waterport Dam area is characterized by striking contrasts between man-made and natural features, including the dam and the Oak Orchard River gorge with areas of exposed shale and sandstone. Niagara Mohawk and local government entities should continue to cooperate in efforts to maintain and restore the attractiveness of the area. The Oak Orchard River itself contains several dilapidated buildings and docks which should be removed to enhance the visual attractiveness of this natural resource.

Implementation of this policy will protect the existing coastal area visual resources and upgrade unattractive sites. When considering a proposed action, government agencies will ensure that it will be undertaken so as to protect, restore and enhance the overall scenic quality of the coastal area. Activities which could impair or further degrade scenic quality are ones such as modification of existing land forms and removal of vegetation.

The following general siting and facility-related guidelines are to be used to achieve this policy, recognizing that each development situation is unique and that the guidelines will have to be applied accordingly. Guidelines include:

1. Siting structures and other development such as highways, power lines, and signs back from shorelines or in other inconspicuous locations to maintain the attractive quality of the shoreline and to retain views to and from the shore.
2. Clustering or orienting structures to retain views, save open space and provide visual organization to a development.
3. Incorporating sound, existing structures (especially historic buildings) into the overall development scheme.
4. Removing deteriorated and/or degrading elements.
5. Maintaining or restoring the original landform, except when changes screen unattractive elements and/or add appropriate interest.
6. Maintaining or adding vegetation to provide interest, encourage the presence of wildlife, blend structures into the site, and obscure unattractive elements, except when selective clearing removes unsightly, diseased or hazardous vegetation, when clearing is necessary for maintenance of water-dependent facilities, and when selective clearing creates views of coastal waters.

7. Using appropriate materials, in addition to vegetation, to screen unattractive elements.
8. Using appropriate scales, forms and materials to ensure that buildings and other structures are compatible with and add interest to the landscape.

Additional specific guidelines for determining consistency with this policy include:

Along Lake Ontario:

1. Geologic forms, vegetation and vistas are not to be modified in ways which would reduce or eliminate their scenic quality.
2. Existing vistas from Lakeside Beach State Park will be protected and identified for area visitors.
3. Vistas from street ends and municipal lands (Lyndonville and Albion water plants) will be protected and enhanced, where feasible.

Along the Oak Orchard River:

1. New structures and roads, with the exception of fences, docks, boathouses, bridges, and stairs, shall not be constructed within the twenty-five (25) foot top of the bank setback.
2. No new dock or boathouse shall be located within 500 feet of another dock or boathouse, except when said new dock or boathouse is located on a separate and distinct, legally constituted lot or parcel, on the same side of Oak Orchard River.

POLICY 26 CONSERVE AND PROTECT AGRICULTURAL LANDS IN THE STATE'S COASTAL AREA.

Explanation of Policy

The agriculture section of the Inventory and Analysis describes the relationship between the presence of extensive important agricultural lands and the potential for development in the Orleans County WRA.

This policy is concerned with the loss of important agricultural lands. Current area-wide development patterns and prospects suggest that the Morrison Site and the Point Breeze area, adjacent to State Route 98, be considered for other than agricultural use. The Morrison property is in single ownership, largely idle and lends itself to a planned mixed-use development. The Point Breeze area is strategically located to provide water-enhanced and water-related facilities to support the growth of sport fishing and other attractions in the immediate vicinity. The potential for scattered development on other important agricultural lands will be reduced if these two areas become the focus for non-agricultural growth, thus allowing agriculture to remain viable throughout Kendall, Yates and Carlton.

Except for the aforementioned areas, the following guidelines will be used to evaluate actions involving coastal farmlands:

- A. A public action would be likely to significantly impair the viability of an agricultural area in which identified important agricultural lands are located if:
1. The action would occur on identified important agricultural land and would:
 - a. consume more than 10% of the land of an active farm containing such identified important agricultural lands;
 - b. consume a total of 100 acres or more of identified important agricultural land;
or
 - c. divide an active farm with identified important agricultural land into two or more parts thus impeding efficient farm operation.
 2. The action would result in environmental changes which may reduce the productivity or adversely affect the quality of the product of any identified important agricultural lands.
 3. The action would create real estate market conditions favorable to the conversions of large areas of identified important agricultural land to non-agricultural uses. Such conditions may be created by:
 - a. public water or sewer facilities to serve non-farm structures;
 - b. transportation improvements, except for maintenance of, and safety improvements to, existing facilities, that serve non-farm or non-farm related development;
 - c. major non-agribusiness commercial development adjacent to identified agricultural lands;
 - d. major public institutions;
 - e. residential uses other than farm dwellings;
 - f. any change in land use regulations applying to agricultural land which would encourage or allow uses incompatible with the agricultural use of the land.
- B. The following types of facilities and activities should not be construed as having adverse effects on the preservation of agricultural land:
1. Farm dwellings, barns, silos, and other accessory uses and structures incidental to agricultural production or necessary for farm family supplemental income.
 2. Agribusiness development which includes the entire structure of local support services and commercial enterprises necessary to maintain an agricultural operation, e.g. milk hauler, grain dealer, farm machinery dealer, veterinarian, food processing plants.
- C. In determining whether an action that would result in the loss of farmland is of overriding regional or Statewide benefit, the following factors should be considered:

1. For an action to be considered overriding, it must be shown to provide significantly greater benefits to the region or State than are provided by the affected agricultural area (not merely the land directly affected by the action). In determining the benefits of the affected agricultural land to the region or State, consideration must be given to its social and cultural value, its economic viability, its environmental benefits, its existing and potential contribution to food or fiber production in the State and any State food policy, as well as its direct economic benefits.
 - a. An agricultural area is an area predominantly in farming and in which the farms produce similar products and/or rely on the same agribusiness support services and are to a significant degree economically inter-dependent. At a minimum, this area should consist of at least 500 acres of identified important agricultural land. For the purpose of analyzing impacts of any action on agriculture, the boundary of such area need not be restricted to land within the coastal boundary. If the affected agricultural lands lie within an agricultural district then, at a minimum, the agricultural areas should include the entire agricultural district.
 - b. In determining the benefits of an agricultural area, its relationship to agricultural lands outside the area should also be considered.
 - c. The estimate of the economic viability of the affected agricultural area should be based on an assessment of:
 - i. soil resources, topography, conditions of climate and water resources;
 - ii. availability of agribusiness and other support services, and the level and condition of investments in farm real estate, livestock and equipment;
 - iii. the level of farming skills as evidenced by income obtained, yield estimates for crops, and costs being experienced with the present types and conditions of buildings, equipment, and cropland;
 - iv. use of new technology and the rates at which new technology is adopted;
 - v. competition from substitute products and other farming regions and trends in total demand for given products;
 - vi. patterns of farm ownership for their effect on farm efficiency and the likelihood that farms will remain in use.
 - d. The estimate of the social and cultural value of farming in the area should be based on an analysis of:
 - i. the history of farming in the area;
 - ii. the length of time farms have remained in one family;
 - iii. the degree to which farmers in the area share cultural or ethnic heritage;

- iv. the extent to which products are sold and consumed locally; and
 - v. the degree to which a specific crop(s) has become identified with a community.
- e. An estimate of the environmental benefits of the affected agriculture should be based on analysis of:
- i. the extent to which the affected agriculture as currently practiced provides a habitat or food for wildlife;
 - ii. the extent to which a farm landscape adds to the visual quality of an area;
 - iii. any regional or local open space plans, and degree to which the open space contributes to air quality;
 - iv. the degree to which the affected agriculture does, or could, contribute to the establishment of a clear edge between rural and urban development.
- D. Whenever a proposed action is determined to have an insignificant adverse effect on identified important agricultural land or whenever it is permitted to substantially hinder the achievement of this policy according to NYSDOS regulations, Part 600, or as a result of the findings of an environmental impact statement (EIS), then the required minimization should be undertaken in the following manner:
1. The proposed action shall, to the extent practicable, be sited on any land not identified as important agricultural, or, if it must be sited on identified important agricultural land, sited to avoid classes of agricultural land, according to the following priority:
 - a. prime farmland in orchards or vineyards;
 - b. unique farmland in orchard or vineyards;
 - c. other prime farmland in active farming;
 - d. farmland of statewide importance in active farming;
 - e. active farmland identified as having high economic viability;
 - f. prime farmland not being farmed; and
 - g. farmland of statewide importance not being farmed.
 2. To the extent practicable, agricultural use of identified important agricultural land not directly necessary for the operation of the proposed non-agricultural action should be provided for through such means as lease arrangements with farmers, direct undertaking of agriculture, or sale of surplus land to farmers. Agricultural use of such land shall have priority over any other proposed multiple use of the land.

See Policy 37.

POLICY 27

DECISIONS ON THE SITING AND CONSTRUCTION OF MAJOR ENERGY FACILITIES IN THE COASTAL AREA WILL BE BASED ON PUBLIC ENERGY NEEDS, COMPATIBILITY OF SUCH FACILITIES WITH THE ENVIRONMENT, AND THE FACILITY'S NEED FOR A SHOREFRONT LOCATION.

Explanation of Policy

The Morrison site is owned by the New York State Electric and Gas Corporation. It was alternatively considered for siting of an atomic energy power facility, a coal-fired generating station (actually located at Somerset), and a hazardous waste dump. Various studies of the site indicated the lack of viability for use in State power generation. The Morrison site is therefore inappropriate as the location for a major energy facility, and provides more potential as water-related multiple use development.

No other sites or plans for major energy facilities exist in the WRA.

Demand for energy in New York will increase, although at a rate slower than previously predicted. The State expects to meet these energy demands through a combination of conservation measures; traditional and alternative technologies; and, use of various fuels, including coal, in greater proportion.

A determination of public need for energy is the first step in the process for siting any new facilities. The directives for determining this need are set forth in the New York State Energy Law. With respect to transmission lines, Article VII of the State's Public Service Law requires additional forecasts and establishes the basis for determining the compatibility of these facilities with the environment and the necessity for a shorefront location. With respect to electric generating facilities, environmental impacts associated with siting and construction will be considered by one or more State agencies or, if in existence, an energy siting board.

The policies derived from these proceedings are entirely consistent with the general coastal zone policies derived from other laws, particularly the regulations promulgated pursuant to the Waterfront Revitalization of Coastal Areas and Inland Waterways Act. The Act is used for the purposes of ensuring consistency with the State Coastal Management Program and this LWRP.

In consultation with the Towns of Kendall, Yates and Carlton, the Department of State will comment on State Energy Office policies and planning reports as may exist; present testimony for the record during relevant proceedings under State law; and, use the State SEQR and DOS regulations to ensure that decisions on other proposed energy facilities (other than those certified under the Public Service Law) which would impact the waterfront area are made consistent with the policies and purposes of this LWRP.

POLICY 28 **ICE MANAGEMENT PRACTICES SHALL NOT DAMAGE SIGNIFICANT FISH AND WILDLIFE AND THEIR HABITATS, INCREASE SHORELINE EROSION OR FLOODING, OR INTERFERE WITH THE PRODUCTION OF HYDROELECTRIC POWER.**

Explanation of Policy

There are currently no ice management practices active in the Orleans County coastal area. Any plans should be in conformance with the following State policy explanation and consistent with identified fish and wildlife habitats in the Orleans County WRA.

Prior to undertaking an action required for ice management, an assessment must be made of the potential effects of such action upon the production of hydroelectric power, fish and wildlife and their habitats, flood levels and damage, rates of shoreline erosion damage, and natural protective features.

Following such an examination, adequate methods of avoidance or mitigation of such potential effects must be utilized if the proposed action is to be implemented.

POLICY 29 **THE STATE COASTAL POLICY REGARDING THE DEVELOPMENT OF ENERGY RESOURCES ON THE OUTER CONTINENTAL SHELF, IN LAKE ERIE AND IN OTHER WATER BODIES IS NOT APPLICABLE TO KENDALL, YATES AND CARLTON.**

POLICY 30 **MUNICIPAL, INDUSTRIAL, AND COMMERCIAL DISCHARGE OF POLLUTANTS, INCLUDING BUT NOT LIMITED TO, TOXIC AND HAZARDOUS SUBSTANCES, INTO COASTAL WATERS WILL CONFORM TO STATE AND NATIONAL WATER QUALITY STANDARDS.**

POLICY 30A **RESIDENTIAL AND COMMERCIAL WASTEWATER TREATMENT SYSTEM DISCHARGES FROM NEW/EXISTING DEVELOPMENTS (ON-SITE DISPOSAL, PACKAGE PLANTS) SHALL CONFORM TO NATIONAL, STATE, AND MUNICIPAL WATER QUALITY STANDARDS.**

Explanation of Policy

Municipal, industrial and commercial discharges include not only "end-of-the-pipe" discharges into surface and groundwater, but also plant site runoff, leaching, spillages, sludge and other waste disposal, and drainage from raw material storage sites. Also, the regulated industrial discharges are both those which directly empty into receiving coastal waters and those which pass through municipal treatment systems before reaching the State's waterways.

Guidelines and criteria to further this policy include:

1. NYSDEC must monitor for compliance of upstream municipal wastewater treatment plant discharges to ensure adherence to SPDES permit requirements. The discharges from these facilities are ultimately tributary to Oak Orchard River and Lake Ontario.
2. The removal of sludge and seepage from on-site systems will be undertaken in an approved and permitted manner. Typically, seepage is discharged into a municipal system for treatment.
3. Land application of wastes should not result in diminished stream or groundwater quality caused by leaching. All scavenger haulers utilizing land application for disposal must obtain permits.
4. On-site systems should be reviewed for both siting and design adequacy during the municipal review process and for conformance with the Orleans County Sanitary Code.

See Policy 32.

POLICY 31 STATE COASTAL AREA POLICIES AND PURPOSES OF APPROVED LOCAL WATERFRONT REVITALIZATION PROGRAMS WILL BE CONSIDERED WHILE REVIEWING COASTAL WATER CLASSIFICATIONS AND WHILE MODIFYING WATER QUALITY STANDARDS; HOWEVER, THOSE WATERS ALREADY OVERBURDENED WITH CONTAMINANTS WILL BE RECOGNIZED AS BEING A DEVELOPMENT CONSTRAINT.

Explanation of Policy

Pursuant to the Federal Clean Water Act of 1977 (PL 95-217) the State has classified its coastal and other waters in accordance with considerations of best usage in the interest of the public and has adopted water quality standards for each class of waters. These classifications and standards are reviewable at least every three years for possible revision or amendment. LWRP and State coastal management policies shall be factored into the review process for coastal waters. However, such consideration shall not affect any water pollution control requirement established by the State pursuant to the Federal Clean Water Act.

The State has identified certain stream segments as being either "water quality limiting" or "effluent limiting." Waters not meeting State standards and which would not be expected to meet these standards even after applying "best practicable treatment" to effluent discharges are classified as "water quality limiting." Those segments meeting standards or those expected to meet them after application of "best practicable treatment" are classified as "effluent limiting," and all new waste discharges must receive "best practicable treatment." However, along stream segments classified as "water quality limiting," waste treatment beyond "best practicable treatment" would be required, and costs of applying such additional treatment may be prohibitive for new development.

Lake Ontario is currently classed as "A" meaning that its waters are suitable for drinking. Oak Orchard River and Johnson Creek are classed as "C" meaning they are suitable for fishing. As conditions improve in the watersheds of these two tributaries, it may be appropriate to consider upgrading their classifications. Marsh Creek is not classified.

POLICY 32 **ENCOURAGE THE USE OF ALTERNATIVE OF INNOVATIVE SANITARY WASTE SYSTEMS IN SMALL COMMUNITIES WHERE THE COSTS OF CONVENTIONAL FACILITIES ARE UNREASONABLY HIGH, GIVEN THE SIZE OF THE EXISTING TAX BASE OF THESE COMMUNITIES.**

POLICY 32A **PROMOTE AND ENCOURAGE INNOVATIVE APPROACHES AND ALTERNATIVE SYSTEMS FOR WASTEWATER CONVEYANCE TREATMENT IN THE COASTAL AREA IN ACCORDANCE WITH THE COUNTY SANITARY CODE.**

Explanation of Policy

Alternative systems include individual septic tanks and other subsurface disposal systems, dual systems, small systems serving clusters of households or commercial users, and pressure or vacuum sewers. These types of systems are often more cost effective in smaller, less densely populated communities where conventional facilities are too expensive.

The entire WRA of Orleans County is serviced by on-site wastewater disposal systems (typically septic tank and leach field). With the exception of possible future package treatment systems for larger developments, on-site systems will continue to provide virtually all wastewater treatment. Improved management of these systems, through proper sizing and inspections and operation and maintenance improvements (i.e., proper septic tank pump-out cycles), is necessary to ensure their effectiveness, provide low cost wastewater treatment, protect fish and wildlife habitats, and avoid surface and groundwater contamination.

Guidelines and criteria to further this policy include:

1. Strict enforcement of the County Sanitary Code and the NYSDEC guidelines for the design, installation and inspection of on-site, subsurface disposal systems.
2. Site and subdivision plan reviews to ensure proper lot sizes and setbacks for system operation.
3. For systems that are installed on lots that do not meet minimum size requirements and setbacks, and for systems that are known to be in failure, permits for building improvements or expansions should not be issued until systems are upgraded. Consideration should be given to working with seasonal home owners to renovate and upgrade deficient systems.

See Policy 30.

POLICY 33 **BEST MANAGEMENT PRACTICES WILL BE USED TO ENSURE THE CONTROL OF STORMWATER RUNOFF AND COMBINED SEWER OVERFLOWS DRAINING INTO COASTAL WATERS.**

Explanation of Policy

There are no combined sewers in the three towns.

Guidelines to further this policy include:

1. Best management practices to lessen agricultural run-off (non-point source) should be instituted, including recommendations for fertilizers, land tilling and contouring.
2. High priority should be given to managing drainage - run-off and discharge - from new developments. On-site retention, where practical, should be encouraged.
3. Use of non-structural techniques, planting schemes and selections, and site grading are recognized mitigation techniques to lessen and control run-off. These techniques are required, where feasible, in site development.

See Policy 37.

POLICY 34 DISCHARGE OF WASTE MATERIALS INTO COASTAL WATERS FROM VESSELS WILL BE LIMITED SO AS TO PROTECT SIGNIFICANT FISH AND WILDLIFE HABITATS, RECREATIONAL AREAS AND WATER SUPPLY AREAS.

Explanation of Policy

The discharge of sewage, garbage, rubbish, and other solid and liquid materials from watercraft and marinas into the State's waters, within certain distances of the Towns' shorelines, is regulated in accordance with Section 130, Part (17)f, 1(d) of New York Town Law. Counties also regulate such activity under Section 46 of the New York State Navigation Law. Priority will be given to the enforcement of these regulations in areas such as significant habitats, beaches, and public water supply intakes, which need protection from contamination by vessel wastes. Also, specific effluent standards for marine toilets have been promulgated by the U.S. Department of Transportation.

Guideline to further these objectives include:

1. Marinas with 50 slips or more that are capable of mooring 26 ft.+ boats should be encouraged to install at least one pumpout station.
2. Marinas with 50 slips or more that are capable of mooring 16-26 ft. boats should be encouraged to install at least one pumpout or portable toilet dump station.

POLICY 35 DREDGING AND DREDGE SPOIL DISPOSAL IN COASTAL WATERS WILL BE UNDERTAKEN IN A MANNER THAT MEETS EXISTING STATE DREDGING PERMIT REQUIREMENTS, AND PROTECTS SIGNIFICANT FISH AND WILDLIFE HABITATS SCENIC RESOURCES, NATURAL PROTECTIVE FEATURES, IMPORTANT AGRICULTURAL LANDS, AND WETLANDS.

Explanation of Policy

Dredging often proves to be essential for waterfront revitalization and development, maintaining navigation channels at sufficient depths, pollutant removal and meeting other coastal management needs. Such dredging projects, however, may adversely affect water quality, fish and wildlife habitats, wetlands and other important coastal resources. Often, these adverse effects can be minimized through careful design and timing of the dredging operation and proper siting of the dredge spoil disposal site. Dredging permits will be granted if it has been satisfactorily demonstrated that these anticipated adverse effects have been reduced to levels which satisfy State dredging permit

standards set forth in regulations developed pursuant to Environmental Conservation Law (Article 15, 24, 25, and 34), and are consistent with policies pertaining to the protection of coastal resources (State Coastal Management policies 7, 15, 24, 26 and 44).

POLICY 36 **ACTIVITIES RELATED TO THE SHIPMENT AND STORAGE OF PETROLEUM AND OTHER HAZARDOUS MATERIALS WILL BE CONDUCTED IN A MANNER THAT WILL PREVENT OR AT LEAST MINIMIZE SPILLS INTO COASTAL WATERS; ALL PRACTICABLE EFFORTS WILL BE UNDERTAKEN TO EXPEDITE THE CLEANUP OF SUCH DISCHARGES; AND RESTITUTION FOR DAMAGES WILL BE REQUIRED WHEN THESE SPILLS OCCUR.**

Explanation of Policy

Hazardous wastes are unwanted by-products of manufacturing processes generally characterized as being flammable, corrosive, reactive, or toxic. More specifically, hazardous waste is defined in Environmental Conservation Law (Section 27-0901 (3) as "waste or combination of wastes which because of its quantity, concentration, or physical, chemical or infectious characteristics may: 1. cause, or significantly contribute to an increase in mortality or an increase in serious irreversible, or incapacitating reversible illness; or 2. pose a substantial present or potential hazard to human health of the environment if improperly treated, stored, transported, disposed or otherwise managed." A list of hazardous wastes as defined by DEC can be found in 6 NYCRR Part 371.

The storage and shipment of petroleum or other hazardous wastes including toxic substances carries the continual risk of spills. A major spill could jeopardize the water quality of fish and wildlife habitats and recreational activities in the WRA of Kendall, Yates and Carlton. Clean-up of accidental discharges will be conducted according to State and other applicable regulations. (Regulations pertaining to underground petroleum storage facilities can be found in 6 NYCRR 614.2 - 614.7.) Restitution for damages would be the responsibility of the shipper, manufacturer or property owner. Local site plan review procedures will require all applicants developing non-residential uses to identify hazardous materials associated with the proposed use and disclose information on the use, storage, treatment and disposal.

See Policies 39, 40.

POLICY 37 **BEST MANAGEMENT PRACTICES WILL BE UTILIZED TO MINIMIZE THE NON-POINT DISCHARGE OF EXCESS NUTRIENTS, ORGANICS AND ERODED SOILS INTO COASTAL WATERS.**

POLICY 37A **ENCOURAGE THE APPLICATION OF BEST MANAGEMENT PRACTICES TO CONTROL STORMWATER RUN-OFF AND DISCHARGES TO THE WATERSHEDS OF OAK ORCHARD RIVER, AND JOHNSON, BALD EAGLE, SANDY AND MARSH CREEKS.**

Explanation of Policy

Excess nutrients and organics can, and in many cases do, enter surface waters as a result of uncontrolled surface runoff, leaching, development activities and poor agricultural practices. Best management practices involve both structural and non-structural methods of preventing or mitigating

pollution caused by the discharge of stormwater runoff. Practices to reduce these sources of pollution include but are not limited to: organic farming, integrated pest management practices, phased development, surface runoff retention basins, placement of vegetation, and other surface drainage control techniques.

Guidelines to be used in implementing this policy include the following:

Construction Sites:

1. Runoff or other non-point pollutant sources from any specific development must not be greater than would be the case under natural conditions. Appropriate techniques to minimize such efforts shall include, but not be limited to, the use of stormwater retention basins, rooftop runoff disposal, rooftop detention, parking lot storage and cistern storage.
2. The construction site, or facilities, should fit the land, particularly with regard to its limitations.
3. Natural ground contours should be followed as closely as possible and grading minimized.
4. Areas of steep slopes, where high cuts and fills may be required, should be avoided.
5. Extreme care should be exercised to locate artificial drainage ways so that their final gradient and resultant discharge velocity will not create additional erosion problems.
6. Natural protective vegetation should remain undisturbed if at all possible; otherwise plantings should compensate for the disturbance.
7. The amount of time that disturbed ground surfaces are exposed to the energy of rainfall and runoff water should be limited.
8. The velocity of the runoff water on all areas subject to erosion should be reduced below that necessary to erode the materials.
9. A ground cover should be applied sufficient to restrain erosion on that portion of the disturbed area undergoing no further active disturbance.
10. Runoff from a site should be collected and detained in sediment basins to trap pollutants which would otherwise be transported from the site.
11. Provision should be made for permanent protection of downstream banks and channels from the erosive effects of increased velocity and volume of runoff resulting from facilities constructed.
12. The angle for graded slopes and fills should be limited to an angle no greater than that which can be retained by vegetative cover or other erosion control devices or structures.
13. The length as well as the angle of graded slopes should be minimized to reduce the erosive velocity of runoff water.

14. Rather than merely minimize damage, efforts should be made to improve site conditions wherever practicable.

Agricultural and Other Open Areas:

1. The minimal use of chemical fertilizers and pesticides should be encouraged on farmland including barnyards, cultivated fields and orchards, golf courses, and lawns. In addition, a natural vegetative buffer of one hundred (100) feet shall be retained adjacent to surface waters and wetlands to absorb flood waters and trap sediments and within which there shall be no use of chemical fertilizers, herbicides or pesticides.
2. Appropriate land tilling and planting practices should be employed to minimize runoff and exposure of bare soil.

See Policy 33.

POLICY 38 THE QUALITY AND QUANTITY OF SURFACE WATER AND GROUNDWATER SUPPLIES, WILL BE CONSERVED AND PROTECTED, PARTICULARLY WHERE SUCH WATERS CONSTITUTE THE PRIMARY OR SOLE SOURCE OF WATER SUPPLY.

Explanation of Policy

Surface and groundwater are the principal sources of drinking water in the State, and therefore must be protected. In the Orleans County coastal area, groundwater is the primary source of drinking water. Shallow dug and drilled wells are the primary method of extraction. These sources face contamination from adjacent subsurface disposal systems and agricultural practices.

Criteria and guidelines to further this Policy include:

1. Enforcement of the County Sanitary Code (and monitoring provisions) for installation of wells and on-site disposal systems to avoid "cross contamination" problems.
2. Denial or conditioning of new building (or building addition) permits on lots not meeting proper setback distances or experiencing percolation test rates that are marginal or below standards.
3. Require strict adherence to ECL Part 360 regulations for the application of septate, sludge and liquid waste on agricultural and orchard lands.
4. Site plan review requirements for major new developments which consider potential for groundwater degradation.
5. Require State Pollution Discharge Elimination Systems (SPDES) permits for subsurface disposal systems in excess of 1000 gpd.

6. Extend, where economically and environmentally feasible, potable water distribution systems (deriving their source from surface water and receiving treatment).

See Policies 33, 37.

POLICY 39 **THE TRANSPORT, STORAGE, TREATMENT AND DISPOSAL OF SOLID WASTES, PARTICULARLY HAZARDOUS WASTES, WITHIN COASTAL AREAS WILL BE CONDUCTED IN SUCH A MANNER SO AS TO PROTECT GROUNDWATER AND SURFACE WATER SUPPLIES, SIGNIFICANT FISH AND WILDLIFE HABITATS, RECREATION AREAS, IMPORTANT AGRICULTURAL LAND, AND SCENIC RESOURCES.**

POLICY 39A **THE MORRISON SITE SHOULD BE REMOVED FROM CONSIDERATION AS A HAZARDOUS WASTE STORAGE, HANDLING AND PROCESSING SITE, AND SHOULD NOT BE USED AS A SOLID WASTE FACILITY.**

Explanation of Policy

No treatment, storage or disposal of solid, hazardous or toxic wastes is permitted in the Orleans County coastal area. The transportation of wastes necessitates an emergency preparedness plan and response in the event of an accidental spill.

The definitions of terms "solid wastes" and "solid wastes management facilities" are taken from New York's Solid Waste Management Act (Environmental Conservation Law, Article 27). Solid wastes include sludge from air or water pollution control facilities, demolition and construction debris and industrial and commercial wastes.

Examples of solid waste management facilities include resource recovery facilities, sanitary landfills and solid waste reduction facilities. Although a fundamental problem associated with the disposal and treatment of solid wastes is the contamination of water resources, other related problems may include: filling of wetlands and littoral areas, atmospheric loading, and degradation of scenic resources.

See Policies 36, 40.

POLICY 40 **EFFLUENT DISCHARGED FROM MAJOR STEAM ELECTRIC GENERATING AND INDUSTRIAL FACILITIES INTO COASTAL WATERS WILL NOT BE UNDULY INJURIOUS TO FISH AND WILDLIFE AND SHALL CONFORM TO STATE WATER QUALITY STANDARDS.**

Explanation of Policy

Orleans County does not possess any major steam electric generating or industrial facilities that discharge into coastal waters within the WRA. Since a power plant is located in Somerset, to the west, it is unlikely that another one will be proposed along the Orleans County shoreline in the foreseeable future.

In the event that such facilities are proposed within the WRA, a number of factors must be considered when reviewing a proposed site for facility construction. One of these factors is that the facility not discharge any effluent that will be unduly injurious to the propagation and protection of fish and wildlife, the industrial development of the State, the public health, and public enjoyment of the receiving waters. The effects of thermal discharges on water quality and aquatic organisms will be considered by State agencies or, if applicable, a siting board when evaluating an applicant's request to construct a new electric generating facility.

POLICY 41 LAND USE OR DEVELOPMENT IN THE COASTAL AREA WILL NOT CAUSE NATIONAL OR STATE AIR QUALITY STANDARDS TO BE VIOLATED.

Explanation of Policy

This LWRP incorporates the air quality policies and programs developed for the State by the NYSDEC pursuant to the Clean Air Act and State Laws on air quality. The requirements of the Clean Air Act are the minimum air quality control requirements applicable within the coastal area.

To the extent possible, the State Implementation Plan will be consistent with coastal land and water use policies. Conversely, coastal management guidelines and program decisions with regard to land and water use and any recommendations with regard to specific sites for major new or expanded industrial, energy, transportation, or commercial facilities will reflect an assessment of their compliance with the air quality requirements of the State Implementation Plan.

POLICY 42 COASTAL MANAGEMENT POLICIES WILL BE CONSIDERED IF THE STATE RECLASSIFIES LAND AREAS PURSUANT TO THE PREVENTION OF SIGNIFICANT DETERIORATION REGULATIONS OF THE FEDERAL CLEAN AIR ACT.

Explanation of Policy

The policies of the State and this LWRP concerning proposed land and water uses and the protection and preservation of special management areas will be taken into account prior to any action to change prevention of significant deterioration land classifications in coastal regions or adjacent areas. In addition, the NYSDOS will provide the NYSDEC with recommendations for proposed prevention of significant deterioration land classification designations based upon this LWRP.

POLICY 43 LAND USE OR DEVELOPMENT IN THE COASTAL AREA MUST NOT CAUSE THE GENERATION OF SIGNIFICANT AMOUNTS OF THE ACID RAIN PRECURSORS: NITRATES AND SULFATES.

Explanation of Policy

This LWRP incorporates the State's Coastal Management Program policies on acid rain, and as such, will assist in the State's efforts to control acid rain. These efforts will enhance the continued viability of coastal fisheries, wildlife, agricultural, scenic and water resources.

POLICY 44 PRESERVE AND PROTECT TIDAL AND FRESHWATER WETLANDS AND PRESERVE THE BENEFITS DERIVED FROM THESE AREAS.

POLICY 44A PRESERVE AND PROTECT THE WETLANDS OF THE OAK ORCHARD RIVER AND MARSH CREEKS.

Explanation of Policy

Freshwater wetlands include marshes, swamps, bogs, and flats supporting aquatic and semi-aquatic vegetation and other wetlands so defined in the NYS Freshwater Wetlands Act and the NYS Protection of Waters Act. The NYSDEC has designated a Class I wetland (#KT-9), which occupies 35.5 acres along Marsh Creek in the Town of Carlton.

The benefits derived from the preservation of freshwater wetlands include, but are not limited to:

1. habitat for wildlife and fish, and contribution to associated aquatic food chains;
2. erosion, flood and storm control;
3. natural pollution treatment;
4. groundwater protection;
5. recreational opportunities
6. educational and scientific opportunities; and
7. aesthetic open space in many otherwise densely developed areas.

Guidelines for furthering this policy include:

1. Retain wetlands for open space and for wildlife and fish habitats where practical. Relocate or provide for proper mitigation of developmental actions in or adjacent to wetlands of local significance.
2. Through permit procedures and site plan reviews, deny dredge spoil disposal in wetlands of local significance.

See Policy 7.

SECTION IV
PROPOSED LAND AND WATER USES AND
PROPOSED PUBLIC AND PRIVATE PROJECTS

SECTION IV: PROPOSED LAND AND WATER USES AND PROPOSED PUBLIC AND PRIVATE PROJECTS

A. PROPOSED LAND AND WATER USES

While the Kendall-Yates-Carlton Local Waterfront Revitalization Area (WRA) presents numerous opportunities for development, it also contains agricultural resources, natural harbors, parks and habitats that must be protected for future generations. This task of the LWRP seeks to allocate uses throughout the WRA based on an understanding of: 1. existing development patterns which efficiently utilize existing land area and infrastructure, and 2. natural resource areas which should be protected. Particular emphasis is placed on public access and recreation uses and projects to be encouraged.

The WRA is divided, as follows, into three different areas for convenience in presenting proposed land and water uses. (See Map 4.1, Proposed Land and Water Uses.) The Carlton area is further sub-divided into subareas of similar character and development intensity.

- Eastern Coastal Area - Town of Kendall waterfront;
- Western Coastal Area - Town of Yates waterfront; and
- Central Coastal Area - Town of Carlton waterfront (four subareas):
 - i. Coastal Target Area (Oak Orchard River harbor from Lakeside Beach State Park to the Lake Ontario State Parkway/Lake Shore Road Interchange and south to The Bridges);
 - ii. Oak Orchard River Gorge (south of the Target Area, to the base of the Waterport Dam at Waterport Road);
 - iii. Johnson Creek (west of the Target Area); and
 - iv. Marsh Creek (east of the Target Area).

1. Proposed Land Uses:

a. Eastern Coastal Area - Kendall

The Kendall waterfront possesses mostly parkway and shoreline residential uses. Exceptions include the parkway pull-off, Eagle Creek Marina and the Salvation Army Camp which are expected to continue as coastal recreation uses. The only other use planned in the area is commercial services at the parkway interchanges to accommodate expected commercial growth of tourist services, including food and fuel.

b. Western Coastal Area - Yates

Proposed land uses in Yates generally follow the existing trend away from seasonal residential use to year-round occupied uses. The waterfront contains numerous private roads and shoreline residences that encourage inefficient land use. Future uses will promote the development of waterfront back lots

(lots landward of shoreline lots) through subdivision, and provide local neighborhood opportunities to access water at existing street ends. Existing agricultural land is retained, while dormant farm land is converted to low-density residential, consistent with adjacent uses and rising shorefront demand. Low-density residential use is characterized as one-half acre (minimum) for single-family residences on shoreline and landward lots limited by the lack of public sewer and water services.

Water-dependent uses are concentrated in the few natural shoreline access opportunities in Yates. These include Lakeland (boat launch and restaurant with expanded recreation), Shadigee (restaurant with fishing and scenic area) and the Morrison Site (full, mixed-use development).

The Morrison site represents the most significant development opportunity. Plans include a mixed use site for marine access, recreation, residential, commercial support services and a light industry complex off Route 18 to Lake Ontario. Inland harbor, docking and lakefront swimming are the primary water-dependent uses (see C.1.b).

The upper reach of the Johnson Creek corridor is expected and encouraged to remain in low density rural and agricultural use. The Agricultural District 10 in the area would preserve existing agricultural lands.

c. Central Coastal Area - Carlton

i. Coastal Target Area

The Oak Orchard River harbor from Lake Ontario to the Bridges (Routes 18/98) represents the best natural marina resource in the WRA. As a result, this area has been the focus of land development activity. Existing recreational facilities include: the Lakeside Beach State Park, Oak Orchard Marine Park on the west and east sides of the river, and the Orleans County Marine Park on the east side.

The Point Breeze area supports marine/water-dependent facilities, but commercial support services are noticeably deficient in the area. Retail services (food, tackle, fuel), accommodations, marine services, a park-like setting, and parking are anticipated uses to support/enhance existing marine activities in the area. This would promote the area as a destination, more attractive to the non-boating public.

ii. Oak Orchard River Gorge

Oak Orchard River Gorge is a dramatic scenic and habitat area that possesses excellent aesthetic and fishing resources. The erosion-prone gorge walls and habitat require careful control of uses and limitations from overdevelopment that could jeopardize these valuable coastal resources. No additional power boat dockage should be allowed in this area and further fishing access should be limited to the Waterport Dam area.

The gorge is generally planned for water-enhanced, scenic and complementary recreation uses focused around the industrial use Waterport Dam to relieve potential stress on identified resources. Scenic uses include access to the gorge at the dam (both sides), an overlook from the railroad trestle and hiking/ski trails on the west side in the Clarks Mills Road area. Recreation uses include camping along Park Avenue and Clarks Mills Road and improvements for fishing at the dam (comfort station, fish leaning station). Improvements at the Dam will require the cooperation of Niagara Mohawk.

An area along Park Avenue, near the dam, is reserved for complementary convenience services (food, bait, tackle, and parking). This, and nearby camping facilities, will help relieve the traffic congestion on area roads during seasonal fishing events. Other water-enhanced uses in the area include the existing golf course on Route 98 and adjacent residences along the gorge. These are planned for limited gorge access to avoid further impact to the habitat.

iii. Johnson Creek

The west section of Carlton's waterfront contains both Lake Ontario and Johnson Creek shorelines. Proposed uses on Lake Ontario are agricultural and residential consistent with existing development. High quality residential uses at the mouth of Johnson Creek (Lakeside, Sunset Beach) are retained and protected by unused parts of the state park. Green Harbor (boat launch, docks, beach, campground) and the adjacent residences are also retained.

Commercial facilities in this area (convenience services, including food, gas and tackle) are concentrated at Kuckville. The remainder of Johnson Creek should remain primarily in agricultural production. Access may be very difficult upstream of Harris Road.

iv. Marsh Creek

This area contains two separate sections, Marsh Creek and the Lake Ontario shoreline, with different land use characteristics.

The Marsh Creek area is primarily agricultural with a few farmhouses. It is proposed to remain in viable agricultural production and provide some fishing access to the creek.

The Lake Ontario shoreline is characterized by residential uses along the lake and underutilized agricultural uses inland. The availability of land adjacent to congested Point Breeze (Bennett Farm) provides the most significant opportunity for expansion of services and facilities to support water-dependent marine development. While this land is identified as viable farmland, its proximity to Point Breeze and its history of marginal agricultural production dispose the area to new multi-use development. (See the Inventory and Analysis – Underutilized, Abandoned and Deteriorated Sites.) Proposed uses, designed to avoid competition for scarce creekside land and complement adjacent water-dependent uses, include convenience service at the Lake Ontario State Parkway interchanges (food and gas) and water-enhanced support services along Point Breeze Road (accommodations, restaurant and parking).

The remainder of Bennett Farm is proposed for expansion of recreation uses and water-enhanced uses (see C.2.b). These include a small harbor opportunity to relieve Oak Orchard River marine congestion, recreation development to diversify area opportunities, and retail support services to enhance the Target Area. The rest of the east area is planned to continue existing residential uses along the waterfront (as topography limits other water-related uses), agriculture and recreational use of the parkway right-of-way. The existing parkway pull-off can be expanded to improve use by fishermen and provide passive recreation for tourists (trails, picnic facilities).

2. Proposed Water Uses

Water uses in the WRA are generally focused on recreational activities and their resources. While this section of Lake Ontario is suitable for the full range of water uses, such as swimming, fishing, boating, sport fishing, shipping, it possesses few natural shoreline access points/structures to encourage such uses. The LWRP, therefore, capitalizes on the limited resources for available recreation opportunities. The general range of proposed activities include marine/boating, sport fishing, swimming and restricted use habitat areas.

a. Eastern Coastal Area - Kendall

The Salvation Army Camp is a semi-public recreation facility which provides seasonal camping, swimming and day use activities to client-based groups. Expanded public access is proposed and must be coordinated with the owners and may be provided on a fee basis.

Eagle Creek Marina represents the only marine use in the east coastal area. Boat launching and mooring expansion is planned to enhance marine opportunities. The remainder of Bald Eagle Creek, along with the wetland

on the east side of the harbor, is intended for preservation of existing fish habitats.

Sandy Creek is a designated fish and wildlife habitat, bordered by vacant land, residences and agricultural uses. Low impact uses compatible with fish and wildlife values are proposed.

b. Western Coastal Area - Yates

Water uses in Yates are currently limited to a boat launch at Lakeland. Other opportunities exist at Shadigee and the Morrison site, as proposed in the LWRP plan. Shadigee is planned for fishing and scenic access to the Lake at the water treatment plant. Development, including a park to take advantage of the vista, will enhance the local restaurant and area residences. The Morrison site, through the creation of an inland harbor, represents high priority marine access and dockage potential. The foreshore provides an appropriate approach for harbor dredging to accommodate boat launching and mooring in a protected (breakwall) area on the lake, which will diffuse the extreme marine congestion at Oak Orchard River. The adjacent shore is suitable for swimming and will complement upland recreation development. Johnson Creek is reserved for protected fish habitats.

c. Central Coastal Area - Carlton

i. Coastal Target Area

The Target Area represents the greatest concentration of uses and access opportunities in the WRA.

In the Oak Orchard River harbor at Point Breeze, the existing ramp/docks on the east shore, Oak Orchard Marine Park on the east and west shores, Orleans County Marine Park, and many private marinas offer excellent boating uses protected by the Federal channel, jetties and breakwall at the harbor entrance. Proposed marine uses include an inland harbor as part of the Bennett Farm development where natural shoreline topography provides a modest opportunity for alternative marine access. Other proposed water uses include shoreside fishing at Lakeside Beach State Park and the water plant property at the end of Wilson Road. Provision of these complementary uses will help to reduce conflicts with boating in the harbor.

ii. Oak Orchard River Gorge

The gorge is a sensitive environmental area of fish habitats and erosion-prone banks. This area must be restricted to fishing and use by low-powered and non-powered craft, as intense boat use will compromise the habitat. Currently, the low clearance of the highway bridge over the river restricts larger boat access. However, regulatory limits must also be developed to insure boating and land use restrictions.

Waterport Pond and the Waterport Dam also lie in this part of the WRA. The pond is proposed for fishing and boating uses including public launching on Waterport Road at Clarks Mills Road. Water levels vary on the pond depending on the needs of power generation at the dam and on diversions from the Erie Barge Canal. The water level variations, in turn, affect boating activity on the pond. Hydropower generation at Waterport Dam should, however, continue in conjunction with recreation and habitat needs.

iii. Johnson Creek

The mouth of Johnson Creek is silted in much of the year and contains only private access structures. As a result, its use is limited to fishing and canoeing which are compatible with preservation of its habitat value. The only other water use in this section of the WRA is Green Harbor. This marine facility possesses both swimming and boating uses which are proposed for improvement.

iv. Marsh Creek

Marsh Creek is an excellent fish habitat area that is proposed for fishing and enhancement to improve habitat characteristics and water quality. Agricultural practices designed to inhibit rural runoff and the eventual provision of sewer systems to eliminate septic infiltration are planned efforts to retard habitat degradation.

Fishing is also a planned use at the Lake Ontario State Parkway pull-off. Foreshore fishing is already popular at the pull-off.

B. SUMMARY OF PROPOSED PUBLIC AND PRIVATE PROJECTS

Proposed projects are shown on Map 4.2, Proposed Coastal Projects.

1. Common Coastal Projects

a. Waterfront Tourism Promotion

Provide signage and advertising for waterfront services and facilities along the coast to promote development activities including Seaway Trail markers, Lake Ontario State Parkway signs to identify area marinas, cultural/archaeological sites, coordinated event promotion, maps of recreation facilities and services, and other advertising efforts (Seaway Trail Commission, NYSDOT, Orleans County Highway Department for signage; OPRHP, towns and local business for events/promotions).

b. Expansion of Infrastructure

Upgrade and extend sewer/water services in existing areas (Point Breeze, Shadigee, Morrison site) to serve year-round residences and new

commercial/recreation development (Yates/Lyndonville and Carlton/Albion to establish service extension).

2. Eastern Coastal Area - Kendall

a. Eagle Creek Marina

Expand existing marina facilities, including dredging and bulkheads for new moorings, walkways, a new launch ramp, shoreline protection (stone riprap), and channel entrance stabilization on Lake Ontario (private development).

b. Lake Ontario State Parkway Pull-Off

Initiate fishing and passive recreation facilities improvements at the lakeside pull-off in Kendall, including picnic tables, fishing areas, parking, a trail along the shoreline to connect this pull-off with the one in Carlton, and site/trail markers; construct exits/at-grade crossovers to access the pull-off from both directions on the Lake Ontario State Parkway (Kendall/Orleans County initiation; NYSDOT improvements).

3. Western Coastal Area - Yates

a. Lakeland

Renovate existing boat launch and provide adequate shore protection for ramp and transient dockage; rehabilitate restaurant and establish snowmobile track in adjacent field for winter activity (private development).

b. Shadigee

Provide fishing pier and scenic access to lake at the Route 63 street end; expand parking and create park on water plant property to enhance area (Lyndonville authorization; Yates/private joint development).

c. Morrison Site

As the focal point of western coastal opportunities, provide for mixed commercial/recreation development, marine access, light industrial uses (away from the lake), and coordinated tourist facilities on the underutilized NYSEG property (private acquisition/development; Yates/NYSEG approvals of use/property; NYSDOS funding assistance for harbor development).

4. Central Coastal Area - Carlton

a. Coastal Target Area

- i. Lakeside Beach State Park - complete the 1976 Master Development Plan for recreation (parking, camping, swimming, and picnicking); expand festival/education programs to complement and diversify area activities (Carlton/Orleans County initiation of State budget authorization; OPRHP priority and development).

- ii. Private Marina Rehabilitation - renovate existing docks and shoreline structures along Oak Orchard River (near the mouth) to improve the efficiency and aesthetics of marine development (private improvement).
 - iii. Tourist/Recreation Services - provide accommodations and retail services (restaurant, tackle, etc.) in the Routes 18/98 area (The Bridges) to support recreation activities in the Point Breeze area (private development based on improved market conditions).
 - iv. Bennett Farm - major planned recreation development of 840 acres adjacent to Point Breeze including marine access and dockage, cultural facilities, retail services, consolidated year-round recreation and parking (private development; Orleans County road relocation; Orleans County IDA bond assistance for partial financing).
- b. Oak Orchard River Gorge
- i. Clarks Mills Road/Waterport Dam Access - establish fishing access and facilities in the Waterport Dam/Oak Orchard River Gorge area to accommodate bank fishing demand, including improved trails, waterfront access around the lower part of the dam, camping/trails in the Clarks Mills Road area, restrooms, fish ladder, fish cleaning station, parking and appropriate signage/trail markers; remove dilapidated structures and debris in the gorge to enhance scenic quality (Carlton zoning and development approval; Orleans County scenic improvements; Niagara Mohawk approval for use; private development).
 - ii. Waterport Pond Access - continue maintenance of Lake Alice Boat Launch and parking adjacent to Waterport Pond on Waterport Road (Niagara Mohawk public recreation project; Orleans County initiation, Orleans County Federation of Sportsmens Clubs, Town of Carlton).
- c. Johnson Creek
- i. Johnson Creek - establish fishing access through the NYSDEC easement compensation program along the upper reaches of the creek; create canoe launch for lower creek access in the Lakeside Beach State Park near Route 18 (Carlton coordination/initiation; NYSDEC easement acquisition; Orleans County Health Department monitoring and enforcement of development control/water quality).
 - ii. Green Harbor - renovate private facilities and provide access to the existing beach; rehabilitate docks and shoreline structures, and upgrade services (camping, restrooms, parking, etc.); correct flooding problems in harbor through channel stabilization and shoreline protection (bulkheads) (private development; Carlton review for flood/LWRP consistency).

d. Marsh Creek

- i. Marsh Creek - establish access for creek bank fishing through the NYSDEC easement compensation program; maintain the stream channel to enhance the habitat in the creek (NYSDEC easement acquisition; Orleans County Health Department monitoring and enforcement of development control/water quality).
- ii. Lake Ontario State Parkway Pull-Off - initiate fishing and passive recreation facilities improvements at the lakeside pull-off in Carlton, including picnic tables, fishing areas, parking, a trail along the shoreline to connect this pull-off with the one in Kendall, and site/trail markers; construct exits/at grade crossovers to access the pull-off from both directions on the Lake Ontario State Parkway (Carlton/Orleans County initiation; NYSDOT improvements).

C. PROPOSED PUBLIC AND PRIVATE PROJECTS CRITICAL TO WATERFRONT REVITALIZATION

The following projects have been identified as critical to coastal revitalization efforts. They are described in detail to encourage implementation and funding of key development activities. The projects will promote uses consistent with and further the goals and policies of the LWRP.

1. Eastern Coastal Area - Kendall

a. Eagle Creek Marina

The expansion and improvement of facilities at Eagle Creek Marina, including marina, public access, camping, and fishing facilities, is the only critical project in this part of the WRA. It reinforces waterfront plans and existing activities in the area.

A conceptual plan for the marina is based on its proximity to Rochester and the needs identified in Section II. The concept proposes to improve existing marine facilities by providing new launch ramps, enlarging moorings, adding new docks, providing a walkway for fishing, and stabilizing the lake shore and mouth of Bald Eagle Creek with stone riprap. A fuel dock and sanitary pumpout station would also be provided to service boats. The project would require dredging of 9,000 cubic yards to enlarge three existing slips, and excavation of 9,850 cubic yards to create two new mooring areas with bulkheads and finger docks. The expansion would increase mooring capacity from 76 to 156 boats in the marina. It would be complemented by a reinforced concrete launch ramp. The walkway, supported by pipe piles, would be 250 feet long and 3 feet wide. Existing wetlands in the creek would not be disturbed. Cost of the work is estimated at \$290,000.

2. Western Coastal Area - Yates

a. Shadigee

Shadigee is a waterfront restaurant and lake vista point that is well known to area residents and popular throughout the summer. The site represents an appropriate area for expansion of existing public property (the adjacent water treatment plant) for shoreline access and the improvement of lake scenic opportunities consistent with coastal policies. The provision of parking will relieve traffic problems in nearby residential areas and the concentration of public access at this part of the shoreline will avoid conflicts with residents who experience the seasonal trespass of tourists and fishermen.

The project proposed for this area (Figure 4.1) combines the restaurant and the adjacent water treatment plant property to provide public lake access and parking for scenic and fishing use. It includes improved parking next to the restaurant (18 cars), 220 feet of walkway and pier into the lake (60 feet covered for extended seasonal use), a park setting with benches and landscaping for casual lake views/socializing, and additional parking (14 cars) on the water plant property. The design is oriented to capture the sun and create a local gathering spot for tourists and area residents. It will complement the restaurant, expand the tourist attraction of the area, and preserve public foreshore ownership.

The facilities will cost about \$82,000 to install, and can be easily phased in to coordinate public and private elements. Restaurant parking and landscaping would be privately initiated, while improvement of the water treatment plant property would require public assistance. A joint Village-Town action is needed (the Village of Lyndonville owns the plant) and other public funding will be required due to the scarcity of municipal funds. Village cooperation and the willingness of the Town to participate with some funding are critical elements in project implementation. The project can be constructed in 4-6 months.

b. Morrison Site

The Morrison site represents a significant development opportunity of nearly 1,000 acres between Lake Ontario and Route 18, with over 5,000 feet of lake shoreline. It contains natural shoreline access (one of the few topographic opportunities in Yates) and represents the only significant option along Lake Ontario for recreation development to relieve Oak Orchard River demand. The concentration of development at this site will avert the creation of conflicting pressures at individual, isolated points in the coastal area that could compromise resources that contribute to waterfront value (e.g., Johnson Creek habitat, Oak Orchard River Gorge, and other areas). The project takes advantage of existing quasi-public ownership, shoreline location and Route 18 access to create significant new economic and recreational development and place underutilized land into productive use for coastal purposes. The parcel is owned by New York State Electric and Gas and three private interests. Successful assembly of the property could create \$20 million in mixed-use development focusing on the recreation opportunities available.

The project (see Figure 4.2) generally envisions planned development of the following facilities:

- i. Inland Harbor - the approaching water depth in the center of the parcel and the shoreline topography (inland) offer the potential of a harbor for marine dockage off Lake Ontario. It would require 6-8 feet of excavation, channel dredging off-shore (about 100'), channel protection at the entrance (two piers), interior bulkheads, a launch ramp and docks. This would provide a 1,000 foot by 500 foot harbor for 250-300 boats at a cost of about \$1.9 million. The area is easily expandable should demand warrant. While the per slip cost is excessive (over \$6,000 per slip), the opportunity for other facilities to capitalize on marine access is substantial and can partially defray harbor costs.
- ii. Campground - part of the site, west of the harbor, is reserved for camping. The area is 72 acres with a shoreline location and accessible to the marina. The shoreline area will be available for fishing and swimming, offering diverse water attractions to patrons. The area would provide 300 sites for tents and trailers/RV's on a transient and seasonal basis, and roads, pads, electricity/water, restrooms/showers and playgrounds in a landscaped, rustic setting. Site development cost would be about \$450,000.
- iii. Tourist Park - a large part of the parcel, north of Lake Shore Road, would be dedicated to an open park of various attractions in a village setting. It would include picnic shelters, playgrounds, crafts, historic structures, local cultural facilities, trails and parking. It would occupy 120 acres and grow in phases as historic and cultural elements are added in a coordinated setting. The first phase of access roads and park layout would require \$600,000; later phases would be coordinated with tourist market demand and experience.
- iv. Residential - two types of residential areas are planned to capitalize on the unique atmosphere being created:
 - (1) Condominiums adjacent to the harbor for seasonal, out-of-area residents (80-100 units); and
 - (2) Single-family units (60-75) in a subdivision at the west end of the property to integrate/buffer off-site uses with adjacent area development.

Units would require sewer and water services and should be built in accordance with area absorption potential. The condominium units are estimated at \$3.6 million, while the single-family housing would cost about \$3.2 million (excluding common utility costs).
- v. Retail - numerous retail facilities will be required to secure marine, seasonal and residential uses planned for the site. These include convenience services (hardware, food, gas), specialty goods (bait/tackle, antiques, ship stores), and eventually shoppers goods (apparel, gifts, etc.) as the area grows. General retail space needs have been estimated at 75,000 square feet to accommodate site

development at a cost of about \$3 million. Retail facilities will be concentrated at the center of the site (Morrison Road/Lake Shore Road) for easy access to development.

- vi. Office/Light Industry - the Route 18 access and proximity to Rochester suggests the opportunity for office/warehouse use on the south portion of the site buffered from recreation uses. Separate parcels of 1.65 to 2.0 acres along Morrison Road can yield 200,000 square feet of space in 10 buildings to diversify the site and attract new employment to the coastal area. The quality and unique locale of the site could be an appropriate setting for growing or relocated business. Estimated development costs are \$7.5 million and can aid in the creation of required utility construction sufficient to serve the entire site and, potentially, the adjacent area. County assistance through the Industrial Development Agency is anticipated. The project must be phased over 5-10 years and would require coordinated public/private funding for infrastructure and harbor development. The Orleans on the Lake Corporation, a venture group of local small investors, tried unsuccessfully to generate development studies and assemble land for marketing of the site. The cooperation of New York State Electric and Gas is required in property assemblage. First priority should be for the harbor and recreation facilities to diversify coastal uses. However, this would provide the only marine facilities in this section of the waterfront and relieve some of the congestion and development pressures from the already crowded Oak Orchard River Harbor.

3. Central Coastal Area - Carlton

All of the projects critical to waterfront revitalization of this section of the WRA are in the Coastal Target Area (Oak Orchard Harbor - Lake Ontario to The Bridges). These projects would capitalize on the prior effort and investments made in the area, respond to existing problems of demand and congestion and complement planning efforts in the coastal area.

a. Lakeside Beach State Park

This project for the 731 acre park involves implementation of recommendations in the current master plan to provide diverse recreation facilities for camping, swimming, day use recreation, fishing and year-round activities (hiking, cross-country skiing, etc.). Canoe access to Johnson Creek is also proposed as a complementary use in the park.

Implementation of the park master plan (Figure 4.3) is identified as a critical project that will extend seasonal facilities, expand the public site, and provide support services (camping, cultural/educational recreation, etc.) to the high demand Oak Orchard River area. Implementation would reinforce and promote other private development efforts in the Target Area such as extended marine uses, fishing tournaments, tourism promotion, restaurant/tourist services, and winter activities that will enhance the year-round potential of the area.

The completion of the park master plan is predicated upon the availability of State funds for park improvements and prioritization of recreation expansion by the State at this site. Concerted efforts are required by both County and State legislators for adequate budget inclusion of development funds and continued fulfillment of park plans. Additionally, the acquisition of unimproved land by the OPRHP, adjacent to the park, would open up the lower Johnson Creek area for fishing, thereby relieving access congestion at Point Breeze. A small scale project providing cartop boat launching and parking would require only a moderate level of funding and manpower.

b. Bennett Farm

The Bennett Farm property represents one of the most significant development opportunities in the WRA. Its lakefront location adjacent to the congested Oak Orchard River harbor and availability for use (underutilized as agricultural land for many years) make it a prime development attraction. A variety of proposed recreational uses would diversify attractions in the area and reduce pressures on the Oak Orchard River; while proposed commercial services (accommodations, convenience goods, parking, etc.) would support water-dependent uses along the river, the lack of available land and existing services along the river enhances the attractiveness of this parcel.

The latest known private development proposal for this and adjacent property (Figure 4.4) includes:

- i. expansion of Oak Point Marina;
- ii. golf course/country club renovation;
- iii. a 300 site campground with boat launch and swimming pool on a 200 acre parcel along Marsh Creek;
- iv. operation of an existing restaurant;
- v. construction of a 100 unit motel and extensive car/boat trailer parking along Lake Shore Road; and
- vi. long-term phased development of a second marina on Lake Ontario, a sports center at the campground area, and condominiums with private mooring.

Total development costs are estimated at \$150 million. Commercial services and parking on Point Breeze Road should be initiated first. These are anticipated to be privately financed. To facilitate new development, Lakeshore Road would need to be relocated and sewer and water services constructed or expanded. These infrastructure improvements would require public assistance. At a later date, public assistance would also be needed in developing a harbor and marina on the lake.

K-Y-C - LWRP

Map 4.1 Proposed Land and Water Uses

**ORLEANS COUNTY
NEW YORK**

0 1 2 3 Miles



K-Y-C - LWRP

Map 4.2 Proposed Coastal Projects

**ORLEANS COUNTY
NEW YORK**



Proposed Projects
Boundary

<ol style="list-style-type: none"> 1. Lakeland 2. Shadigee 3. Morrison Site 4. Green Harbor 5. Lakeside Beach State Park 6. OPR Marine Park 7. Marina Rehabilitation 8. State Lease Lands 9. Fiddlers Elbow 	<ol style="list-style-type: none"> 10. Bennett Property 11. Tourist Services 12. Marsh Creek Conservation 13. Johnson Creek Access 14. Lake Alice Access 15. Oak Orchard Creek Gorge 16. LOSP Pull-Off 17. LOSP Pull-Off 18. Bald Eagle Marina
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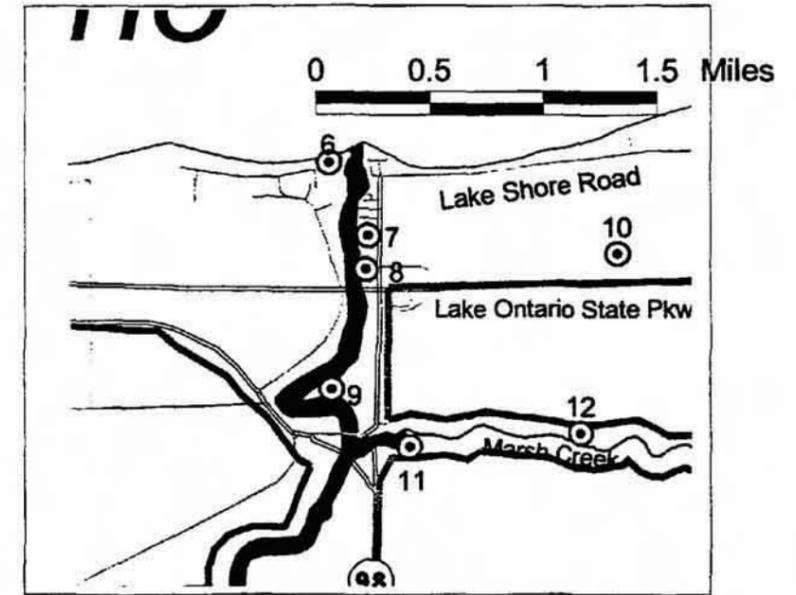
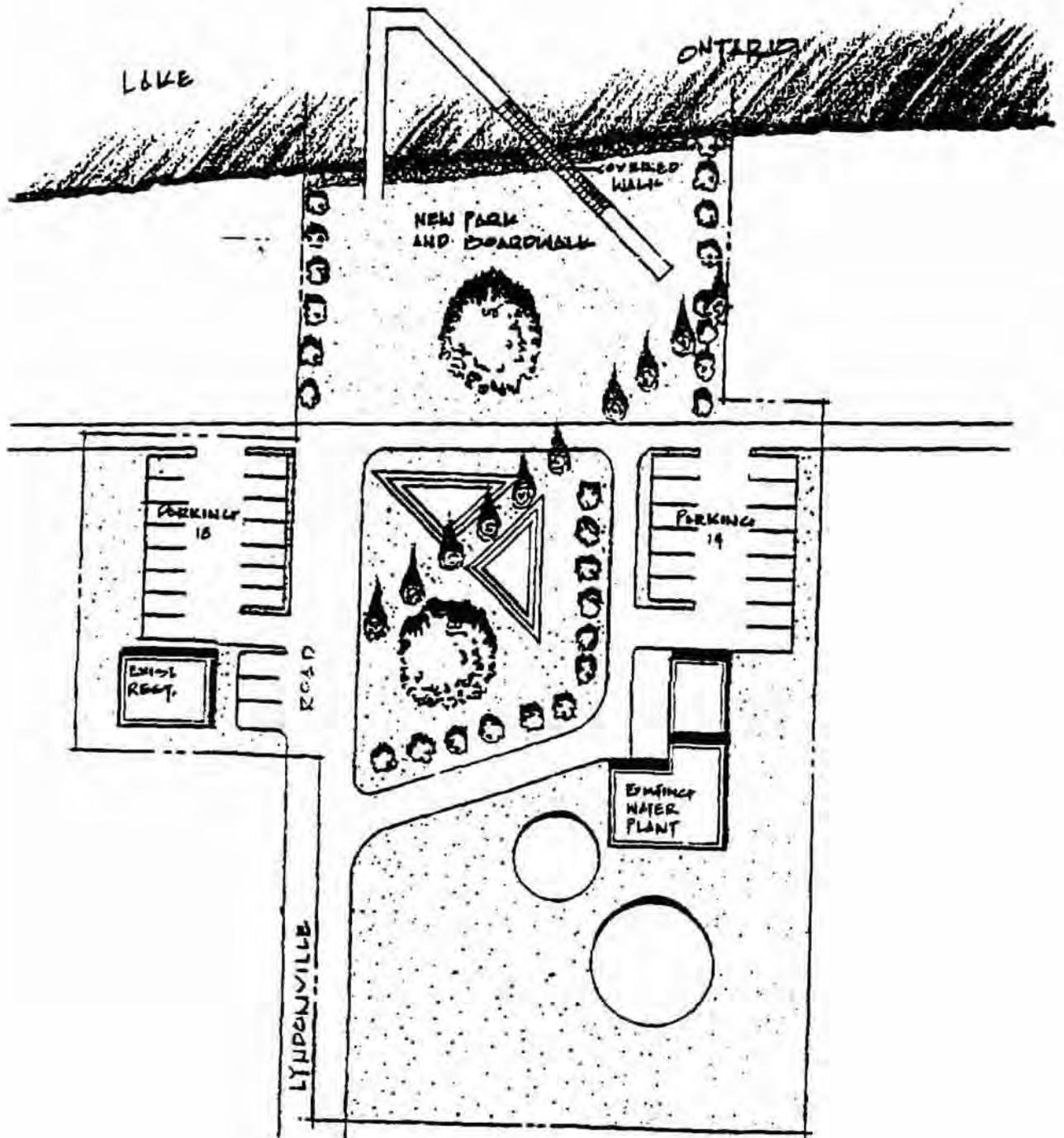


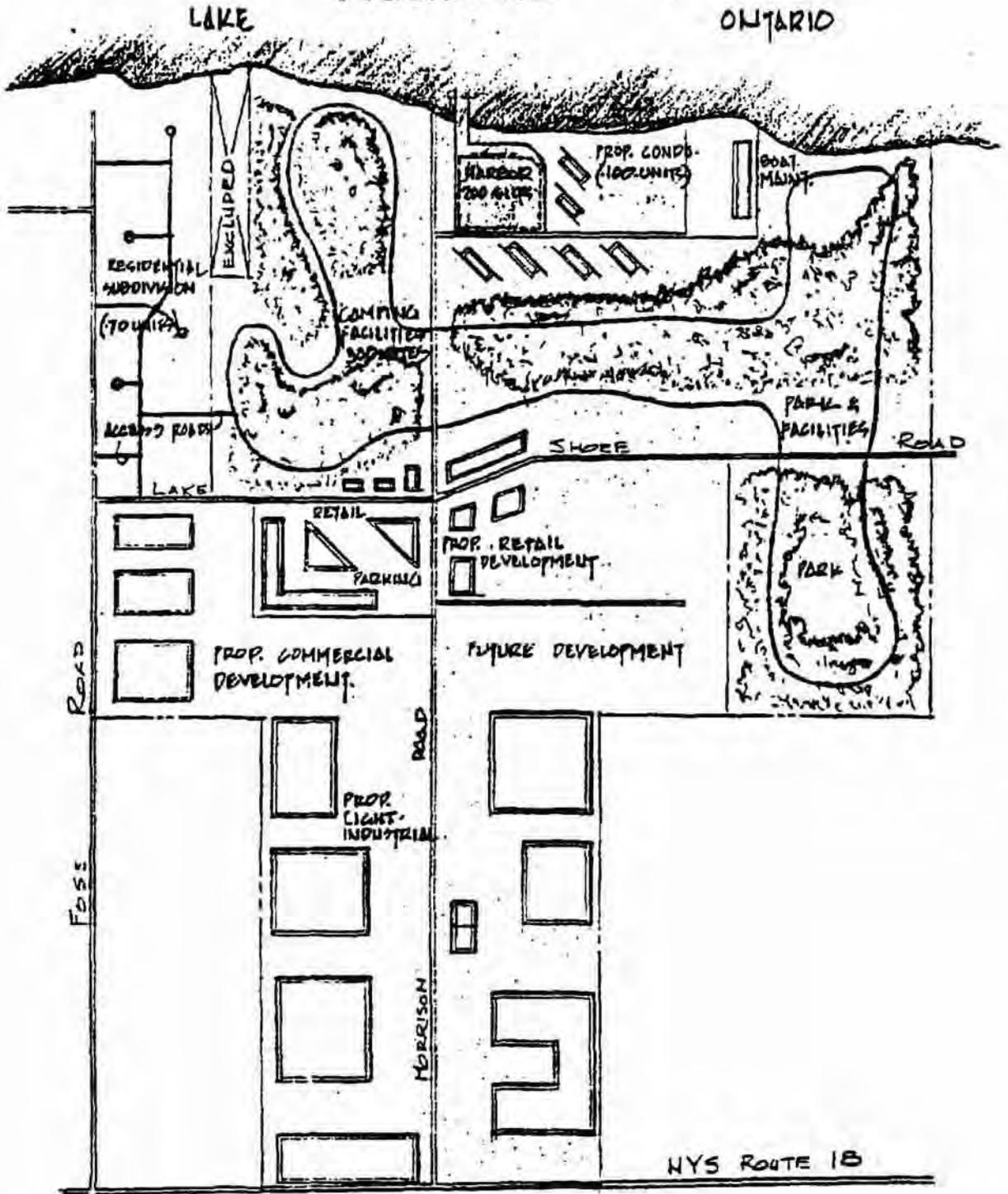
FIGURE 4.1



↑ N
1"=60'

SHADIGEE
K-Y-C LWRP

FIGURE 4.2



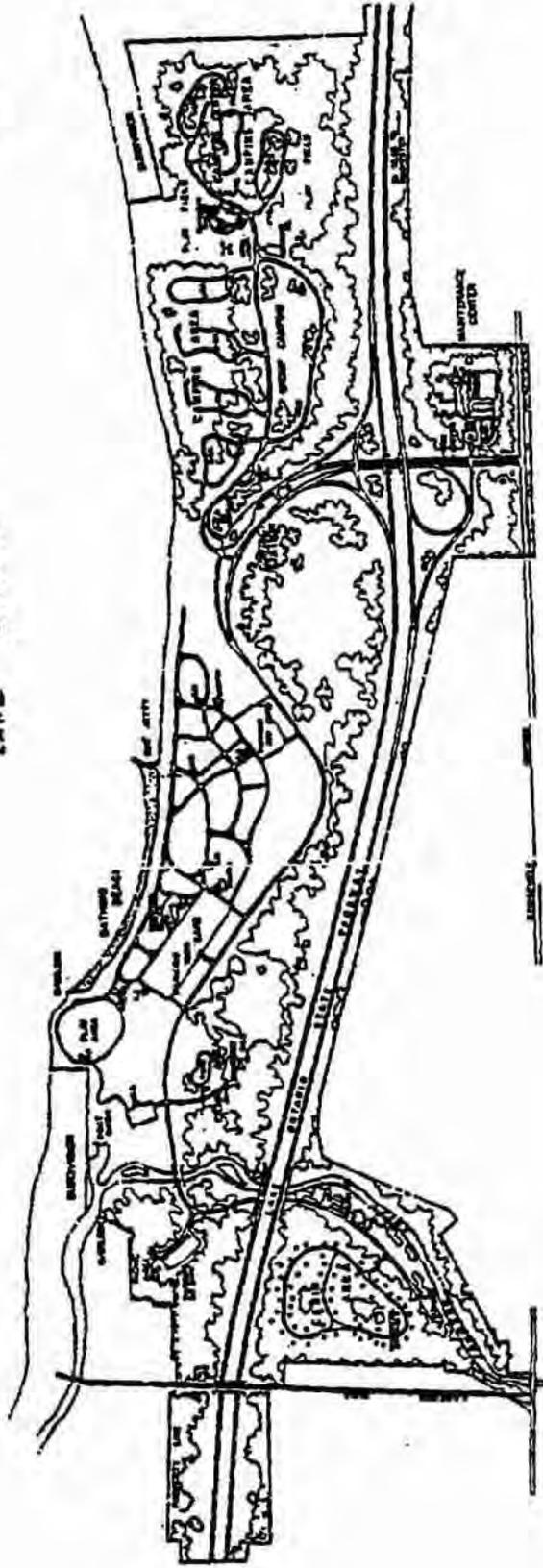
**MORRISON SITE
K-Y-C LWRP**

↑
1" = 1200'

FIGURE 4.3



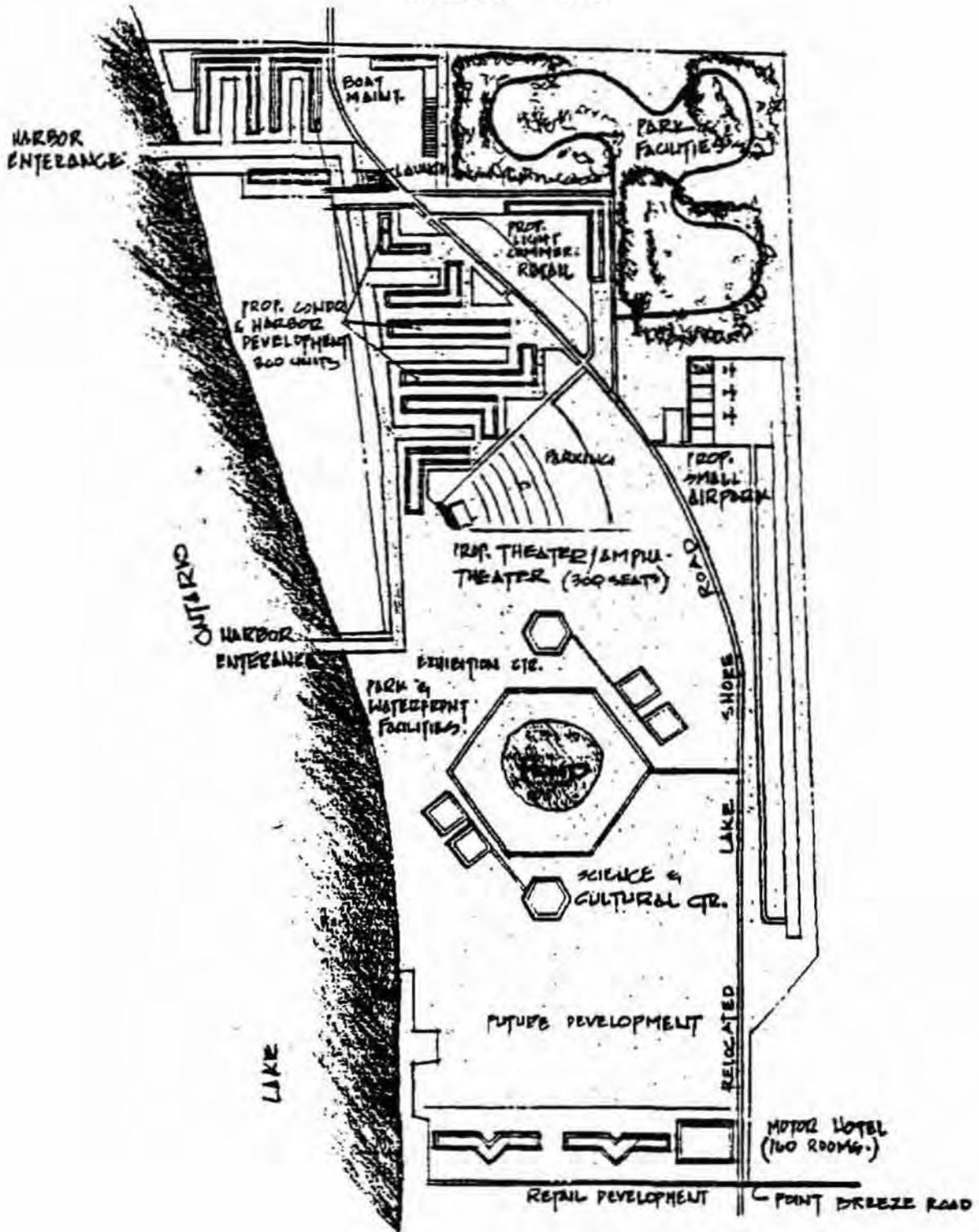
LAKE ONTARIO



LAKESIDE BEACH STATE PARK

MASTER PLAN

FIGURE 4.5



BENNETT FARM DEVELOPER

K-Y-C LWRP

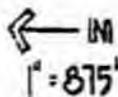
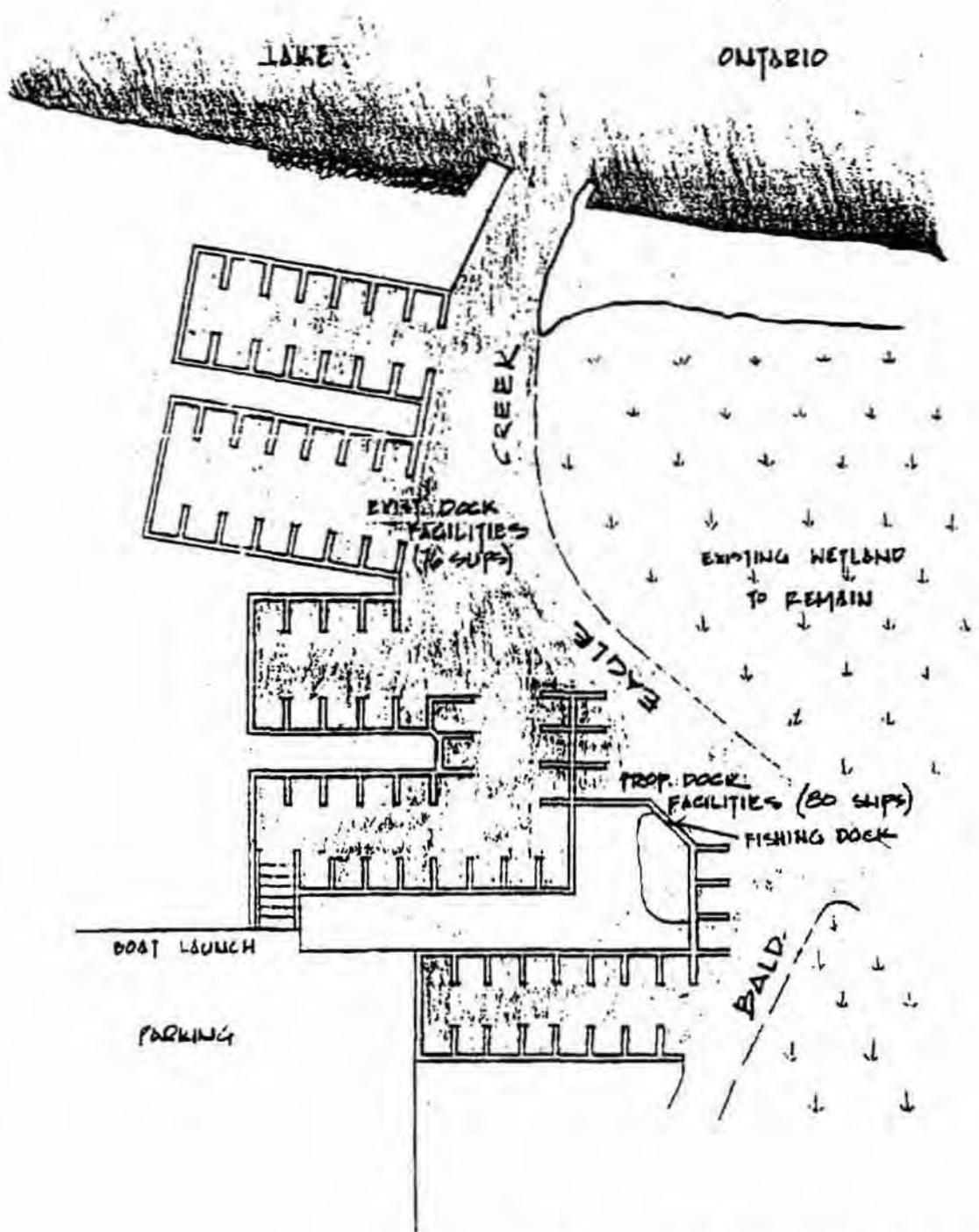
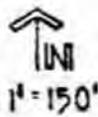


FIGURE 4.7



**BALD EAGLE MARINA
K-Y-C LWRP**



SECTION V
TECHNIQUES FOR LOCAL
IMPLEMENTATION OF THE PROGRAM

A. LOCAL LAWS AND REGULATIONS TO IMPLEMENT THE LWRP

1. Existing Local Laws and Regulations

The Towns of Kendall, Yates and Carlton have all the powers and duties that are conferred to local government by the enabling laws of the State of New York. These are articulated and extended through the following local laws and regulations that can, in turn, be used to implement LWRP policies.

a. Development Plans for the Lake Ontario Coast

Although the Towns of Kendall, Yates and Carlton do not have adopted master plans, officials have identified long-range policies, goals and objectives for overall development within their towns. In addition, all three towns and the County have prepared this LWRP to guide development activities and preserve natural resources for the entire coastal area along Lake Ontario in Orleans County. This locally-adopted LWRP is enforceable under the authority of Article 42 of the NYS Executive Law.

b. Municipal Zoning Ordinance

The Orleans County Planning and Development Department developed a model zoning ordinance that would enable towns to deal more effectively with land use control and development activities. When used in conjunction with local plans, building and housing codes, and subdivision and floodplain regulations, this model zoning ordinance will implement the LWRP policies and purposes.

In 1991, the Town of Carlton repealed its old zoning ordinance and adopted the model zoning ordinance. The Town of Yates took the same action, repealing its 1972 ordinance and approving the new one in December, 1989. In 1992, the Town of Kendall adopted the same model ordinance, modifying it according to the Town's unique local situation.

The model zoning ordinance specifies land use, development density, and project design requirements for the towns in accordance with the NYS Town Law and General Municipal Law. It also sets forth procedures for the Town Board, Planning Board, Zoning Board of Appeals and the Zoning Enforcement Officer. It contains the following provisions applicable to the LWRP:

- i. Permits and procedures for review and approval of all development within the coastal area (Article III).
- ii. District designations and regulations for all land uses in the town, including special recognition of the waterfront, prioritization of water-dependent uses, and special overlay districts for conservation and historic preservation (Articles IV and V).
- iii. Regulations pertaining to the State Environmental Quality Review Law (SEQRA) (Article VI).

- iv. Supplementary regulations governing certain uses, including charter boat services, fish cleaning stations, marinas, and bait and tackle shops (Article VII).
 - v. Regulations and procedures for administering and enforcing the zoning ordinance (Article VIII).
 - vi. Special Permit and Site Plan Review procedures (Articles IX and X).
- c. Building and Housing Codes
- The Towns of Kendall, Yates and Carlton have Building Codes and have adopted the New York State Uniform Fire Prevention and Building Code. None of the towns has locally adopted housing codes. These insure minimum standards of coastal structures.
- d. Flood Plain Regulations
- The Towns of Kendall, Yates and Carlton all have adopted Flood Plain regulations, pursuant to the National Flood Insurance Act of 1968, which are on file with the NYSDEC. The Zoning Enforcement Officer is designated to administer the regulations in each town by granting and denying development permit applications. The Towns of Kendall and Yates have adopted the State model Coastal Erosion Hazard Area Management local law. The Town of Carlton elected to have the NYSDEC administer the State Coastal Erosion Hazard Area regulations for the town. These regulations will be utilized to enforce flooding and erosion hazard policies of the LWRP (Nos. 11-17) and provide special conditions for implementation of coastal erosion control measures.
- e. Coastal Erosion Hazard Area (CEHA) Regulations
- The Towns of Kendall and Yates have adopted local CEHA regulations. The Town of Carlton has elected to have the NYSDEC administer State CEHA regulations for the Town. These regulations restrict development in erosion-prone areas, thereby protecting property and preventing further erosion at or near a proposed development site. They also govern and restrict construction of erosion control measures, such as bulkheads.
- f. Orleans County Sanitary Code (Revised April 1984)
- This code regulates discharges into surface waterways and groundwater. It will be used to: implement coastal policy numbers 8, 30, 31, 38, and other water quality policies of the LWRP; aid in implementing local actions consistent with State regulations; and insure protection of water resources. Enforcement of sewer treatment and pretreatment standards will implement LWRP policies dealing with hazardous waste and industrial effluent.
- g. State Environmental Quality Review (SEOR)

Orleans County passed Resolution No. 83 on March 17, 1977, "Resolution Designating County Planner to Review Applications for SEQR." Resolution No. 83 implements Article 8 of the New York State Environmental Conservation Law within Orleans County, designating the Orleans County Planner as the agency to receive and review all applications and other documents pertaining to SEQR requirements. This procedure ties in with the SEQR referral procedures that were enacted in Section 630 of the towns' zoning regulations.

2. Additional Local Laws and Regulations Adopted

a. Waterfront Development Districts (See Map 5.1)

The zoning ordinances of the three towns have been amended to reflect the policies and purposes of the LWRP in dealing with new development and enhancement of existing waterfront areas. In preparing these amendments, a special effort was made to capitalize on the provisions of the previously adopted model zoning ordinance. Critical parts of the LWRP are incorporated into the existing ordinance structure and local development procedures. In this manner, all available municipal authorities and procedures are used to implement the LWRP.

The Lake Ontario coastal area and its tributary rivers, streams and creeks, possess many locations where multiple uses of land need to be combined into planned site developments. Planned site development of mixed uses can significantly increase water-dependent and water-enhanced activities such as recreation and public access, as well as private use and economic development of the area. By using this technique, coastal resources can be protected and used more effectively than if scattered site development and urban sprawl are allowed to proceed unchecked along the shoreline and river banks.

For example, in the Town of Carlton's Zoning Ordinance (Article V), the Recreation/Residential (RC) waterfront district is modified in the zoning amendment to allow mixed-use development, and is called a Waterfront Development district (WD). A WD district is treated separately in order to provide for development flexibility in response to economic and marketing opportunities. The revised district designation will allow water-related commercial, ancillary retail, office and complementary service use, and residential facilities to be guided by LWRP policies, plans and the Town's development site review procedures.

The areas of applicability in the Town of Carlton for the WD district designation are as follows (these sites are shown on Map 4.1, Proposed Land and Water Uses, and Map 4.2, Proposed Public and Private Projects, in Section IV):

- i. Main Target Area. The Oak Orchard River harbor from Lake Ontario to The Bridges (Routes 18 and 98). This includes Point Breeze and the Bennett Farm (items 6,7,8,9,10 and 11 on Map 4.2).

- ii. Oak Orchard River Gorge south of the main target area. This includes the Waterport Dam, the Clarks Mills Road area, and Park Avenue (items 14 and 15 on Map 4.2).

The Town of Yates includes the Morrison site in its Waterfront Development district.

A Waterfront Development district was also included for the Eagle Creek Marina, in the Town of Kendall.

b. Local Consistency Law

Each town has established a local law under the New York State Waterfront Revitalization of Coastal Areas and Inland Waterways Act (Article 42, Executive Law) to enable it to review its own or any other proposals for action, and to thus ensure that such actions are consistent, to the maximum extent practicable, with the policies and purposes of the LWRP. The text of the consistency law is presented in Appendix B.

B. OTHER PUBLIC AND PRIVATE ACTIONS NECESSARY TO IMPLEMENT THE LWRP

The following actions are needed to bring selected areas up to a point of readiness for actual project implementation.

1. Local Government Actions Common to All Three Towns

a. Promoting Access to the Waterfront

The three Towns and County will protect and maintain public access to Lake Ontario and its tributaries (Marsh, Johnson, and Bald Eagle Creeks and Oak Orchard River). In addition to requiring public access to shoreline areas coincident with the review under local zoning laws of new development projects, the three towns will take the following steps:

- i. Each town will reserve and use public street ends for access to the Lake Ontario shoreline for activities that are compatible with adjacent uses and in conjunction with new multi-use projects in the coastal area. This use of street ends can be attained by incorporating public access conditions into all project site and subdivision approvals that affect public street ends.
- ii. Each town and the County will promote the development and use of waterfront access trails that link primary recreation areas together. While the only existing trails are in the State park, opportunities for new trails are available along the Lake Ontario State Parkway, the Oak Orchard River gorge, Waterport Pond and the Route 18/Seaway

Trail. A major opportunity exists along the Lake Ontario Parkway, at each pull-off. Each pull-off can be linked with other pull-offs and with adjacent coastal resources and facilities by creating trails, paths, private easements and access reservations.

These actions are necessary to guarantee, in the long run, that public access to the coastal area will not be further reduced (see policies 19, 20, 21, and 22).

b. Protecting Coastal Resources

i. Orleans County should request that the US Army Corps of Engineers and the NYSDEC prepare an assessment of shoreline erosion control devices. This should include looking at the effectiveness of various types of existing structural erosion control systems, providing definitive construction cost and material data for future construction and renovation, and assisting the towns in implementing the structural control provisions of the State Coastal Erosion Hazards Area program. This assessment should be done in a comprehensive manner, looking at the entire Lake Ontario shoreline in Orleans County instead of looking at scattered structures in a piecemeal approach. It should be based on the State's Coastal Erosion Hazards Area Program, data in the US Army Corps of Engineers files, and local experiences with various erosion control structures.

ii. Enforce and update sanitary codes.

The Orleans County Health Department will enforce and update (through established amendment procedures) the County's sanitary code and, where necessary, recommend local codes and best management practices that can be adopted by local public and private parties to preserve water quality and protect public health.

These actions will implement the LWRP by preventing degradation of water quality (see Policy 37).

c. Preserving historic, cultural and archeological sites

Each town's planning board will maintain a list of historic, cultural and archeological sites in its jurisdiction, and update it as new sites are discovered over time. The Town of Yates will encourage local historians to conduct a survey of historic buildings and structures which are over 50 years old. In addition, each town's planning board will identify and recommend steps to protect and preserve significant sites, including the mapping of structures, sites and districts. This action will help to implement policy 23.

d. Rehabilitating the Waterfront

i. Orleans County will coordinate an overall effort to create more effective signage and advertising for services and facilities along the Lake Ontario waterfront, in order to promote tourism and

development activities. The New York State Department of Transportation (NYSDOT) will be requested to install signs on the State Parkway identifying the special nature of the Orleans County waterfront area. The Seaway Trails, Inc. will be requested to add Seaway Trail markers on Route 18, and at the "Bridges" and along the Lake Ontario Parkway.

- ii. The Towns and County should jointly encourage the renovation and redesign of public and private roads in the WRA to serve waterfront uses more effectively in the future.
- iii. Each town should prepare subdivision regulations which include street standards and clustering techniques that address the problem of imposing new street layouts over previously developed areas and private roads and firelanes. Once this has been accomplished, the new public street layouts will benefit year-round residents and private property owners by allowing public services along previously unserved private roads.

2. Public Actions Within Each Town

a. Actions in the Town of Kendall

The Town will seek to negotiate an agreement with the Salvation Army to expand the types of activities available to the public, and to extend the camp's operating season.

b. Actions in the Town of Yates

i. Prepare the Shadigee Restaurant site for expansion:

- a) The Town of Yates will obtain agreements from all concerned parties regarding the assembly of land into one site. The Town will negotiate with the Village of Lyndonville to permit use, including creating a park, of their property at the water treatment plant.
- b) The Town of Yates and Orleans County will seek the financial assistance from the OPRHP under the Land and Water Conservation Fund for development of public improvements on the water treatment plant property. This is a 50% local matching fund program.

ii. Prepare the Morrison site for mixed-use development:

- a) The Town of Yates has included the Morrison site in its waterfront development district to recreational, residential, commercial and light industrial uses in a planned development, as indicated on Map 5.1, Coastal Zoning.

- b) The Town will work with the developer in gaining commitments of land for the project from the New York State Electric and Gas Corporation.
- c) Orleans County will assist developers in obtaining priority funding for the project through the New York State Urban Development Corporation, in cooperation with the County of Orleans Industrial Development Agency, NYS Department of Economic Development, Job Development Authority and other agencies as appropriate for the project. This action should be taken after the market analysis and final plans for the project are complete.

c. Actions in the Town of Carlton

i. Prepare Green Harbor for future use:

- a) The Town of Carlton should review shoreline conditions and identify needs for stabilization and channel improvements in the harbor. This step is needed to insure that the US Army Corps of Engineers standards and LWRP policies on erosion and flood control are being implemented.
- b) Any expansion of development plans by the developer should be reviewed by the Town through its zoning powers. Any approvals that are granted must include a condition requiring public access to the sand beach.

ii. Prepare Johnson Creek for future use:

The Town of Carlton and Orleans County Planning Department will request the Genesee State Parks Commission to include in the park's master plan and budget a public canoe launch near Route 18 in the Lakeside Beach State Park. The Town of Carlton, County Fishery Committee, and County Federation of Sportsmens Clubs will cooperate with the OPRHP to develop a public canoe launch near NYS Route 18 at Kuckville, adjacent to Lakeside Beach State Park.

iii. Preserve the Marsh Creek area:

The Town will designate appropriate areas of Marsh Creek for recreational uses.

iv. The Town of Carlton and/or the County will take the following steps to prepare the Oak Orchard River harbor (Lake Ontario to The Bridges) for future, more intense use:

- a) The Town Planning Board will identify and recommend measures to protect pedestrians at The Bridges and at Kuckville, in order to separate pedestrians and vehicles at

each location. The County Highway Department will make the improvements at The Bridges, and the NYSDOT will make the improvements at Kuckville to be paid by Orleans County and the NYSDOT.

- b) Orleans County will prepare the Bennett Farm site for major redevelopment by relocating a 7,900-foot segment of Lakeshore Road, moving it closer to the interchange away from the water's edge. The developer will give land for the new right-of-way in exchange for the old route along that segment being abandoned. This action will allow better use of the land along Point Breeze, and create a parcel of land large enough for a mixed-use development that does not presently exist at the water's edge at that site. The increase in land value and tax revenue would compensate for the cost of relocating the road. It is expected to raise taxable value from \$500 per acre for agricultural land to \$2000 per acre for developable waterfront property that appreciates in value with time. This action will also remove the erosion problem that is presently undermining Lakeshore Road along the old right-of-way next to the water's edge.
- v. The Town will take the following steps to protect the Oak Orchard River Gorge between The Bridges and the Waterport Dam:
- a) Retain a low clearance bridge on Oak Orchard River Road to restrict the size of boats entering the creek.
 - b) Work with the County Sheriff's Department to enact and enforce speed limits and encourage regular sheriff boat patrols from Orleans County Marine Park.
 - c) Obtain negotiated agreements with the New York Public Service Commission and the Niagara Mohawk Power Corporation to develop controlled access to land around the Waterport Dam and Waterport Pond which are owned by the Niagara Mohawk Power Corporation. This would include building trails along the gorge, camping along Clark's Mills Road and parking. Orleans County will identify funds to develop these facilities and access to the water in cooperation with Niagara Mohawk.
 - d) The Town will identify specific measures that can be taken to improve the scenic quality of the Oak Orchard River Gorge, such as at the crossings of Oak Orchard River, including The Bridges, Waterport Dam and the old railroad trestle (Hojack line). Measures would include: repairing or removing deteriorated structures such as old docks and buildings, and seeking Federal designation of segments of the Oak Orchard River as a wild, scenic and recreational river.

- e) The County Health Department will continue periodic surveys of water quality conducted in the gorge that identify point and non-point sources of water pollution.

3. Private Actions

All actions presented here should be initiated and implemented by private land owners, developers, community groups, and business and financial interests.

a. Actions Common to All Three Towns

- i. Local business and service groups can privately finance promotional literature (e.g., maps of recreation facilities and services) and coordinate advertising with State and local organizations, in order to increase awareness of the Orleans County waterfront and generate usage of coastal resources (e.g., coordinating promotional events such as Fishing Derbies with the New York State Department of Economic Development's "I Love New York" campaign). Community volunteers can be approached for this effort.
- ii. Improve water quality through private study and use of best management practices to minimize non-point source run-off. Farming interests and associations in Orleans County should work with the Cooperative Extension Service and Soil and Water Conservation District by:
 - a) Requesting that studies be made and recommendations formulated concerning agricultural runoff (phosphorous) in the County's streams.
 - b) Adopting contour plowing and select plantings in agriculture to curb the discharge of excess nutrients, organics and eroded soils into coastal waters by private interests in Soil and Water Conservation Districts.

These private actions will help protect water quality and minimize damage to fish populations due to agricultural run-off, thereby attracting more recreational activities and businesses to Orleans County, (see policies 1, 9, 19-21, 26, 30, 37, and 38).

b. Actions in the Town of Kendall

- i. Prepare the Salvation Army Camp for expanded multiple uses in the future:

The private owner should coordinate with the County to give permission for an extended season for public access to campgrounds for swimming and fishing. The owner may develop a fee basis and schedule to accomplish this, with revenues going to the owner.
- ii. Prepare Eagle Creek Marina for expanded multiple-use development:

The private developer should prepare an updated master plan for multiple-use development, in accordance with the Waterfront Development District.

c. Actions in the Town of Carlton

Prepare Lakeside Beach State Park for more active use: Community volunteers, youth groups and the Orleans County Tourism Advisory Board should organize and conduct festivals and educational activities at the park to complement and diversify local activities and special events such as Fish Derbies.

C. MANAGEMENT STRUCTURE NECESSARY TO IMPLEMENT THE LWRP

The proposed management of the LWRP relies heavily on existing zoning and environmental review/SEQR procedures and responsibilities in each town. This has been done in order to build on existing authorities rather than create entirely new processes that require extensive time to develop before they are effective. Existing procedures in local ordinances have been revised only to insure compliance with LWRP policies and purposes and to effect LWRP implementation.

1. Lead Agency/Designated LWRP Official

a. Lead Agency

The Lead Agency responsible for overall management and coordination of the LWRP in each town is the Town Board. The Town Board currently is responsible for coordination and approval of development, SEQR determinations and adoption of plans and zoning ordinances. The Town Board is assisted by the Town Supervisor, Zoning Enforcement Officer, Zoning Board of Appeals and the Planning Board.

b. Designated Official

The designated LWRP official in each town is the Town Supervisor. This official coordinates Town Board functions and responsibilities and is the key organizational position in town government. The designated LWRP official is responsible for overall LWRP coordination and evaluation of actions in the coastal area for consistency with LWRP policies and purposes. All applications for action in the LWRP area will be submitted to the appropriate Town Clerk for scheduling and coordinating review activities according to normal town procedures.

2. Responsibilities For Implementing the LWRP

Management of the LWRP involves every level of local government in some way. The primary participants in shaping the direction and implementation of the LWRP are:

a. Town Supervisor and the Town Board

As the executive and legislative policy-makers of each town, the Supervisor and Town Board are responsible for municipal decision-making, fiscal programming and administrative implementation. The Town Board carries the legislative authority of zoning and local actions, while the Supervisor has the authority for execution of town policy and directives through the Planning Board and Zoning Enforcement Officer. Each Town Board is responsible for SEQR and LWRP determinations in authorizing public and private uses. Each Town Supervisor will coordinate the LWRP review process and, as the lead official, will provide for notification of all affected parties and agencies about LWRP matters. The Supervisor shall obtain advice from appointed boards and experts as is deemed necessary.

b. Planning Board

The Planning Board is an advisory body to the Town Board, and has approval authority for site plans, special permits, and subdivisions as delegated by the Town Board. The Planning Board may also, upon request by Town Board resolution, advise the Town Board on waterfront improvements, public structures and public actions in the LWRP area.

As a major support staff to the Town Board, the Planning Board has primary responsibility for reviewing and advising on LWRP policy, purposes, maps and uses. The Planning Board will review actions when authorized by the Town Board, and make recommendations pertaining to the issuance of Certificates of Consistency with the LWRP.

c. Zoning Board of Appeals

The Zoning Board of Appeals interprets provisions of and grants variances to the zoning ordinance. Pursuant to local laws and ordinances, it can decide appeals from administrative decisions including "third party" relief. In its capacity, it is the local forum of quasi-legal redress from arbitrary governmental actions.

d. Zoning Enforcement Officer

The duties of the Zoning Enforcement Officer are to administer and enforce the provisions of the zoning ordinance. The Zoning Enforcement Officer may issue a building permit on the authority of the Office, but when it is for a Special Permit or Site Plan Review, this can be done only after receiving approval from the Planning Board. The Zoning Enforcement Officer has authority to monitor actual site development for compatibility with the town's conditions of approval, and to begin proceedings against responsible parties to remedy violations of the ordinance. Problems are reported to the Town Supervisor for consideration by the Town Board and the assignment of punitive action, if necessary.

The Zoning Enforcement Officer screens the applications of all proposed actions to determine if they would occur within the LWRP area. For those that do, the completion of a Coastal Assessment Form (CAF) is required,

which is to be submitted to the Zoning Enforcement Officer, who in turn forwards it to the appropriate municipal agency.

e. Orleans County Planning Board

The Orleans County Planning Board will coordinate intermunicipal planning and review activities for the LWRP area. In accordance with Sections 239 l and m of the General Municipal Law, certain zoning actions must be referred to the County Planning Board for recommendation. In addition, the towns and Orleans County may enter into intermunicipal agreements under State law to coordinate coastal planning and development.

3. Procedures for Managing Local, State and Federal Actions

The towns' basis for approving local actions and reviewing federal and State actions are the policies and purposes of the LWRP, which are sustained in part by local land use regulations and permit procedures that are inherent to town government and the State Environmental Quality Review Law (SEQR).

The Town Board has ultimate authority for regulating local land use and development. It delegates various duties to the Planning Board, Zoning Board of Appeals, and Zoning Enforcement Officer.

Actions within the WRA are subject to municipal land use regulations. This requires the formal application to the Zoning Enforcement Officer for a construction permit, issuance of a zoning certificate for use, density and dimensional compliance prior to the start of construction, and issuance of a Certificate of Occupancy for compliance at the completion of construction.

All proposed private and public sector actions within the WRA are subject to consistency review. (See the Appendix to the LWRP.) Actions undertaken by an agency are either Type I or Unlisted as defined in SEQR regulations (6 NYCRR 617.2). These include approval, funding and direct actions.

a. Local Actions

A local agency can include the Town Board, Planning Board, Zoning Board of Appeals, Zoning Enforcement Officer, or any other body or officer of a town. Generally, the agency undertaking a direct action or responsible for approving an application for an action by another party shall be charged with making the consistency determination as part of its regular review procedure. In the event of a Type I action, however, responsibility for the consistency determination shifts to the respective town board.

For example, applications for a Site Plan Review or Special Permit are reviewed and acted upon by the respective Town Planning Board. If the proposed action is located within the WRA, the Planning Board must also issue a Certificate of Consistency. If the proposal meets or exceeds the threshold for a Type I action, such as a non-residential project consisting of over ten acres, the Town Board becomes responsible for making the consistency determination.

All requests for proposed actions within the LWRP area must be accompanied by a completed Coastal Assessment Form. The CAF submission and the town's internal review procedures provide for the majority of LWRP management, coordination and compliance activities. Applications and CAFs shall be submitted to the Zoning Enforcement Officer (ZEO), who will subsequently forward them to the appropriate municipal agency.

Actions found to be consistent with the LWRP will be issued a Certificate of Consistency. Except for ministerial actions, no permit or other authorization shall be issued until a consistency determination has been made, and a Certificate of Consistency has been granted by the appropriate agency after review in accordance with coastal assessment procedures. Inconsistent actions will be denied or modified based on the policies and purposes of the LWRP.

b. State and Federal Actions

The procedure for town review of federal and State actions for consistency with the LWRP is similar to the one used for local actions. Appendices C and D set forth the procedures for coordinating the local review with the federal and State approvals of actions within the three towns.

D. FINANCIAL RESOURCES NECESSARY TO IMPLEMENT THE LWRP

The financial resources of the towns and County are limited, thus implementation of the LWRP and successful waterfront revitalization must depend on outside assistance and private initiative. The towns and County have concentrated on proposed actions and projects that will promote interest in the waterfront, and thereby generate complementary private development. Generally, local and State government will be responsible for implementing preparatory actions and projects to encourage waterfront revitalization, while actual development and its financing will be undertaken by the private sector. Various grants-in-aid are anticipated to augment both local government and private sector resources.

The total cost of all public and private LWRP projects is estimated to be \$44,472,000 and \$1,599,500, respectively. These estimates exclude the costs of contingency actions, land acquisition, and design and engineering preparations, which are estimated to be a minimum of 30% of the above stated amounts.

1. Proposed Projects

LWRP projects are mostly concentrated in the Oak Orchard River/Bennett Farm area in the Town of Carlton, where the Oak Orchard River enters Lake Ontario. The major mixed-use projects are the Morrison site in Yates, Bennett Farm in Carlton, and Eagle Creek Marina in Kendall. Figure 5-1 presents a summary of all major projects and cost estimates.

Figure 5-1 LWRP Projects and Estimated Costs

* 1 = Towns 2 = Orleans County 3 = State Budget and Grants
 4 = Federal Budget and Grants 5 = Private Resources

<u>A. LWRP PROJECTS</u>		<u>ESTIMATED FUNDING COSTS (1990)</u>	<u>RESOURCES*</u>
1.	<u>Shadigee</u> . Add fishing pier and scenic access to Lake Ontario, and expand parking and create park (Yates).	\$82,000	1,2,5
2.	<u>Morrison Site</u> . Develop major mixed-use project with inland harbor, commercial, recreational marine, residential and light industrial development (Yates).	\$24.3 million	1,2,3,4,5
3.	<u>Oak Orchard Marine Park</u> . Build boat docks, land ramp and parking facilities at the mouth of Oak Orchard River on the west shore, between Archibald Road and the West Federal Pier (Carlton).	\$1-3 million	3,4
4.	<u>Orleans County Marine Park</u> . Complete Phase II, including fish cleaning station, communication building, restroom, parking etc. (Carlton).	\$500,000	2,3
5.	<u>Bennett Farm</u> . Undertake major planned recreation development on 840 acres next to Point Breeze, with boat access, cultural facilities, retail services, and year-round recreation and parking (Carlton).	\$18.0 million	1,2,3,4,5

6.	<u>Eagle Creek Marina.</u> Expand existing marina facilities, including dredging and bulkheads for new mooring, walkways, a new boat launch ramp, and shoreline protection with riprap at the channel entrance (Kendall).	\$290,000	5
	SUBTOTAL (A)	<u>\$44,472,000</u>	
<u>B. LWRP ACTIONS</u>			
<u>1. Local Government Actions</u>			
a.	<u>LWRP Adoption.</u> Three towns.	---	1
b.	<u>Increase Access.</u> Create NYSDEC fishing easement access on 4 creeks (\$54,000), trails along the state parkway (\$67,000), and regulatory and planning measures.	\$121,000	1,2,3
c.	<u>Coastal Resource Management.</u> Conduct management studies for Marsh Creek and Oak Orchard River (\$54,000), maintaining the low bridge on elevations on Oak Orchard River to limit access to gorge.	\$ 54,000	2,3
d.	<u>Conservation Actions.</u> Monitor water levels. Identify cultural and archeological sites (\$8,000), and enact conservation districts.	\$ 8,000	1,2,3
e.	<u>Waterfront Rehabilitation.</u> Create highway signage and maps (\$14,500), conduct a recreation demand study (\$18,000), and create regulatory and planning measures.	\$ 32,500	1,2,3
f.	<u>Fish Habitat Protection.</u> Evaluate State designated habitats (\$36,000), and support State fish stocking programs and measures to enable fish populations to reproduce in nature.	\$ 36,000	3,4

g.	<u>Public Actions in Carlton.</u> Create a canoe launch on Johnson Creek (\$6,000), implement the State plan for Lakeside Beach State Park, provide pedestrian protection at The Bridges and Kuckville (\$850,000), clean up deteriorated structures in the gorge (\$12,000), and enact regulatory and planning actions.	\$868,000	1,2,3
h.	<u>Public Actions in Kendall.</u> Construct at-grade crossings at the LOSP pull-off (\$300,000), and enact conservation and agricultural zoning districts and other regulatory actions.	\$300,000	1,3
2. <u>Private Actions</u>			
a.	<u>Common Actions.</u> Implement best management practices to control runoff, and adopt zoning and site development controls.	\$100,000	1,2,3,5
b.	<u>Private Actions in Yates.</u> Install parking and landscaping at Shadigee (\$10,000), conduct a marketing study for and assemble land at the Morrison site (\$14,500), excavate an inland harbor at Morrison, construct shoreline protection structures (\$27,000) and enact zoning and planning measures.	\$ 51,500	1,5
c.	<u>Private Actions in Carlton.</u> Correct the flood problem at Green Harbor (\$14,000), conduct a market study for Bennett Farm (\$14,500), and enact zoning and planning measures.	\$ 28,500	1,5
d.	<u>Private Actions in Kendall.</u> Prepare Salvation Army Camp for limited public use.	---	5
SUBTOTAL (B)		\$1,599,500	

<u>C.</u>	<u>LWRP MANAGEMENT</u>		
1.	<u>Planning/Coordination</u>	Town/County	1,2
2.	<u>LWRP Review/Evaluation</u>	Town	1
3.	<u>Enforcement</u>	Town	1
	SUBTOTAL (C)	---	
	<u>TOTAL OF A, B, AND C</u>	\$46,071,500	
	<u>DESIGN AND CONTINGENCIES (30%)</u>	\$13,821,500	
	<u>GRAND TOTAL</u>	<u>\$59,893,000</u>	

The full impact of waterfront revitalization in Orleans County will only be felt as the wide variety of public and private actions are implemented. These many actions are needed to prepare the area for actual projects, and the success of these projects depends upon how well and how quickly the proposed actions can be carried out. The revitalization effort does not rely exclusively on only one or two major projects.

2. Other Public and Private Implementation Actions

The total cost of preparing the specific feasibility studies, project designs, and engineering/financial packages, which are needed to trigger LWRP construction projects, are not yet fully defined. The funds for preconstruction actions and projects must be secured by the towns and County. Private preparation costs will be borne by the various project developers through conventional private sector means.

3. Management of the LWRP

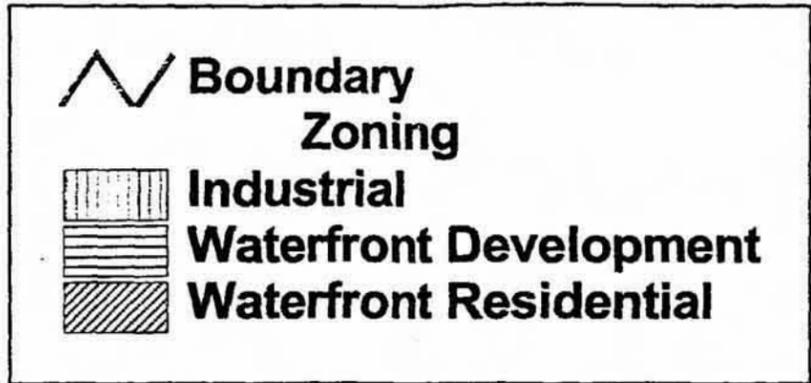
No new staff positions need to be created at this time to manage the LWRP.

K-Y-C - LWRP

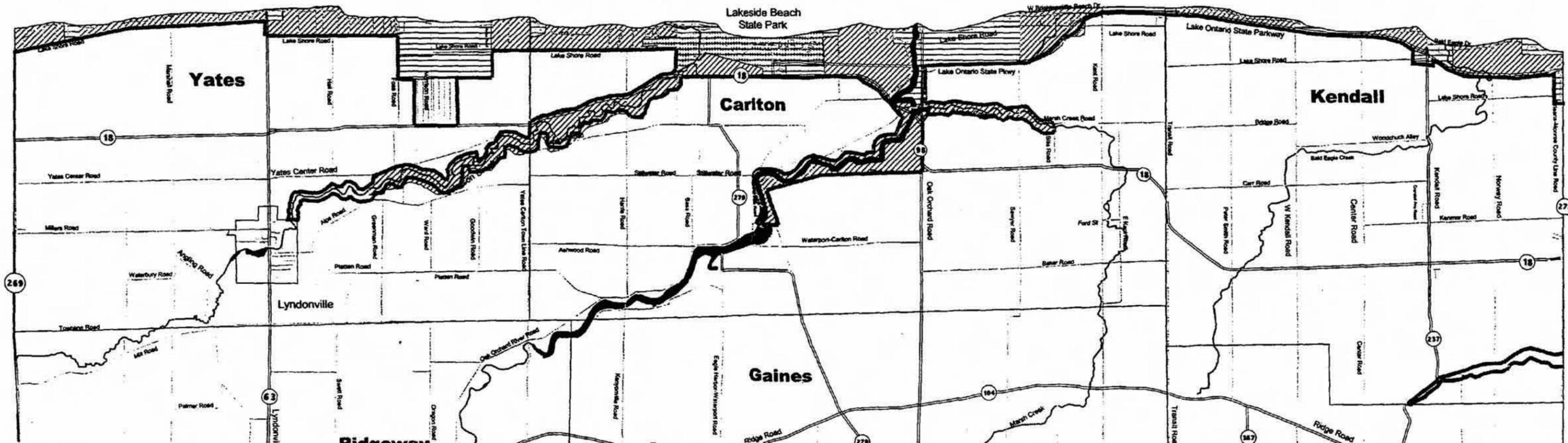
Map 5.1

Coastal Zoning

**ORLEANS COUNTY
NEW YORK**



LAKE ONTARIO



SECTION VI

**STATE AND FEDERAL ACTIONS AND PROGRAMS
LIKELY TO AFFECT IMPLEMENTATION**

State and federal actions will affect and be affected by implementation of a Local Waterfront Revitalization Program (LWRP). Under State law and the U.S. Coastal Zone Management Act, certain State and federal actions within or affecting the local waterfront area must be "consistent" or "consistent to the maximum extent practicable" with the enforceable policies and purposes of the LWRP. This consistency requirement makes the LWRP a unique, intergovernmental mechanism for setting policy and making decisions and helps to prevent detrimental actions from occurring and future options from being needlessly foreclosed. At the same time, the active participation of State and federal agencies is also likely to be necessary to implement specific provisions of the LWRP.

Pursuant to the State Waterfront Revitalization of Coastal Areas and Inland Waterways Act (Executive Law, Article 42), the Secretary of State notifies affected State agencies of those agency actions and programs which are to be undertaken in a manner consistent with approved LWRPs. The following list of State actions and programs is that list. The State Waterfront Revitalization of Coastal Areas and Inland Waterways Act requires that an LWRP identify those elements of the program which can be implemented the local government, unaided, and those that can only be implemented with the aid of other levels of government or other agencies. Such statement shall include those permit, license, certification, or approval programs; grant, loan, subsidy, or other funding assistance programs; facilities construction; and planning programs which may affect the achievement of the LWRP. Federal agency actions and programs subject to consistency requirements are identified in the New York State Coastal management Program and by the implementing regulations of the U.S. Coastal Zone Management Act.

The second part of this section is a more focused and descriptive list of State and federal agency actions which are necessary to further implementation of the LWRP. It is recognized that a State or federal agency's ability to undertake such actions is subject to a variety of factors and considerations; that the consistency provisions referred to above, may not apply; and that the consistency requirements cannot be used to require a State or federal agency to undertake an action it could not undertake pursuant to other provisions of law. Reference should be made to Section IV and Section V, which also discuss State and federal assistance needed to implement the LWRP.

A. State and Federal Actions and Programs Which Should be Undertaken in a Manner Consistent with the LWRP

1. STATE AGENCIES

OFFICE FOR THE AGING

- 1.00 Funding and/or approval programs for the establishment of new or expanded facilities providing various services for the elderly.

DEPARTMENT OF AGRICULTURE AND MARKETS

- 1.00 Agricultural Districts Program
- 2.00 Rural Development Program
- 3.00 Farm Worker Services Programs.
- 4.00 Permit and approval programs:
 - 4.01 Custom Slaughters/Processor Permit
 - 4.02 Processing Plant License
 - 4.03 Refrigerated Warehouse and/or Locker Plant License

DIVISION OF ALCOHOLIC BEVERAGE CONTROL/ STATE LIQUOR AUTHORITY

- 1.00 Permit and Approval Programs:
 - 1.01 Ball Park - Stadium License
 - 1.02 Bottle Club License
 - 1.03 Bottling Permits
 - 1.04 Brewer's Licenses and Permits
 - 1.05 Brewer's Retail Beer License
 - 1.06 Catering Establishment Liquor License
 - 1.07 Cider Producer's and Wholesaler's Licenses
 - 1.08 Club Beer, Liquor, and Wine Licenses
 - 1.09 Distiller's Licenses
 - 1.10 Drug Store, Eating Place, and Grocery Store Beer Licenses
 - 1.11 Farm Winery and Winery Licenses
 - 1.12 Hotel Beer, Wine, and Liquor Licenses
 - 1.13 Industrial Alcohol Manufacturer's Permits
 - 1.14 Liquor Store License
 - 1.15 On-Premises Liquor Licenses
 - 1.16 Plenary Permit (Miscellaneous-Annual)
 - 1.17 Summer Beer and Liquor Licenses
 - 1.18 Tavern/Restaurant and Restaurant Wine Licenses
 - 1.19 Vessel Beer and Liquor Licenses
 - 1.20 Warehouse Permit
 - 1.21 Wine Store License
 - 1.22 Winter Beer and Liquor Licenses
 - 1.23 Wholesale Beer, Wine, and Liquor Licenses

DIVISION OF ALCOHOLISM AND SUBSTANCE ABUSE SERVICES

- 1.00 Facilities, construction, rehabilitation, expansion, or demolition or the funding of such activities.
- 2.00 Permit and approval programs:
 - 2.01 Certificate of approval (Substance Abuse Services Program)
- 3.00 Permit and approval:
 - 3.01 Letter Approval for Certificate of Need
 - 3.02 Operating Certificate (Alcoholism Facility)
 - 3.03 Operating Certificate (Community Residence)
 - 3.04 Operating Certificate (Outpatient Facility)
 - 3.05 Operating Certificate (Sobering-Up Station)

COUNCIL ON THE ARTS

- 1.00 Facilities construction, rehabilitation, expansion, or demolition or the funding of such activities.
- 2.00 Architecture and environmental arts program.

DEPARTMENT OF BANKING

- 1.00 Permit and approval programs:
 - 1.01 Authorization Certificate (Bank Branch)
 - 1.02 Authorization Certificate (Bank Change of Location)
 - 1.03 Authorization Certificate (Bank Charter)
 - 1.04 Authorization Certificate (Credit Union Change of Location)
 - 1.05 Authorization Certificate (Credit Union Charter)
 - 1.06 Authorization Certificate (Credit Union Station)
 - 1.07 Authorization Certificate (Foreign Banking Corporation Change of Location)
 - 1.08 Authorization Certificate (Foreign Banking Corporation Public Accommodations Office)
 - 1.09 Authorization Certificate (Investment Company Branch)
 - 1.10 Authorization Certificate (Investment Company Change of Location)
 - 1.11 Authorization Certificate (Investment Company Charter)
 - 1.12 Authorization Certificate (Licensed Lender Change of Location)
 - 1.13 Authorization Certificate (Mutual Trust Company Charter)
 - 1.14 Authorization Certificate (Private Banker Charter)
 - 1.15 Authorization Certificate (Public Accommodation Office - Banks)
 - 1.16 Authorization Certificate (Safe Deposit Company Branch)
 - 1.17 Authorization Certificate (Safe Deposit Company Change of Location)
 - 1.18 Authorization Certificate (Safe Deposit Company Charter)
 - 1.19 Authorization Certificate (Savings Bank Charter)
 - 1.20 Authorization Certificate (Savings Bank De Novo Branch Office)
 - 1.21 Authorization Certificate (Savings Bank Public Accommodations Office)
 - 1.22 Authorization Certificate (Savings and Loan Association Branch)
 - 1.23 Authorization Certificate (Savings and Loan Association Change of Location)
 - 1.24 Authorization Certificate (Savings and Loan Association Charter)
 - 1.25 Authorization Certificate (Subsidiary Trust Company Charter)

- 1.26 Authorization Certificate (Trust Company Branch)
- 1.27 Authorization Certificate (Trust Company-Change of Location)
- 1.28 Authorization Certificate (Trust Company Charter)
- 1.29 Authorization Certificate (Trust Company Public Accommodations Office)
- 1.30 Authorization to Establish a Life Insurance Agency
- 1.31 License as a Licensed Lender
- 1.32 License for a Foreign Banking Corporation Branch

OFFICE OF CHILDREN AND FAMILY SERVICES

- 1.00 Facilities construction, rehabilitation, expansion, or demolition or the funding of such activities.
- 2.00 Homeless Housing and Assistance Program.
- 3.00 Permit and approval programs:
 - 3.01 Certificate of Incorporation (Adult Residential Care Facilities)
 - 3.02 Operating Certificate (Children's Services)
 - 3.03 Operating Certificate (Enriched Housing Program)
 - 3.04 Operating Certificate (Home for Adults)
 - 3.05 Operating Certificate (Proprietary Home)
 - 3.06 Operating Certificate (Public Home)
 - 3.07 Operating Certificate (Special Care Home)
 - 3.08 Permit to Operate a Day Care Center

DEPARTMENT OF CORRECTIONAL SERVICES

- 1.00 Facilities construction, rehabilitation, expansion, or demolition or the funding of such activities.

DORMITORY AUTHORITY OF THE STATE OF NEW YORK

- 1.00 Financing of higher education and health care facilities.
- 2.00 Planning and design services assistance program.

EMPIRE STATE DEVELOPMENT/ EMPIRE STATE DEVELOPMENT CORPORATION

- 1.00 Preparation or revision of statewide or specific plans to address State economic development needs.
- 2.00 Allocation of the state tax-free bonding reserve.

EDUCATION DEPARTMENT

- 1.00 Facilities construction, rehabilitation, expansion, demolition or the funding of such activities.
- 2.00 Permit and approval programs:
 - 2.01 Certification of Incorporation (Regents Charter)
 - 2.02 Private Business School Registration
 - 2.03 Private School License

- 2.04 Registered Manufacturer of Drugs and/or Devices
- 2.05 Registered Pharmacy Certificate
- 2.06 Registered Wholesale of Drugs and/or Devices
- 2.07 Registered Wholesaler-Re-packer of Drugs and/or Devices
- 2.08 Storekeeper's Certificate

NEW YORK STATE ENERGY RESEARCH AND DEVELOPMENT AUTHORITY

- 1.00 Issuance of revenue bonds to finance pollution abatement modifications in power-generation facilities and various energy projects.

DEPARTMENT OF ENVIRONMENTAL CONSERVATION

- 1.00 Acquisition, disposition, lease, grant of easement and other activities related to the management of lands under the jurisdiction of the Department.
- 2.00 Classification of Waters Program; classification of land areas under the Clean Air Act.
- 3.00 Facilities construction, rehabilitation, expansion, or demolition or the funding of such activities.
- 4.00 Financial assistance/grant programs:
 - 4.01 Capital projects for limiting air pollution
 - 4.02 Cleanup of toxic waste dumps
 - 4.03 Flood control, beach erosion and other water resource projects
 - 4.04 Operating aid to municipal wastewater treatment facilities
 - 4.05 Resource recovery and solid waste management capital projects
 - 4.06 Wastewater treatment facilities
- 5.00 Funding assistance for issuance of permits and other regulatory activities (New York City only).
- 6.00 Implementation of the Environmental Quality Bond Act of 1972, including:
 - (a) Water Quality Improvement Projects
 - (b) Land Preservation and Improvement Projects including Wetland Preservation and Restoration Projects, Unique Area Preservation Projects, Metropolitan Parks Projects, Open Space Preservation Projects and Waterways Projects.
- 7.00 Marine Finfish and Shellfish Programs.
- 8.00 New York Harbor Drift Removal Project.
- 9.00 Permit and approval programs:

Air Resources

- 9.01 Certificate of Approval for Air Pollution Episode Action Plan
- 9.02 Certificate of Compliance for Tax Relief - Air Pollution Control Facility
- 9.03 Certificate to Operate: Stationary Combustion Installation; Incinerator; Process, Exhaust or Ventilation System
- 9.04 Permit for Burial of Radioactive Material
- 9.05 Permit for Discharge of Radioactive Material to Sanitary Sewer
- 9.06 Permit for Restricted Burning

- 9.07 Permit to Construct: a Stationary Combustion Installation; Incinerator, Indirect Source of Air Contamination; Process, Exhaust or Ventilation System

Construction Management

- 9.08 Approval of Plans and Specifications for Wastewater Treatment Facilities

Fish and Wildlife

- 9.09 Certificate to Possess and Sell Hatchery Trout in New York State
- 9.10 Commercial Inland Fisheries Licenses
- 9.11 Fishing Preserve License
- 9.12 Fur Breeder's License
- 9.13 Game Dealer's License
- 9.14 Licenses to Breed Domestic Game Animals
- 9.15 License to Possess and Sell Live Game
- 9.16 Permit to Import, Transport and/or Export under Section 184.1 (11-0511)
- 9.17 Permit to Raise and Sell Trout
- 9.18 Private Bass Hatchery Permit
- 9.19 Shooting Preserve Licenses
- 9.20 Taxidermy License
- 9.21 Permit - Article 15, (Protection of Water) - Dredge or Deposit Material in a Waterway
- 9.22 Permit - Article 15, (Protection of Water) - Stream Bed or Bank Disturbances
- 9.23 Permit - Article 24, (Freshwater Wetlands)

Hazardous Substances

- 9.24 Permit to Use Chemicals for the Control or Elimination of Aquatic Insects
- 9.25 Permit to Use Chemicals for the Control or Elimination of Aquatic Vegetation
- 9.26 Permit to Use Chemicals for the Control or Extermination of Undesirable Fish

Lands and Forest

- 9.27 Certificate of Environmental Safety (Liquid Natural Gas and Liquid Petroleum Gas)
- 9.28 Floating Object Permit
- 9.29 Marine Regatta Permit
- 9.30 Navigation Aid Permit

Marine Resources

- 9.31 Digger's Permit (Shellfish)
- 9.32 License of Menhaden Fishing Vessel
- 9.33 License for Non-Resident Food Fishing Vessel

- 9.34 Non-Resident Lobster Permit
- 9.35 Marine Hatchery and/or Off-Bottom Culture Shellfish Permits
- 9.36 Permits to Take Blue-Claw Crabs
- 9.37 Permit to Use Pond or Trap Net
- 9.38 Resident Commercial Lobster Permit
- 9.39 Shellfish Bed Permit
- 9.40 Shellfish Shipper's Permits
- 9.41 Special Permit to Take Surf Clams from Waters other than the Atlantic Ocean
- 9.42 Permit - Article 25, (Tidal Wetlands)

Mineral Resources

- 9.43 Mining Permit
- 9.44 Permit to Plug and Abandon (a non-commercial, oil, gas or solution mining well)
- 9.45 Underground Storage Permit (Gas)
- 9.46 Well Drilling Permit (Oil, Gas, and Solution Salt Mining)

Solid Wastes

- 9.47 Permit to Construct and/or Operate a Solid Waste Management Facility
- 9.48 Septic Tank Cleaner and Industrial Waste Collector Permit

Water Resources

- 9.49 Approval of Plans for Wastewater Disposal Systems
- 9.50 Certificate of Approval of Realty Subdivision Plans
- 9.51 Certificate of Compliance (Industrial Wastewater Treatment Facility)
- 9.52 Letters of Certification for Major Onshore Petroleum Facility Oil Spill Prevention and Control Plan
- 9.53 Permit - Article 36, (Construction in Flood Hazard Areas)
- 9.54 Permit for State Agency Activities for Development in Coastal Erosion Hazards Areas
- 9.55 State Pollutant Discharge Elimination System (SPDES) Permit
- 9.56 Approval - Drainage Improvement District
- 9.57 Approval - Water (Diversion for) Power
- 9.58 Approval of Well System and Permit to Operate
- 9.59 Permit - Article 15, (Protection of Water) - Dam
- 9.60 Permit - Article 15, Title 15 (Water Supply)
- 9.61 River Improvement District Approvals
- 9.62 River Regulatory District Approvals
- 9.63 Well Drilling Certificate of Registration
- 9.64 401 Water Quality Certification

- 10.00 Preparation and revision of Air Pollution State Implementation Plan.
- 11.00 Preparation and revision of Continuous Executive Program Plan.
- 12.00 Preparation and revision of Statewide Environmental Plan.

- 13.00 Protection of Natural and Man-made Beauty Program.
- 14.00 Urban Fisheries Program.
- 15.00 Urban Forestry Program.
- 16.00 Urban Wildlife Program.

ENVIRONMENTAL FACILITIES CORPORATION

- 1.00 Financing program for pollution control facilities for industrial firms and small businesses.

FACILITIES DEVELOPMENT CORPORATION

- 1.00 Facilities construction, rehabilitation, expansion, or demolition or the funding of such activities.

OFFICE OF GENERAL SERVICES

- 1.00 Administration of the Public Lands Law for acquisition and disposition of lands, grants of land, grants of easement and issuance of licenses for land underwater, including for residential docks over 5,000 square feet and all commercial docks, issuance of licenses for removal of materials from lands under water, and oil and gas leases for exploration and development.
- 2.00 Administration of Article 4-B, Public Buildings Law, in regard to the protection and management of State historic and cultural properties and State uses of buildings of historic, architectural or cultural significance.
- 3.00 Facilities construction, rehabilitation, expansion, or demolition.
- 4.00 Administration of Article 5, Section 233 of the Education Law regarding the removal of archaeological and paleontological objects under the waters of the State.
- 5.00 Administration of Article 3, Section 32 of the Navigation Law regarding location of structures in or on navigable waters.

DEPARTMENT OF HEALTH

- 1.00 Facilities construction, rehabilitation, expansion, or demolition or the funding of such activities.
- 2.00 Permit and approval programs:
 - 2.01 Approval of Completed Works for Public Water Supply Improvements
 - 2.02 Approval of Plans for Public Water Supply Improvements.
 - 2.03 Certificate of Need (Health Related Facility - except Hospitals)
 - 2.04 Certificate of Need (Hospitals)
 - 2.05 Operating Certificate (Diagnostic and Treatment Center)
 - 2.06 Operating Certificate (Health Related Facility)
 - 2.07 Operating Certificate (Hospice)
 - 2.08 Operating Certificate (Hospital)
 - 2.09 Operating Certificate (Nursing Home)
 - 2.10 Permit to Operate a Children's Overnight or Day Camp
 - 2.11 Permit to Operate a Migrant Labor Camp

- 2.12 Permit to Operate as a Retail Frozen Dessert Manufacturer
- 2.13 Permit to Operate a Service Food Establishment
- 2.14 Permit to Operate a Temporary Residence/Mass Gathering
- 2.15 Permit to Operate or Maintain a Swimming Pool or Public Bathing Beach
- 2.16 Permit to Operate Sanitary Facilities for Realty Subdivisions
- 2.17 Shared Health Facility Registration Certificate

DIVISION OF HOUSING AND COMMUNITY RENEWAL AND ITS SUBSIDIARIES AND AFFILIATES

- 1.00 Facilities construction, rehabilitation, expansion, or demolition.
- 2.00 Financial assistance/grant programs:
 - 2.01 Federal Housing Assistance Payments Programs (Section 8 Programs)
 - 2.02 Housing Development Fund Programs
 - 2.03 Neighborhood Preservation Companies Program
 - 2.04 Public Housing Programs
 - 2.05 Rural Initiatives Grant Program
 - 2.06 Rural Preservation Companies Program
 - 2.07 Rural Rental Assistance Program
 - 2.08 Special Needs Demonstration Projects
 - 2.09 Urban Initiatives Grant Program
 - 2.10 Urban Renewal Programs
- 3.00 Preparation and implementation of plans to address housing and community renewal needs.

HOUSING FINANCE AGENCY

- 1.00 Funding programs for the construction, rehabilitation, or expansion of facilities.
- 2.00 Affordable Housing Corporation

JOB DEVELOPMENT AUTHORITY

- 1.00 Financing assistance programs for commercial and industrial facilities.

MEDICAL CARE FACILITIES FINANCING AGENCY

- 1.00 Financing of medical care facilities.

OFFICE OF MENTAL HEALTH

- 1.00 Facilities construction, rehabilitation, expansion, or demolition or the funding of such activities.
- 2.00 Permit and approval programs:
 - 2.01 Operating Certificate (Community Residence)
 - 2.02 Operating Certificate (Family Care Homes)
 - 2.03 Operating Certificate (Inpatient Facility)
 - 2.04 Operating Certificate (Outpatient Facility)

OFFICE OF MENTAL RETARDATION AND DEVELOPMENT DISABILITIES

- 1.00 Facilities construction, rehabilitation, expansion, or demolition, or the funding of such activities.
- 2.00 Permit and approval programs:
 - 2.01 Establishment and Construction Prior Approval
 - 2.02 Operating Certificate Community Residence
 - 2.03 Outpatient Facility Operating Certificate

DIVISION OF MILITARY AND NAVAL AFFAIRS

- 1.00 Preparation and implementation of the State Disaster Preparedness Plan.

NATURAL HERITAGE TRUST

- 1.00 Funding program for natural heritage institutions.

OFFICE OF PARKS, RECREATION AND HISTORIC PRESERVATION (including Regional State Park Commission)

- 1.00 Acquisition, disposition, lease, grant of easement or other activities related to the management of land under the jurisdiction of the Office.
- 2.00 Facilities construction, rehabilitation, expansion, or demolition or the funding of such activities.
- 3.00 Funding program for recreational boating, safety and enforcement.
- 4.00 Funding program for State and local historic preservation projects.
- 5.00 Land and Water Conservation Fund programs.
- 6.00 Nomination of properties to the Federal and/or State Register of Historic Places.
- 7.00 Permit and approval programs:
 - 7.01 Floating Objects Permit
 - 7.02 Marine Regatta Permit
 - 7.03 Navigation Aide Permit
 - 7.04 Posting of Signs Outside State Parks
- 8.00 Preparation and revision of the Statewide Comprehensive Outdoor Recreation Plan and the Statewide Comprehensive Historic Preservation Plan and other plans for public access, recreation, historic preservation or related purposes.
- 9.00 Recreation services program.
- 10.00 Urban Cultural Parks Program.

POWER AUTHORITY OF THE STATE OF NEW YORK

- 1.00 Acquisition, disposition, lease, grant of easement and other activities related to the management of land under the jurisdiction of the Authority.
- 2.00 Facilities construction, rehabilitation, expansion, or demolition.

ROCHESTER-GENESEE REGIONAL TRANSPORTATION AUTHORITY (regional agency)

- 1.00 Acquisition, disposition, lease, grant of easement and other activities related to the management of land under the jurisdiction of the Authority.
- 2.00 Facilities construction, rehabilitation, expansion, or demolition or the funding of such activities.
- 3.00 Increases in special fares for transportation services to public water-related recreation resources.

NEW YORK STATE SCIENCE AND TECHNOLOGY FOUNDATION

- 1.00 Corporation for Innovation Development Program.
- 2.00 Center for Advanced Technology Program.

DEPARTMENT OF STATE

- 1.00 Appalachian Regional Development Program.
- 2.00 Coastal Management Program.
- 3.00 Community Services Block Grant Program.
- 4.00 Permit and approval programs:
 - 4.01 Billiard Room License
 - 4.02 Cemetery Operator
 - 4.03 Uniform Fire Prevention and Building Code

STATE UNIVERSITY CONSTRUCTION FUND

- 1.00 Facilities construction, rehabilitation, expansion, or demolition or the funding of such activities.

STATE UNIVERSITY OF NEW YORK

- 1.00 Acquisition, disposition, lease, grant of easement and other activities related to the management of land under the jurisdiction of the University.
- 2.00 Facilities construction, rehabilitation, expansion, or demolition or the funding of such activities.

DEPARTMENT OF TRANSPORTATION

- 1.00 Acquisition, disposition, lease, grant of easement and other activities related to the management of land under the jurisdiction of the Department.
- 2.00 Construction, rehabilitation, expansion, or demolition of facilities, including, but not limited to:
 - (a) Highways and parkways
 - (b) Bridges on the State highways system
 - (c) Highway and parkway maintenance facilities
 - (d) Rail facilities
- 3.00 Financial assistance/grant programs:
 - 3.01 Funding programs for construction/reconstruction and reconditioning/preservation of municipal streets and highways (excluding routine maintenance and minor rehabilitation)
 - 3.02 Funding programs for development of the ports of Albany, Buffalo, Oswego, Ogdensburg, and New York

- 3.03 Funding programs for rehabilitation and replacement of municipal bridges
- 3.04 Subsidies program for marginal branchlines abandoned by Conrail
- 3.05 Subsidies program for passenger rail service
- 4.00 Permits and approval programs:
 - 4.01 Approval of applications for airport improvements (construction projects)
 - 4.02 Approval of municipal applications for Section 18 Rural and Small Urban Transit Assistance Grants (construction projects)
 - 4.03 Approval of municipal or regional transportation authority applications for funds for design, construction and rehabilitation of omnibus maintenance and storage facilities
 - 4.04 Approval of municipal or regional transportation authority applications for funds for design and construction of rapid transit facilities
 - 4.05 Certificate of Convenience and Necessity to Operate a Railroad
 - 4.06 Highway Work Permits
 - 4.07 License to Operate Major Petroleum Facilities
 - 4.08 Outdoor Advertising Permit (for off-premises advertising signs adjacent to interstate and primary highway)
 - 4.09 Real Property Division Permit for Use of State-Owned Property
- 5.00 Preparation or revision of the Statewide Master Plan for Transportation and sub-area or special plans and studies related to the transportation needs of the State.
- 6.00 Water Operation and Maintenance Program—Activities related to the containment of petroleum spills and development of an emergency oil-spill control network.

URBAN DEVELOPMENT CORPORATION and its subsidiaries and affiliates

- 1.00 Acquisition, disposition, lease, grant of easement or other activities related to the management of land under the jurisdiction of the Corporation.
- 2.00 Planning, development, financing, construction, major renovation or expansion of commercial, industrial, and civic facilities and the provision of technical assistance or financing for such activities, including, but not limited to, actions under its discretionary economic development programs such as the following:
 - (a) Tax-Exempt Financing Program
 - (b) Lease Collateral Program
 - (c) Lease Financial Program
 - (d) Targeted Investment Program
 - (e) Industrial Buildings Recycling Program
- 3.00 Administration of special projects.
- 4.00 Administration of State-funded capital grant programs.

DIVISION OF YOUTH

- 1.00 Facilities construction, rehabilitation, expansion, or demolition or the funding or approval of such activities.

2. FEDERAL AGENCIES

DIRECT FEDERAL ACTIVITIES AND DEVELOPMENT PROJECTS

DEPARTMENT OF COMMERCE

National Marine Fisheries Services

- 1.00 Fisheries Management Plans

DEPARTMENT OF DEFENSE

Army Corps of Engineers

- 1.00 Proposed authorizations for dredging, channel improvements, break-waters, other navigational works, or erosion control structures, beach replenishment, dams or flood control works, ice management practices and activities, and other projects with potential to impact coastal lands and waters.
- 2.00 Land acquisition for spoil disposal or other purposes.
- 3.00 Selection of open water disposal sites.

Army, Navy and Air Force

- 4.00 Location, design, and acquisition of new or expanded defense installations (active or reserve status, including associated housing, transportation or other facilities).
- 5.00 Plans, procedures and facilities for landing or storage use zones.
- 6.00 Establishment of impact, compatibility or restricted use zones.

DEPARTMENT OF ENERGY

- 1.00 Prohibition orders.

GENERAL SERVICES ADMINISTRATION

- 1.00 Acquisition, location and design of proposed Federal Government property or buildings, whether leased or owned by the Federal Government.
- 2.00 Disposition of Federal surplus lands and structures.

DEPARTMENT OF INTERIOR

Fish and Wildlife Service

- 1.00 Management of National Wildlife refuges and proposed acquisitions.

Mineral Management Service

- 2.00 OCS lease sale activities including tract selection, lease sale stipulations, etc.

National Park Service

- 3.00 National Park and Seashore management and proposed acquisitions.

DEPARTMENT OF TRANSPORTATION

Amtrak, Conrail

- 1.00 Expansions, curtailments, new construction, upgrading or abandonments or railroad facilities or services, in or affecting the State's coastal area.

Coast Guard

- 2.00 Location and design, construction or enlargement of Coast Guard stations, bases, and lighthouses.
- 3.00 Location, placement or removal of navigation devices which are not part of the routine operations under the Aids to Navigation Program (ATON).
- 4.00 Expansion, abandonment, designation or anchorages, lightening areas or shipping lanes and ice management practices and activities.

Federal Aviation Administration

- 5.00 Location and design, construction, maintenance, and demolition of Federal aids to air navigation.

Federal Highway Administration

- 6.00 Highway construction.

St. Lawrence Seaway Development Corporation

- 7.00 Acquisition, location, design, improvement and construction of new and existing facilities for the operation of the Seaway, including traffic safety, traffic control and length of navigation season.

FEDERAL LICENSES AND PERMITS

DEPARTMENT OF DEFENSE

Army Corps of Engineers

- 1.00 Construction of dams, dikes or ditches across navigable waters, or obstruction or alteration of navigable waters required under Sections 9 and 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 401, 403).
- 2.00 Establishment of harbor lines pursuant to Section 11 of the Rivers and Harbors Act of 1899 (33 U.S.C. 404, 405).
- 3.00 Occupation of seawall, bulkhead, jetty, dike, levee, wharf, pier, or other work built by the U.S. pursuant to Section 14 of the Rivers and Harbors Act of 1899 (33 U.S.C. 408).
- 4.00 Approval of plans for improvements made at private expense under Corps supervision pursuant to the Rivers and Harbors Act of 1902 (33 U.S.C. 565).
- 5.00 Disposal of dredged spoils into the waters of the U.S., pursuant to the Clean Water Act, Section 404, (33 U.S.C. 1344).
- 6.00 All actions for which permits are required pursuant to Section 103 of the Marine Protection, Research and Sanctuaries Act of 1972 (33 U.S.C. 1413).

- 7.00 Construction of artificial islands and fixed structures in Long Island Sound pursuant to Section 4(f) of the River and Harbors Act of 1912 (33 U.S.C.).

DEPARTMENT OF ENERGY

Economic Regulatory Commission

- 1.00 Regulation of gas pipelines, and licensing of import or export of natural gas pursuant to the Natural Gas Act (15 U.S.C. 717) and the Energy Reorganization Act of 1974.
- 2.00 Exemptions from prohibition orders.

Federal Energy Regulatory Commission

- 3.00 Licenses for non-Federal hydroelectric projects and primary transmission lines under Sections 3(11), 4(e) and 15 of the Federal Power Act (16 U.S.C. 796(11), 797(11) and 808).
- 4.00 Orders for interconnection of electric transmission facilities under Section 202(b) of the Federal Power Act (15 U.S.C. 824a(b)).
- 5.00 Certificates for the construction and operation of interstate natural gas pipeline facilities, including both pipelines and terminal facilities under Section 7(c) of the Natural Gas Act (15 U.S.C. 717f(c)).
- 6.00 Permission and approval for the abandonment of natural gas pipeline facilities under Section 7(b) of the Natural Gas Act (15 U.S.C. 717f(b)).

ENVIRONMENTAL PROTECTION AGENCY

- 1.00 NPDES permits and other permits for Federal installations, discharges in contiguous zones and ocean waters, sludge runoff and aquaculture permits pursuant to Section 401, 402, 403, 405, and 318 of the Federal Water Pollution Control Act of 1972 (33 U.S.C. 1341, 1342, 1343, and 1328).
- 2.00 Permits pursuant to the Resources Recovery and Conservation Act of 1976.
- 3.00 Permits pursuant to the underground injection control program under Section 1424 of the Safe Water Drinking Water Act (42 U.S.C. 300h-c).
- 4.00 Permits pursuant to the Clean Air Act of 1976 (42 U.S.C. 1857).

DEPARTMENT OF INTERIOR

Fish and Wildlife Services

- 1.00 Endangered species permits pursuant to the Endangered Species Act (16 U.S.C. 153(a)).

Mineral Management Service

- 2.00 Permits to drill, rights of use and easements for construction and maintenance of pipelines, gathering and flow lines and associated structures pursuant to 43 U.S.C. 1334, exploration and development plans, and any other permits or authorizations granted for activities described in detail in OCS exploration, development, and production plans.

- 3.00 Permits required for pipelines crossing federal lands, including OCS lands, and associated activities pursuant to the OCS Lands Act (43 U.S.C. 1334) and 43 U.S.C. 931 (c) and 20 U.S.C. 185.

NUCLEAR REGULATORY COMMISSION

- 1.00 Licensing and certification of the siting, construction and operation of nuclear power plans pursuant to Atomic Energy Act of 1954, Title II of the Energy Reorganization Act of 1974 and the National Environmental Policy Act of 1969.

SURFACE TRANSPORTATION BOARD

- 1.00 Authority to abandon railway lines (to the extent that the abandonment involves removal of trackage and disposition of right-of-way); authority to construct railroads; authority to construct coal slurry pipelines.

DEPARTMENT OF TRANSPORTATION

Coast Guard

- 1.00 Construction or modification of bridges, causeways or pipelines over navigable waters pursuant to 49 U.S.C. 1455.
2.00 Permits for Deepwater Ports pursuant to the Deepwater Ports Act of 1974 (33 U.S.C. 1501).

Federal Aviation Administration

- 3.00 Permits and licenses for construction, operation or alteration of airports.

FEDERAL ASSISTANCE*

DEPARTMENT OF AGRICULTURE

- 10.068 Rural Clean Water Program
10.409 Irrigation, Drainage, and Other Soil and Water Conservation Loans
10.410 Low to Moderate Income Housing Loans
10.411 Rural Housing Site Loans
10.413 Recreation Facility Loans
10.414 Resource Conservation and Development Loans
10.415 Rural Renting Housing Loans
10.416 Soil and Water Loans
10.418 Water and Waste Disposal Systems for Rural Communities
10.422 Business and Industrial Loans
10.424 Industrial Development Grants
10.426 Area Development Assistance Planning Grants
10.429 Above Moderate Income Housing Loans
10.430 Energy Impacted Area Development Assistance Program
10.901 Resource Conservation and Development
10.902 Soil and Water Conservation
10.904 Watershed Protection and Flood Prevention

10.906 River Basin Surveys and Investigations

DEPARTMENT OF COMMERCE

- 11.300 Economic Development - Grants and Loans for Public Works and Development Facilities
- 11.301 Economic Development - Business Development Assistance
- 11.302 Economic Development - Support for Planning Organizations
- 11.304 Economic Development - State and Local Economic Development Planning
- 11.305 Economic Development - State and Local Economic Development Planning
- 11.307 Special Economic Development and Adjustment Assistance Program - Long Term Economic Deterioration
- 11.308 Grants to States for Supplemental and Basic Funding of Titles I, II, III, IV, and V Activities
- 11.405 Anadromous and Great Lakes Fisheries Conservation
- 11.407 Commercial Fisheries Research and Development
- 11.417 Sea Grant Support
- 11.427 Fisheries Development and Utilization - Research and Demonstration Grants and Cooperative Agreements Program
- 11.501 Development and Promotion of Ports and Inter-modal Transportation
- 11.509 Development and Promotion of Domestic Waterborne Transport Systems

COMMUNITY SERVICES ADMINISTRATION

- 49.002 Community Action
- 49.011 Community Economic Development
- 49.013 State Economic Opportunity Offices
- 49.017 Rural Development Loan Fund
- 49.018 Housing and Community Development (Rural Housing)

ENVIRONMENTAL PROTECTION AGENCY

- 66.001 Air Pollution Control Program Grants
- 66.418 Construction Grants for Wastewater Treatment Works
- 66.426 Water Pollution Control - State and Areawide Water Quality Management Planning Agency
- 66.451 Solid and Hazardous Waste Management Program Support Grants
- 66.452 Solid Waste Management Demonstration Grants
- 66.600 Environmental Protection Consolidated Grants Program Support Comprehensive Environmental Response, Compensation and Liability (Super Fund)

GENERAL SERVICES ADMINISTRATION

- 39.002 Disposal of Federal Surplus Real Property

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

- 14.112 Mortgage Insurance - Construction or Substantial Rehabilitation of Condominium Projects
- 14.115 Mortgage Insurance - Development of Sales Type Cooperative Projects

- 14.117 Mortgage Insurance - Homes
- 14.124 Mortgage Insurance - Investor Sponsored Cooperative Housing
- 14.125 Mortgage Insurance - Land Development and New Communities
- 14.126 Mortgage Insurance - Management Type Cooperative Projects
- 14.127 Mortgage Insurance - Mobile Home Parks
- 14.218 Community Development Block Grants/Entitlement Grants
- 14.219 Community Development Block Grants/Small Cities Program
- 14.221 Urban Development Action Grants
- 14.223 Indian Community Development Block Grant Program

DEPARTMENT OF INTERIOR

- 15.400 Outdoor Recreation - Acquisition, Development and Planning
- 15.402 Outdoor Recreation - Technical Assistance
- 15.403 Disposal of Federal Surplus Real Property for Parks, Recreation, and Historic Monuments
- 15.411 Historic Preservation Grants-in-Aid
- 15.417 Urban Park and Recreation Recovery Program
- 15.600 Anadromous Fish Conservation
- 15.605 Fish Restoration
- 15.611 Wildlife Restoration
- 15.613 Marine Mammal Grant Program
- 15.802 Minerals Discovery Loan Program
- 15.950 National Water Research and Development Program
- 15.951 Water Resources Research and Technology - Assistance to State Institutes
- 15.952 Water Research and Technology - Matching Funds to State Institutes

SMALL BUSINESS ADMINISTRATION

- 59.012 Small Business Loans
- 59.013 State and Local Development Company Loans
- 59.024 Water Pollution Control Loans
- 59.025 Air Pollution Control Loans
- 59.031 Small Business Pollution Control Financing Guarantee

DEPARTMENT OF TRANSPORTATION

- 20.102 Airport Development Aid Program
- 20.103 Airport Planning Grant Program
- 20.205 Highway Research, Planning, and Construction
- 20.309 Railroad Rehabilitation and Improvement - Guarantee of Obligations
- 20.310 Railroad Rehabilitation and Improvement - Redeemable Preference Shares
- 20.506 Urban Mass Transportation Demonstration Grants
- 20.509 Public Transportation for Rural and Small Urban Areas

* Numbers refer to the Catalog of Federal Domestic Assistance Programs, 1980 and its two subsequent updates.

B. STATE AND FEDERAL PROGRAMS NECESSARY TO FURTHER THE LWRP

1. State Actions and Programs Necessary to Further the LWRP

OFFICE OF GENERAL SERVICES

Prior to any development occurring in the water or on the immediate waterfront, OGS should be consulted for a determination of the State's interest in underwater or formerly underwater lands and for authorization to use and occupy these lands.

DEPARTMENT OF ENVIRONMENTAL CONSERVATION

1. Planning, development, construction, major renovation, or expansion of facilities in waterfront, including recreational improvement projects.
2. Advance assistance under the Small Communities and Rural Wastewater Treatment Grant Program and a subsequent construction grant subsidy.

DIVISION OF HOUSING AND COMMUNITY RENEWAL

1. Provision of funding under the Rural Preservation Company Program.
2. Approval of funding for Rural Area Revitalization Program projects.

JOB DEVELOPMENT AUTHORITY

1. Provision of low interest mortgage loans to local non-profit development corporations to finance commercial and industrial facilities.

OFFICE OF PARKS, RECREATION AND HISTORIC PRESERVATION

1. Planning, development, construction, major renovation or expansion of recreational facilities or the provision of funding for such facilities.
2. Provision of funding for State and local activities from the Land and Water Conservation Fund.
3. Planning, development, implementation or the provision of funding for recreation services programs.
4. Certification of properties within districts listed on the National Register of Historic Places.
5. Provision of funding for State and local historic preservation activities.
6. Review of Type I actions affecting a property listed on the National Register of Historic Places.

DEPARTMENT OF STATE

1. Provision of funding for the implementation of an approved LWRP.
2. Provision of funding under the Community Services Block Grant program.

COUNCIL ON THE ARTS

Assistance from the Architecture and Environmental Arts program for a harborfront plan.

DEPARTMENT OF TRANSPORTATION

Assistance for street repairs through the Consolidated Highway Improvements Program.

2. Federal Actions and Programs

DEPARTMENT OF DEFENSE, Army Corps of Engineers

- a. Continuation of harbor channel maintenance dredging at Point Breeze (Oak Orchard River) to insure harbor access.
- b. Permit approval of navigational/dredging improvements at Eagle Creek Marina, Green Harbor and Oak Orchard Marine Park (west side).
- c. Maintain adequate flow augmentation from the NYS Barge Canal into Oak Orchard River to protect the recreational uses downstream from the Waterport Dam.
- d. Participate/assist in an assessment of Marsh Creek and the Oak Orchard River (below Waterport Dam) to establish a consolidated approach to permit reviews and approval.

ENVIRONMENTAL PROTECTION AGENCY

Water quality improvements at Point Breeze and the Morrison site/Shadigee through construction of wastewater treatment facilities (66.418), to insure adequate water quality and to accommodate new development opportunities.

DEPARTMENT OF AGRICULTURE, Farmers Home Administration

- a. Rural housing loans/mortgage guarantees for new housing at Bennett Farm (10.415).
- b. Water and waste disposal grants for improvements to the Lyndonville Treatment Plant and wastewater package plants at Point Breeze and the Morrison site (10.418).

DEPARTMENT OF INTERIOR

Fish and Wildlife Services

- a. Water quality monitoring/analysis program on Oak Orchard River to maintain habitat and water quality.
- b. Outdoor Recreation (15.400) for planning, acquisition and development of facilities at Clark's Mills Road and Point Breeze.

- c. Participate/assist in the Marsh Creek/Oak Orchard River assessment for consolidated permit review and approvals.

National Park Service

- a. Provision of funding under the Land and Water Conservation Fund Program.
- b. Review of federal actions within the National Register Districts pursuant to NEPA.

SMALL BUSINESS ADMINISTRATION

Relocation and new business formation assistance for retail/commercial development at Point Breeze and the Morrison site.

APPENDIX A
SIGNIFICANT COASTAL FISH & WILDLIFE HABITATS

COASTAL FISH & WILDLIFE HABITAT RATING FORM

Name of Area: Oak Orchard Creek

Designated: October 15, 1987

County: Orleans

Town(s): Carlton

7½' Quadrangle(s): Kent, NY

Score Criterion

- 25 Ecosystem Rarity (ER)
One of about 5 major tributaries of Lake Ontario, in a relatively undisturbed condition; rare in the Great Lakes Plain ecological region.
- 0 Species Vulnerability (SV)
No endangered, threatened or special concern species are known to reside in the area.
- 16 Human Use (HU)
One of the most popular recreational fishing sites on Lake Ontario, attracting anglers from throughout New York State.
- 9 Population Level (PL)
Concentrations of spawning salmonids are among the largest occurring in New York's Great Lakes tributaries; unusual in the ecological region.
- 1.2 Replaceability (R)
Irreplaceable

SIGNIFICANCE VALUE = [(ER + SV + HU + PL) X R]
= 60

SIGNIFICANT COASTAL FISH AND WILDLIFE HABITATS PROGRAM
A PART OF THE NEW YORK COASTAL MANAGEMENT PROGRAM

BACKGROUND

New York State's Coastal Management Program (CMP) includes a total of 44 policies which are applicable to development and use proposals within or affecting the State's coastal area. Any activity that is subject to review under Federal or State laws, or under applicable local laws contained in an approved local waterfront revitalization program will be judged for its consistency with these policies.

Once a determination is made that the proposed action is subject to consistency review, a specific policy aimed at the protection of fish and wildlife resources of statewide significance applies. The specific policy statement is as follows: "Significant coastal fish and wildlife habitats will be protected, preserved, and, where practical, restored so as to maintain their viability as habitats." The New York State Department of Environmental Conservation (DEC) evaluates the significance of coastal fish and wildlife habitats, and following a recommendation from the DEC, the Department of State designates and maps specific areas. Although designated habitat areas are delineated on the coastal area map, the applicability of this policy does not depend on the specific location of the habitat, but on the determination that the proposed action is subject to consistency review.

Significant coastal fish and wildlife habitats are evaluated, designated and mapped under the authority of the Coastal Management Program's enabling legislation, the Waterfront Revitalization and Coastal Resources Act (Executive Law of New York, Article 42). These designations are subsequently incorporated in the Coastal Management Program under authority provided by the Federal Coastal Zone Management Act.

This narrative, along with its accompanying map, constitutes a record of the basis for this significant coastal fish and wildlife habitat's designation and provides specific information regarding the fish and wildlife resources that depend on this area. General information is also provided to assist in evaluating impacts of proposed activities on parameters which are essential to the habitat's values. This information is to be used in conjunction with the habitat impairment test found in the impact assessment section to determine whether the proposed activities are consistent with the significant coastal habitats policy.

DESIGNATED HABITAT: OAK ORCHARD CREEK

LOCATION AND DESCRIPTION OF HABITAT:

Oak Orchard Creek is located along the south shore of Lake Ontario, approximately thirty miles west of the City of Rochester, in the Town of Carlton, Orleans County (7.5' Quadrangle: Kent, N.Y.). The fish and wildlife habitat extends approximately six miles from the mouth at Point Breeze to the Waterport Dam, and includes the entire stream channel and associated islands and wetlands. The habitat also includes an approximate two mile segment of Marsh Creek, which flows into Oak Orchard Creek about one mile south of Point Breeze. Oak Orchard Creek is a very large, low to medium gradient, warmwater stream, with a predominantly rock and gravel substrate. The creek drains approximately 270 square miles of relatively flat agricultural land, rural residential land, and extensive inland wetlands. Below Waterport Dam, which serves an active hydroelectric power plant, Oak Orchard Creek flows through a steep sided, undeveloped, wooded gorge, where habitat disturbances are minimal. However, below the confluence with Marsh Creek (also an undisturbed stream segment), there has been considerable shoreline development, including marinas, boat launches, seasonal and permanent residences, bulkheading, and installation of breakwalls out into the lake. Sizeable areas of emergent wetland vegetation and submergent aquatic beds occur in undisturbed shoreline areas along this lower section of the creek. Most of the land area bordering Oak Orchard Creek is privately owned, but major public access facilities have been developed at the creek mouth.

FISH AND WILDLIFE VALUES:

Oak Orchard Creek is the largest stream in Orleans County, and is one of about ten major tributaries in the Great Lakes Plain ecological region of New York. Undisturbed tributary streams that provide habitat for major spawning runs by salmonids and other lake-based fish populations are especially important in this region. Beds of emergent and submergent aquatic vegetation in the creek contribute to the maintenance of fish populations and serve as valuable habitats for wildlife.

Oak Orchard Creek is particularly significant because large concentrations of coho and chinook salmon and brown trout migrate from Lake Ontario into the creek each fall, from late August through December (September - November, primarily), when salmonids ascend tributary streams to spawn (although unsuccessfully in most instances). In addition, steelhead (lake-run rainbow trout) migrate into Oak Orchard Creek during the fall and between late February and April. These fish populations are the result of an ongoing effort by the NYSDEC to establish a major salmonid fishery in the Great Lakes through stocking. In 1984, approximately 300,000 chinook salmon, 14,000 steelhead, and nearly 40,000 coho salmon were released in the creek. Oak Orchard Creek was among the top ten Lake Ontario tributaries for numbers of salmonids stocked in 1984. Oak Orchard Creek also contains a diverse warmwater fishery. The area supports substantial natural reproduction by smallmouth bass, northern pike, rock bass, black crappie, brown bullhead, and largemouth bass. Oak Orchard Creek also provides a limited smelt fishery in the spring.

The wetlands and undisturbed woodlands bordering Oak Orchard Creek provide

valuable habitats for wildlife that are uncommon in Orleans County's coastal area. A variety of bird species inhabit the area, including great blue heron, greenbacked heron, mallard, wood duck, belted kingfisher, marsh wren, common yellowthroat, red-winged blackbird, and swamp sparrow. During spring and fall migrations, Oak Orchard Creek and Marsh Creek serve as resting and feeding areas for locally significant concentrations of waterfowl. Other wildlife species occurring along the creek include resident furbearers, such as muskrat, mink, and raccoon.

The fish and wildlife resources associated with Oak Orchard Creek attract a significant amount of recreational use, although access to the area is limited by the steep banks and private land ownership. This is one of the most popular recreational fishing streams on Lake Ontario, due primarily to the large salmonid runs in the area. Fishing pressure is concentrated below the confluence of Oak Orchard and Marsh Creeks, and in the area immediately below Waterport Dam. The intervening segment of the creek is often fished by small boat or canoe, especially for the abundant warmwater species in the area. Oak Orchard Creek attracts anglers from throughout New York State and beyond. Local residents also utilize this area to a limited extent for waterfowl hunting and trapping.

IMPACT ASSESSMENT:

A habitat impairment test must be met for any activity that is subject to consistency review under federal and State laws, or under applicable local laws contained in an approved local waterfront revitalization program. If the proposed action is subject to consistency review, then the habitat protection policy applies, whether the proposed action is to occur within or outside the designated area.

The specific habitat impairment test that must be met is as follows.

In order to protect and preserve a significant habitat, land and water uses or development shall not be undertaken if such actions would:

- destroy the habitat; or,
- significantly impair the viability of a habitat.

Habitat destruction is defined as the loss of fish or wildlife use through direct physical alteration, disturbance, or pollution of a designated area or through the indirect effects of these actions on a designated area. Habitat destruction may be indicated by changes in vegetation, substrate, or hydrology, or increases in runoff, erosion, sedimentation, or pollutants.

Significant impairment is defined as reduction in vital resources (e.g., food, shelter, living space) or change in environmental conditions (e.g., temperature, substrate, salinity) beyond the tolerance range of an organism. Indicators of a significantly impaired habitat focus on ecological alterations and may include but are not limited to reduced carrying capacity, changes in community structure (food chain relationships, species diversity), reduced productivity and/or increased incidence of disease and mortality.

The tolerance range of an organism is not defined as the physiological range of

conditions beyond which a species will not survive at all, but as the ecological range of conditions that supports the species population or has the potential to support a restored population, where practical. Either the loss of individuals through an increase in emigration or an increase in death rate indicates that the tolerance range of an organism has been exceeded. An abrupt increase in death rate may occur as an environmental factor falls beyond a tolerance limit (a range has both upper and lower limits). Many environmental factors, however, do not have a sharply defined tolerance limit, but produce increasing emigration or death rates with increasing departure from conditions that are optimal for the species.

The range of parameters which should be considered in applying the habitat impairment test include but are not limited to the following:

1. physical parameters such as living space, circulation, flushing rates, tidal amplitude, turbidity, water temperature, depth (including loss of littoral zone), morphology, substrate type, vegetation, structure, erosion and sedimentation rates;
2. biological parameters such as community structure, food chain relationships, species diversity, predator/prey relationships, population size, mortality rates, reproductive rates, meristic features, behavioral patterns and migratory patterns; and,
3. chemical parameters such as dissolved oxygen, carbon dioxide, acidity, dissolved solids, nutrients, organics, salinity, and pollutants (heavy metals, toxics and hazardous materials).

Although not comprehensive, examples of generic activities and impacts which could destroy or significantly impair the habitat are listed below to assist in applying the habitat impairment test to a proposed activity.

Any activity that substantially degrades water quality, increases temperature or turbidity, reduces flows, or alters water depths in Oak Orchard Creek would adversely affect the fish and wildlife resources of this area. These impacts would be especially detrimental during fish spawning and nursery periods (late February - July for most warmwater species and steelhead, and September - November for most salmonids), and wildlife breeding seasons (April - July for most species). Discharges of sewage or stormwater runoff containing sediments or chemical pollutants could adversely impact on fish or wildlife species. Of particular concern are the potential effects of upstream disturbances, including water withdrawals, stream bed disturbances, and effluent discharges. Hydroelectric facilities on the creek should only be permitted with run-of-river operations. Barriers to fish migration, whether physical or chemical, would have significant impacts on fish populations in the creek. Permanent disturbance of wetland vegetation, including submergent beds, through dredging, filling, or bulkheading, would result in a direct loss of valuable habitat area. Enhancement of motorboat access to the area above the confluence of the two creeks could significantly increase human disturbance of the habitat, reducing its potential value to various fish and wildlife species. Existing areas of natural vegetation bordering Oak Orchard Creek should be maintained to provide bank cover, perching sites, soil stabilization, and buffer zones.

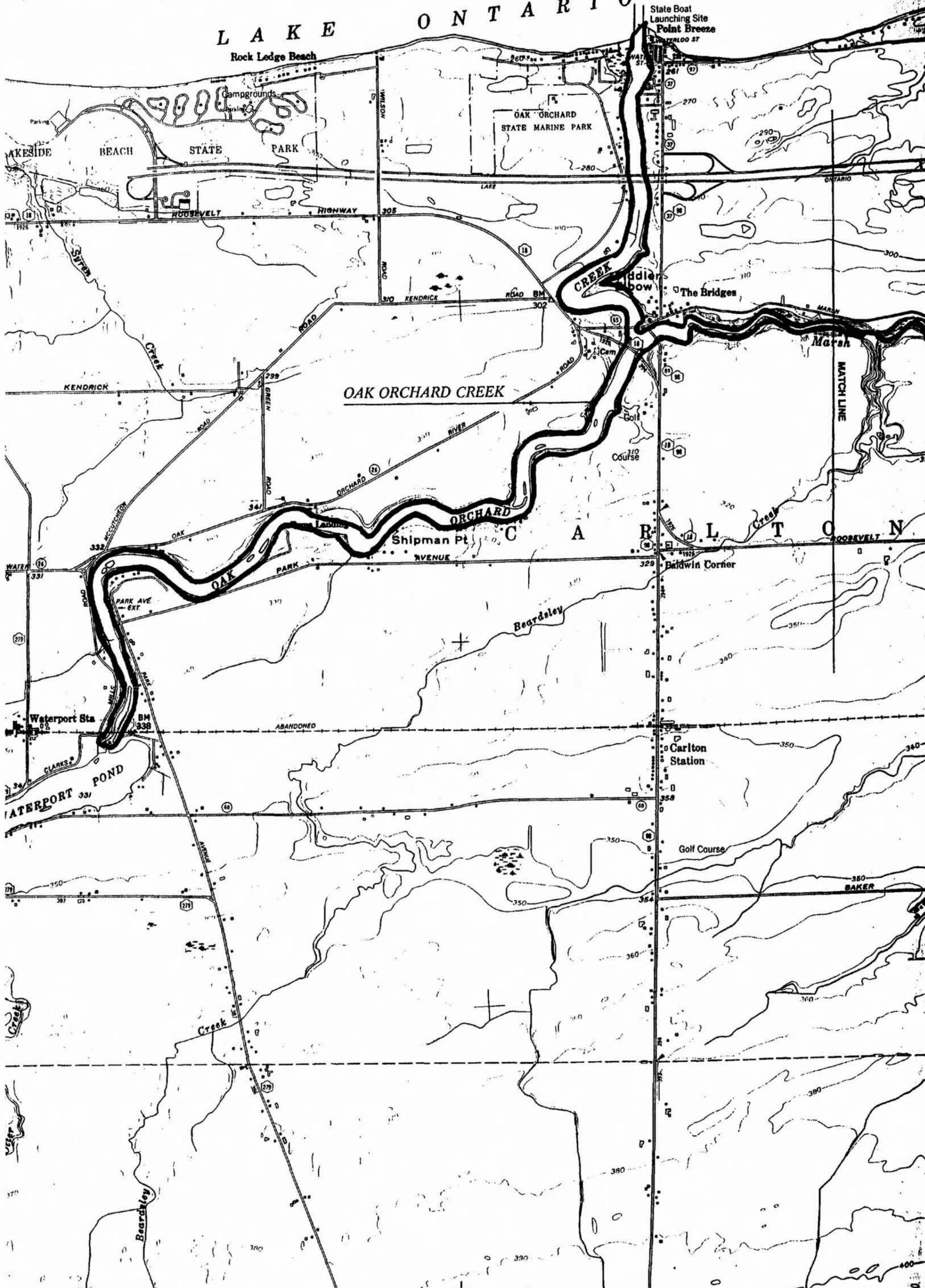
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Phone: (716) 226-2466

NYSDEC - Information Services
700 Troy-Schenectady Road
Latham, NY 12110
Phone: (518) 783-3932

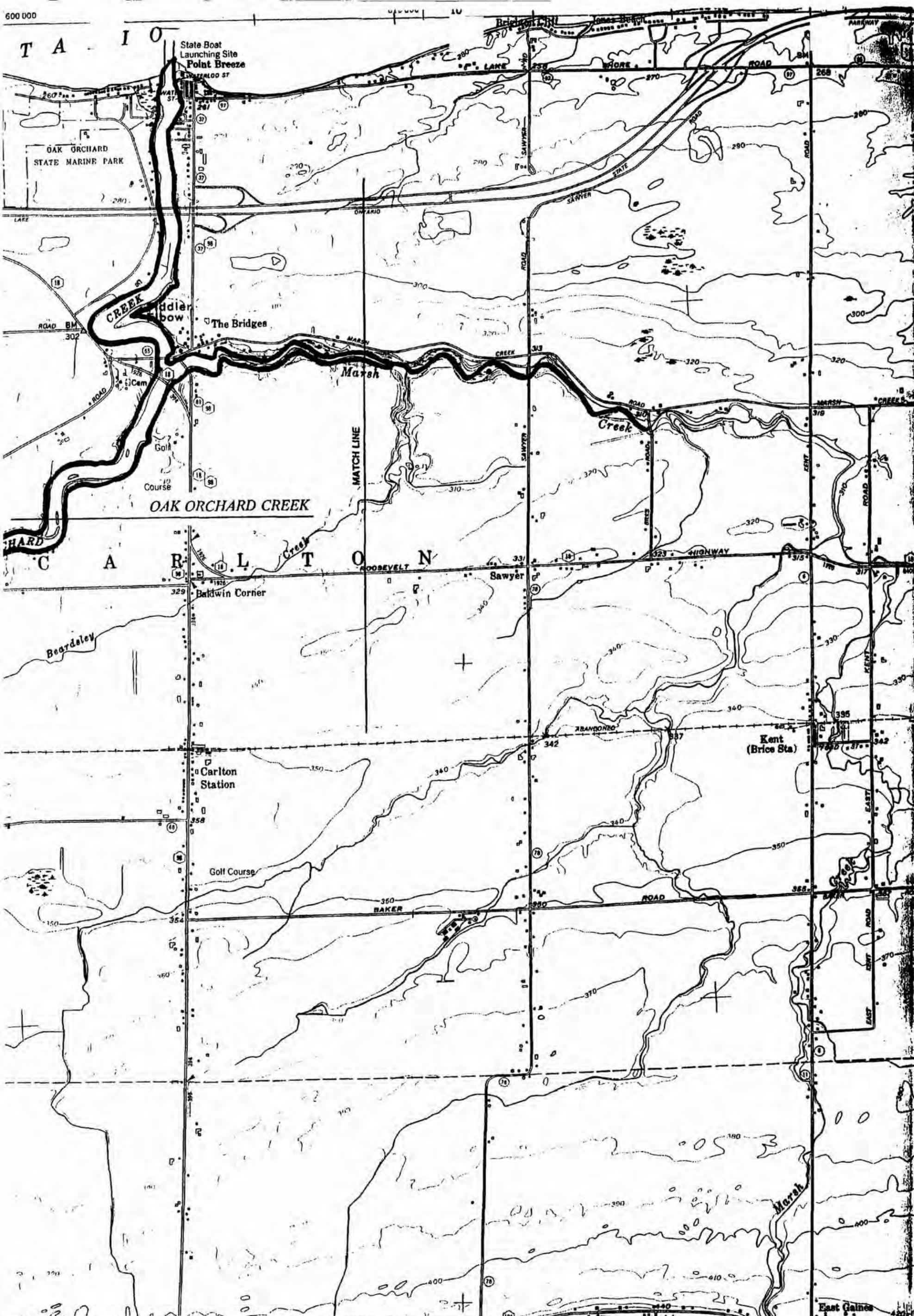
L A K E O N T A R I O



SIGNIFICANT COASTAL FISH AND WILDLIFE HABITATS

Oak Orchard Creek (in part)





SIGNIFICANT COASTAL FISH AND WILDLIFE HABITATS
 Oak Orchard Creek (in part)



COASTAL FISH & WILDLIFE HABITAT RATING FORM

Name of Area: Johnson Creek

Designated: October 15, 1987

County: Orleans

Town(s): Carlton, Yates

7½' Quadrangle(s): Ashwood, NY; Lyndonville, NY

Score Criterion

- 16 Ecosystem Rarity (ER)
One of about 10 major New York tributaries to Lake Ontario; rare in ecological subzone.
- 0 Species Vulnerability (SV)
No endangered, threatened or special concern species reside in the area.
- 4 Human Use (HU)
One of the most popular recreational fishing sites in Orleans county.
- 4 Population Level (PL)
One of only two significant salmonid spawning streams in Orleans County.
- 1.2 Replaceability (R)
Irreplaceable

SIGNIFICANCE VALUE = [(ER + SV + HU + PL) X R]
= 29

SIGNIFICANT COASTAL FISH AND WILDLIFE HABITATS PROGRAM
A PART OF THE NEW YORK COASTAL MANAGEMENT PROGRAM

BACKGROUND

New York State's Coastal Management Program (CMP) includes a total of 44 policies which are applicable to development and use proposals within or affecting the State's coastal area. Any activity that is subject to review under Federal or State laws, or under applicable local laws contained in an approved local waterfront revitalization program will be judged for its consistency with these policies.

Once a determination is made that the proposed action is subject to consistency review, a specific policy aimed at the protection of fish and wildlife resources of statewide significance applies. The specific policy statement is as follows: "Significant coastal fish and wildlife habitats will be protected, preserved, and, where practical, restored so as to maintain their viability as habitats." The New York State Department of Environmental Conservation (DEC) evaluates the significance of coastal fish and wildlife habitats, and following a recommendation from the DEC, the Department of State designates and maps specific areas. Although designated habitat areas are delineated on the coastal area map, the applicability of this policy does not depend on the specific location of the habitat, but on the determination that the proposed action is subject to consistency review.

Significant coastal fish and wildlife habitats are evaluated, designated and mapped under the authority of the Coastal Management Program's enabling legislation, the Waterfront Revitalization and Coastal Resources Act (Executive Law of New York, Article 42). These designations are subsequently incorporated in the Coastal Management Program under authority provided by the Federal Coastal Zone Management Act.

This narrative, along with its accompanying map, constitutes a record of the basis for this significant coastal fish and wildlife habitat's designation and provides specific information regarding the fish and wildlife resources that depend on this area. General information is also provided to assist in evaluating impacts of proposed activities on parameters which are essential to the habitat's values. This information is to be used in conjunction with the habitat impairment test found in the impact assessment section to determine whether the proposed activities are consistent with the significant coastal habitats policy.

DESIGNATED HABITAT: JOHNSON CREEK

LOCATION AND DESCRIPTION OF HABITAT:

Johnson Creek is located along the south shore of Lake Ontario, in the Towns of Carlton and Yates, Orleans County (7.5' Quadrangles: Ashwood, N.Y., and Lyndonville, N.Y.). The fish and wildlife habitat extends approximately seven miles from the hamlet of Lakeside on Lake Ontario to a low dam (the first impassable barrier) at the Village of Lyndonville. Johnson Creek is a relatively large, medium gradient, warmwater stream, with a gravelly substrate. The creek drains over 100 square miles of relatively flat agricultural and rural residential lands, and is bordered along most of its length by woody riparian vegetation. Most of the land area bordering Johnson Creek is privately owned, except in the last mile of stream, which flows through undeveloped Lakeside Beach State Park. Habitat disturbances in the area are generally limited to discharges of agricultural runoff, road crossings, and cottage development near the mouth of the creek.

FISH AND WILDLIFE VALUES:

Johnson Creek is the second largest stream in Orleans County, and is one of about ten major New York tributaries to Lake Ontario. The creek is primarily a warm water fisheries habitat, with largemouth and smallmouth bass, northern pike, walleye, and white sucker being some of the species present. In the fall (late August through December), however, concentrations of coho and chinook salmon enter the stream to spawn (although unsuccessfully in most instances). Although these species are not stocked in Johnson Creek, they are stocked by the NYSDEC in other tributaries of Lake Ontario, and many move into Johnson Creek during the fall spawning run. Other salmonids present in the creek during this period include brown trout and steelhead (lake-run rainbow trout). Anglers from throughout Orleans County, and as far away as Buffalo, fish Johnson Creek. The fall salmonid runs attract most of this recreational use. Johnson Creek may have even greater recreational potential as the salmonid fishery in Lake Ontario expands.

IMPACT ASSESSMENT:

A habitat impairment test must be met for any activity that is subject to consistency review under federal and State laws, or under applicable local laws contained in an approved local waterfront revitalization program. If the proposed action is subject to consistency review, then the habitat protection policy applies, whether the proposed action is to occur within or outside the designated area.

The specific habitat impairment test that must be met is as follows.

In order to protect and preserve a significant habitat, land and water uses or development shall not be undertaken if such actions would:

- destroy the habitat; or,
- significantly impair the viability of a habitat.

Habitat destruction is defined as the loss of fish or wildlife use through direct physical alteration, disturbance, or pollution of a designated area or through the indirect effects of these actions on a designated area. Habitat destruction may be indicated by changes in vegetation, substrate, or hydrology, or increases in runoff, erosion, sedimentation, or pollutants.

Significant impairment is defined as reduction in vital resources (e.g., food, shelter, living space) or change in environmental conditions (e.g., temperature, substrate, salinity) beyond the tolerance range of an organism. Indicators of a significantly impaired habitat focus on ecological alterations and may include but are not limited to reduced carrying capacity, changes in community structure (food chain relationships, species diversity), reduced productivity and/or increased incidence of disease and mortality.

The tolerance range of an organism is not defined as the physiological range of conditions beyond which a species will not survive at all, but as the ecological range of conditions that supports the species population or has the potential to support a restored population, where practical. Either the loss of individuals through an increase in emigration or an increase in death rate indicates that the tolerance range of an organism has been exceeded. An abrupt increase in death rate may occur as an environmental factor falls beyond a tolerance limit (a range has both upper and lower limits). Many environmental factors, however, do not have a sharply defined tolerance limit, but produce increasing emigration or death rates with increasing departure from conditions that are optimal for the species.

The range of parameters which should be considered in applying the habitat impairment test include but are not limited to the following:

1. physical parameters such as living space, circulation, flushing rates, tidal amplitude, turbidity, water temperature, depth (including loss of littoral zone), morphology, substrate type, vegetation, structure, erosion and sedimentation rates;
2. biological parameters such as community structure, food chain relationships, species diversity, predator/prey relationships, population size, mortality rates, reproductive rates, meristic features, behavioral patterns and migratory patterns; and,
3. chemical parameters such as dissolved oxygen, carbon dioxide, acidity, dissolved solids, nutrients, organics, salinity, and pollutants (heavy metals, toxics and hazardous materials).

Although not comprehensive, examples of generic activities and impacts which could destroy or significantly impair the habitat are listed below to assist in applying the habitat impairment test to a proposed activity.

Any activity that degrades water quality, increases temperature or turbidity, alters water depths, or reduces flows, would adversely affect the fisheries resources in Johnson Creek. These impacts would be especially detrimental during fish spawning and nursery periods (late February - July for most warmwater species and steelhead, and September - November for most salmonids). Discharges of sewage or stormwater runoff containing sediments or chemical pollutants (including fertilizers, herbicides, or insecticides) would adversely impact on fish or wildlife species in the area. Of particular concern are the potential effects of upstream disturbances, including water withdrawals, stream channel alterations, and effluent discharges. In the past, an upstream tributary (Jeddo

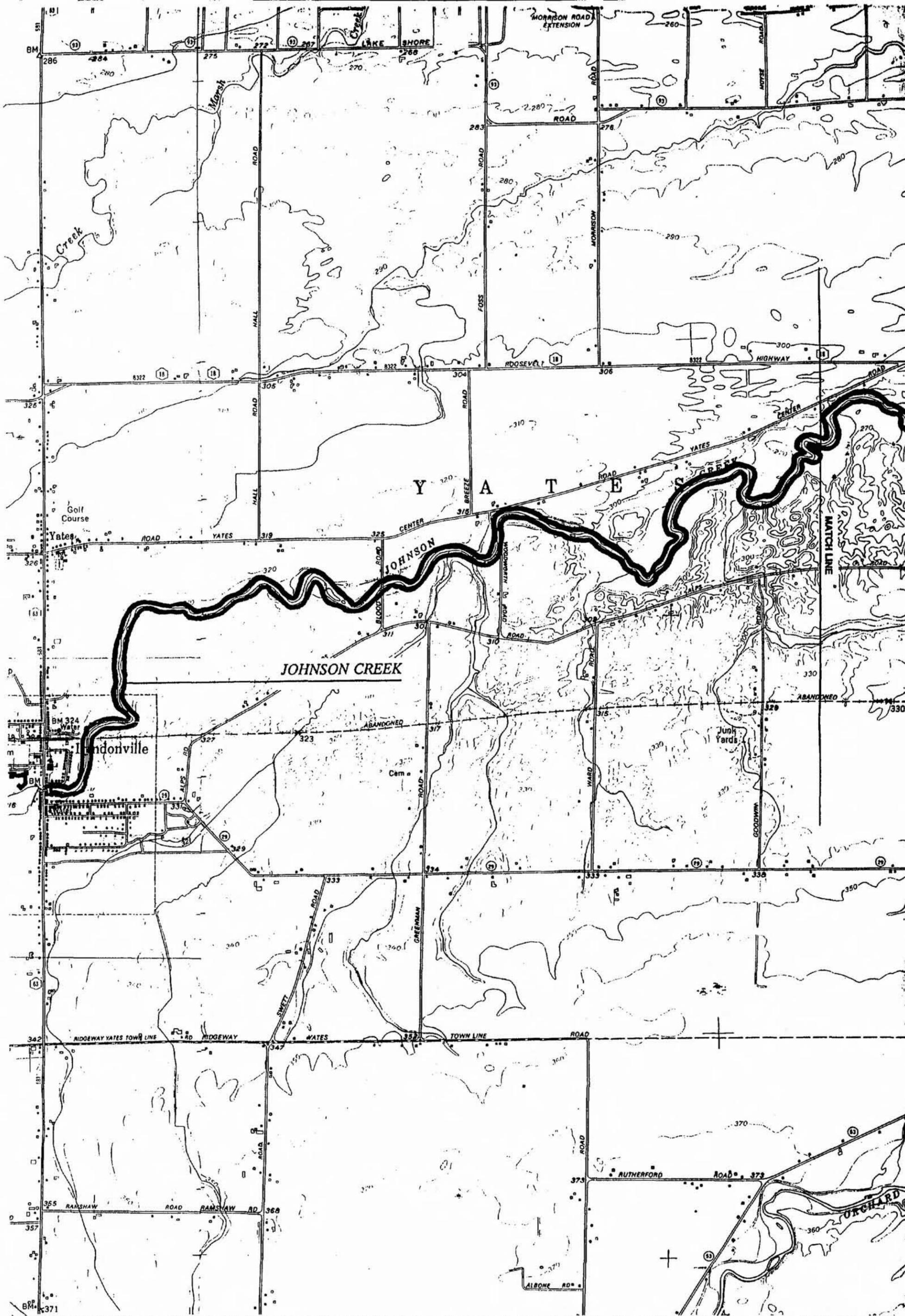
Creek) has been polluted with pesticide residues, resulting in significant chemical pollution of Johnson Creek, and causing major fish kills. Discharges of toxic chemicals into the creek must be prevented in the future to avoid long term adverse impacts on fisheries resources. Barriers to fish migration, whether physical or chemical, would also have significant effects on fish populations and their recreational use. Clearing of natural vegetation along Johnson Creek, and other activities that may increase bank erosion or eliminate productive channel areas, would reduce habitat quality in Johnson Creek.

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Division of Coastal Resources & Waterfront Revitalization
NYS Department of State
162 Washington Avenue
Albany, NY 12231
Phone: (518) 474-6000

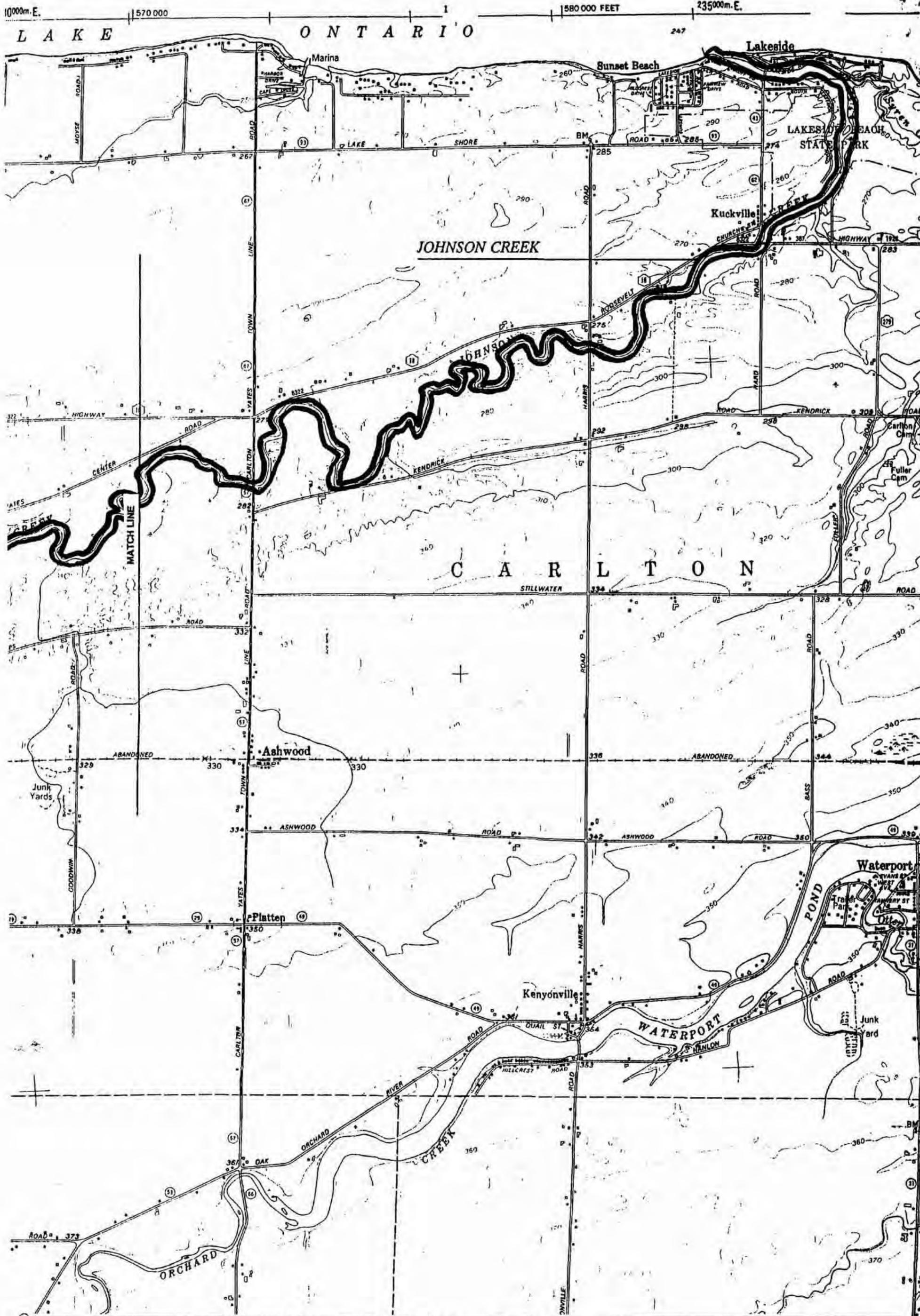
Carl Widmer, Fisheries Manager
or Matt Sanderson, Environmental Protection Biologist
NYSDEC - Region 8
6274 E. Avon-Lima Road
Avon, N.Y. 14414
Phone: (716) 226-2466

NYSDEC - Information Services
700 Troy-Schenectady Road
Latham, NY 12110
Phone: (518) 783-3932



SIGNIFICANT COASTAL FISH AND WILDLIFE HABITATS
 Johnson Creek (In part)





SIGNIFICANT COASTAL FISH AND WILDLIFE HABITATS
 Johnson Creek (In part)



COASTAL FISH & WILDLIFE HABITAT RATING FORM

Name of Area: Sandy Creek

Designated: October 15, 1987

County: Monroe; Orleans

Town(s): Hamlin; Kendall, Murray

7½' Quadrangle(s): Hamlin, NY; Kendall, NY

Score Criterion

12 Ecosystem Rarity (ER)
One of about 10 major New York tributaries to Lake Ontario; rare in the ecological subzone, but rarity is reduced by human disturbance.
Geometric mean: $(9 \times 16)^{\frac{1}{2}}$

16 Species Vulnerability (SV)
Least bittern (SC) nesting.

9 Human Use (HU)
Recreational fishing attracts visitors throughout the Genesee Valley region.

6 Population Level (PL)
Concentrations of salmonids and smallmouth bass are unusual in the Lake Ontario ecological subzone. Geometric mean: $(4 \times 9)^{\frac{1}{2}}$

1.2 Replaceability (R)
Irreplaceable

SIGNIFICANCE VALUE = [(ER + SV + HU + PL) X R]
= 52

SIGNIFICANT COASTAL FISH AND WILDLIFE HABITATS PROGRAM
A PART OF THE NEW YORK COASTAL MANAGEMENT PROGRAM

BACKGROUND

New York State's Coastal Management Program (CMP) includes a total of 44 policies which are applicable to development and use proposals within or affecting the State's coastal area. Any activity that is subject to review under Federal or State laws, or under applicable local laws contained in an approved local waterfront revitalization program will be judged for its consistency with these policies.

Once a determination is made that the proposed action is subject to consistency review, a specific policy aimed at the protection of fish and wildlife resources of statewide significance applies. The specific policy statement is as follows: "Significant coastal fish and wildlife habitats will be protected, preserved, and, where practical, restored so as to maintain their viability as habitats." The New York State Department of Environmental Conservation (DEC) evaluates the significance of coastal fish and wildlife habitats, and following a recommendation from the DEC, the Department of State designates and maps specific areas. Although designated habitat areas are delineated on the coastal area map, the applicability of this policy does not depend on the specific location of the habitat, but on the determination that the proposed action is subject to consistency review.

Significant coastal fish and wildlife habitats are evaluated, designated and mapped under the authority of the Coastal Management Program's enabling legislation, the Waterfront Revitalization and Coastal Resources Act (Executive Law of New York, Article 42). These designations are subsequently incorporated in the Coastal Management Program under authority provided by the Federal Coastal Zone Management Act.

This narrative, along with its accompanying map, constitutes a record of the basis for this significant coastal fish and wildlife habitat's designation and provides specific information regarding the fish and wildlife resources that depend on this area. General information is also provided to assist in evaluating impacts of proposed activities on parameters which are essential to the habitat's values. This information is to be used in conjunction with the habitat impairment test found in the impact assessment section to determine whether the proposed activities are consistent with the significant coastal habitats policy.

DESIGNATED HABITAT: SANDY CREEK

LOCATION AND DESCRIPTION OF HABITAT:

Sandy Creek is located along the south shore of Lake Ontario, approximately twenty-two miles west of the City of Rochester. The creek flows through the Town of Hamlin, Monroe County, and the Towns of Kendall and Murray, Orleans County (7.5' Quadrangles: Hamlin, N.Y.; and Kendall, N.Y.). The fish and wildlife habitat includes the creek channel and associated wetlands and islands, extending approximately fourteen miles from the mouth of Sandy Creek (at Sandy Harbor Beach), to the confluence of the West and East Branches of Sandy Creek, just south of N.Y.S. Route 104. Sandy Creek is a relatively large, medium gradient, warmwater stream, with a predominantly sand and gravel substrate. The creek drains approximately 90 square miles of relatively flat agricultural and rural residential lands, and is bordered along most of its length by woody riparian vegetation. However, the lower three miles of the creek, including a flood pond wetland near the mouth, have been degraded by livestock grazing, shoreline property development, and use of the motorboats in the area.

FISH AND WILDLIFE VALUES:

Sandy Creek is one of about ten major New York tributaries to Lake Ontario. Despite a variety of habitat disturbances, Sandy Creek has significant spawning runs (unsuccessful in most instances) of coho and chinook salmon in the fall (late August through December). Coho salmon and steelhead (lake-run rainbow trout) are stocked in Sandy Creek by the NYSDEC, with approximately 50,000 and 13,000, respectively, released here in 1984. Spawning runs occur as far inland as Albion on the West Branch, and Holley on the East Branch, but actual population levels in these reaches are not well documented. Brown trout occur only in the lower reaches of Sandy Creek during the fall spawning period. From the County Route 19 bridge, in the hamlet of North Hamlin, downstream to the mouth of Sandy Creek, there is also a productive warmwater fishery. Warmwater species present include northern pike, smallmouth bass, and brown bullhead. Smallmouth bass spawning activity throughout Sandy Creek produces a large portion of the smallmouth bass population in this section of Lake Ontario. Bass migrate to the lake from as far away as the upper reaches of the West and East Branches of Sandy Creek. The streamside wetlands and islands in Sandy Creek provide limited habitat for wildlife species, but few studies of the area have been made. Least bittern (SC) was confirmed breeding at Sandy Harbor in the early 1980's.

The fisheries resources in Sandy Creek provide substantial recreational opportunities for residents of Rochester and the surrounding Genesee Valley region. Because of the accessibility of this stream, it has received heavy fishing pressure, estimated at 22,000 person-days of use in 1977. Sandy Creek may have additional recreational potential as the salmonid fishery in Lake Ontario expands.

IMPACT ASSESSMENT:

A habitat impairment test must be met for any activity that is subject to consistency review under federal and State laws, or under applicable local laws contained in an approved local waterfront revitalization program. If the proposed action is subject to consistency review, then the habitat protection policy applies, whether the proposed action is to occur within or outside the

designated area.

The specific habitat impairment test that must be met is as follows.

In order to protect and preserve a significant habitat, land and water uses or development shall not be undertaken if such actions would:

- destroy the habitat; or,
- significantly impair the viability of a habitat.

Habitat destruction is defined as the loss of fish or wildlife use through direct physical alteration, disturbance, or pollution of a designated area or through the indirect effects of these actions on a designated area. Habitat destruction may be indicated by changes in vegetation, substrate, or hydrology, or increases in runoff, erosion, sedimentation, or pollutants.

Significant impairment is defined as reduction in vital resources (e.g., food, shelter, living space) or change in environmental conditions (e.g., temperature, substrate, salinity) beyond the tolerance range of an organism. Indicators of a significantly impaired habitat focus on ecological alterations and may include but are not limited to reduced carrying capacity, changes in community structure (food chain relationships, species diversity), reduced productivity and/or increased incidence of disease and mortality.

The tolerance range of an organism is not defined as the physiological range of conditions beyond which a species will not survive at all, but as the ecological range of conditions that supports the species population or has the potential to support a restored population, where practical. Either the loss of individuals through an increase in emigration or an increase in death rate indicates that the tolerance range of an organism has been exceeded. An abrupt increase in death rate may occur as an environmental factor falls beyond a tolerance limit (a range has both upper and lower limits). Many environmental factors, however, do not have a sharply defined tolerance limit, but produce increasing emigration or death rates with increasing departure from conditions that are optimal for the species.

The range of parameters which should be considered in applying the habitat impairment test include but are not limited to the following:

1. physical parameters such as living space, circulation, flushing rates, tidal amplitude, turbidity, water temperature, depth (including loss of littoral zone), morphology, substrate type, vegetation, structure, erosion and sedimentation rates;
2. biological parameters such as community structure, food chain relationships, species diversity, predator/prey relationships, population size, mortality rates, reproductive rates, meristic features, behavioral patterns and migratory patterns; and,
3. chemical parameters such as dissolved oxygen, carbon dioxide, acidity, dissolved solids, nutrients, organics, salinity, and pollutants (heavy metals, toxics and hazardous materials).

Although not comprehensive, examples of generic activities and impacts which could destroy or significantly impair the habitat are listed below to assist in applying the habitat impairment test to a proposed activity.

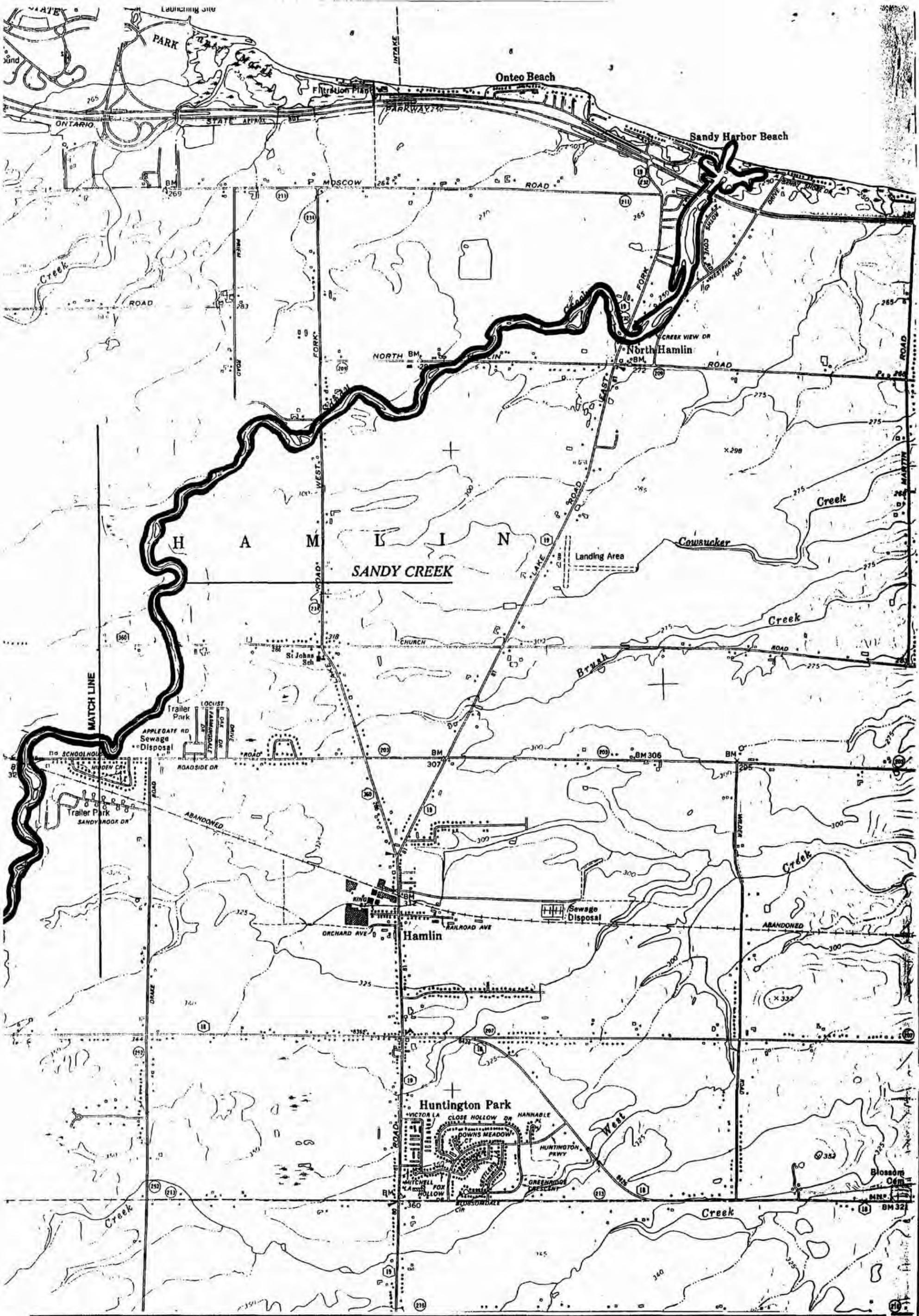
Any activity that degrades water quality, increases temperature or turbidity, alters water depths, or reduces flows, would adversely affect the fisheries resources in Sandy Creek. These impacts would be especially detrimental during fish spawning and nursery periods (late February - July for most warmwater species and steelhead, and September - November for most salmonids). Discharges of sewage or stormwater runoff containing sediments or chemical pollutants (including fertilizers, herbicides, or insecticides) could adversely impact on fish or wildlife species in the area. Efforts should be made to reduce stream disturbance by agricultural activities, especially grazing, through fencing and restoration of natural riparian vegetation. Stream channel alterations, including dredging, filling, or channelization, could reduce the habitat quality in Sandy Creek. Barriers to fish migration, whether physical or chemical, would also have significant impacts on bass and salmonid populations in the creek. Wildlife species occurring in the lower end of Sandy Creek would be adversely affected by further human disturbance or elimination of wetland vegetation. Activities affecting Sandy Creek as far inland as Albion and Holley should be evaluated for potential impacts on the fisheries resources of this area.

KNOWLEDGEABLE CONTACTS:

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NYS Department of State
162 Washington Avenue
Albany, NY 12231
Phone: (518) 474-6000

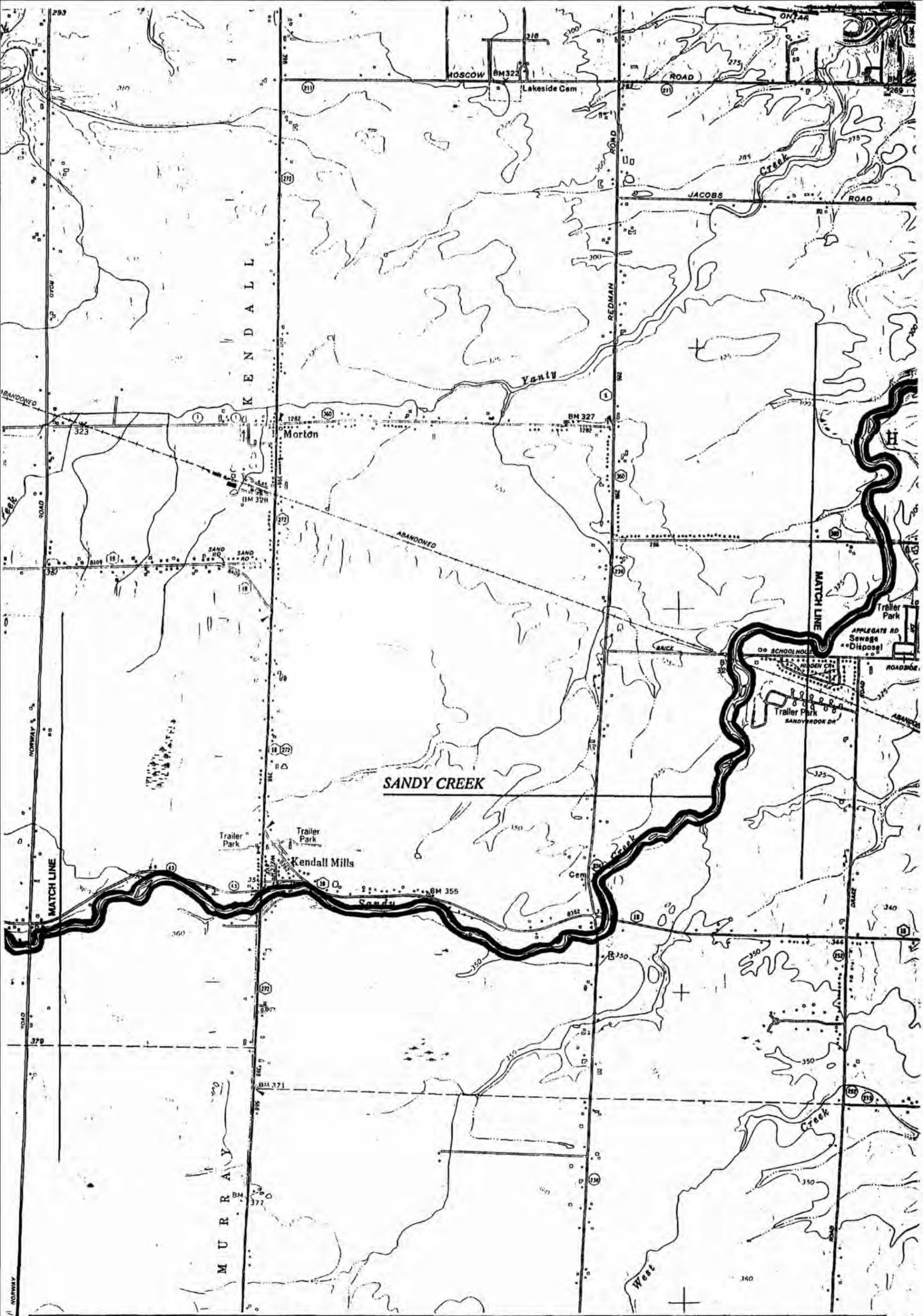
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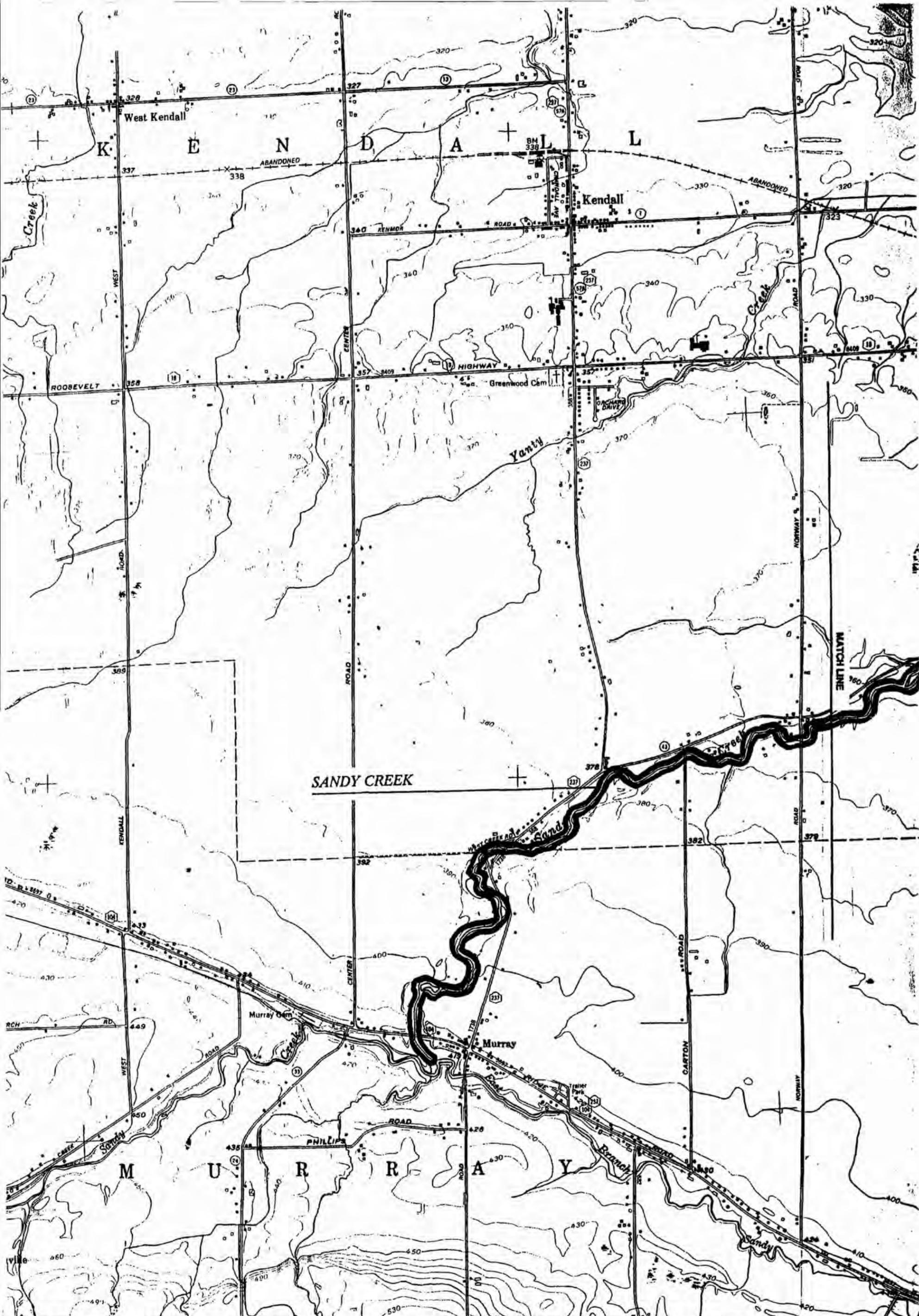
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APPENDIX B

LOCAL WATERFRONT CONSISTENCY LAWS

Local Law Filing

(Please Use this Form for Filing your Local Law with the Secretary of State)

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underline to indicate new matter.

County
City
Town
Village

of KENDALL, ORLEANS COUNTY, NEW YORK

Local Law No. 1 of the year 19 96

A local law To Implement and Provide for Consistency Review for the Towns of Kendall, Yates and Carlton Local Waterfront Revitalization Program

Be it enacted by the Town Board of the

County
City
Town of
Village

Kendall, Orleans County, New York as follows:

SEE ATTACHED REGULATIONS:

TOWN OF KENDALL

A local law to implement and provide procedures for Consistency Review for the Towns of Kendall, Yates and Carlton Local Waterfront Revitalization Program.

Be it enacted by the Town Board of the Town of Kendall, as follows:

I. TITLE

This local law will be known as the Town of Kendall Waterfront Consistency Review Law.

II. AUTHORITY AND PURPOSE

- A. This Local Law is adopted under the authority of Section 10 of the Municipal Home Rule Law; the Waterfront Revitalization of Coastal Areas and Inland Waterways Act (Article 42 of the Executive Law); Article IX, Section 1 of the New York State Constitution; and Article 5-G of the General Municipal Law of the State of New York and expressly supersedes any inconsistent general or local law regarding consistency review, zoning and waterways.
- B. The purpose of this Local Law is to provide a framework for agencies of the Town of Kendall to consider the policies, purposes and common interests contained in the Local Waterfront Revitalization Program of the Towns of Kendall, Yates and Carlton when reviewing applications for actions or direct agency actions located in the Coastal Area; and to assure that such actions are consistent with those policies and purposes.
- C. It is the intention of the Town of Kendall that the preservation, enhancement and utilization of the natural and man-made resources of the unique Coastal Area of the Town take place in a coordinated and comprehensive manner to ensure a proper balance between natural resources and the need to accommodate population growth and economic development. Accordingly, it is the purpose of this Local Law to achieve such a balance, permitting the beneficial use of coastal resources while preventing loss of living coastal resources and wildlife, diminution of open space areas and public access to the waterfront; erosion of shoreline; impairment of scenic beauty; losses due to flooding, erosion and sedimentation; or permanent adverse changes to ecological systems.
- D. The substantive provisions of this local law shall only apply while there is in existence a LWRP which has been adopted in accordance with Article 42 of the Executive Law of the State of New York.

III. APPLICABILITY

All boards, departments, offices, other bodies or officers of the Town of Kendall must comply with this local law, to the extent applicable, prior to carrying out, approving, or funding any action other than Type II, Exempt, or Excluded actions as those terms are defined in Part 617 of Title 6 of the Official Compilation of Codes, Rules, and Regulations of the State of New York.

IV. DEFINITIONS

- A. "Actions" shall mean either Type I or unlisted actions as defined in SEQR regulations (6 NYCRR Part 617) which are undertaken by an agency and which include:
1. projects or physical activities, such as construction or other activities, that may affect the environment by changing the use, appearance or condition of any natural resource or structure, which:
 - (a) are directly undertaken by an agency, or
 - (b) involve funding by an agency, or
 - (c) require one or more permits or approvals from an agency or agencies;
 2. agency planning and policy making activities that may affect the environment and commit the agency to a definite course of future decisions;
 3. adoption of agency rules, regulations, and procedures including local laws, codes, ordinances, executive orders and resolutions that may affect the environment; and
 4. any combination of the above.
- B. "Agency" means any board, agency, department, office, other body, or officer of the Town of Kendall.
- C. "Applicant" means any person making an application or other request to an agency to provide funding or to grant approval or permit in connection with a proposed action.
- D. "Coastal Area" means that portion of the New York State coastal waters and adjacent shorelands as defined in Article 42 of the Executive Law which is located within the boundaries of the Town of Kendall, as shown on the Coastal Area map on file in the office of the Secretary of State and as delineated in the Kendall, Yates and Carlton LWRP.
- E. "Coastal Assessment Form" (CAF) means the form, contained in Appendix A to this local law, used by an agency to assist it in determining the consistency of an action with the LWRP.
- F. "Consistent" means that the action will fully comply with the LWRP policy standards and conditions and, whenever practicable, will advance one or more of them.
- G. "Direct Actions" means actions planned and proposed for implementation by a Town agency, such as, but not limited to capital projects, promulgation of rules, regulations, laws, codes or ordinances and policy making which commits an agency or the Town to a course of action.
- H. "Local Waterfront Revitalization Program (LWRP)" means the Local Waterfront Revitalization Program of the Towns of Kendall, Yates and Carlton, as approved by the Secretary of State pursuant to the Waterfront Revitalization of Coastal Areas and Inland Waterways Act (Executive Law, Article 42), a copy of which is on file in the Office of the Town Clerk.

V. REVIEW OF ACTIONS

- A. Whenever an action is proposed in the Town's Coastal Area affecting any land or water use or any natural resource of such Coastal Area, the Town Board or the Zoning Board of Appeals (ZBA), as appropriate, prior to an agency or such Town Board approving, funding or undertaking the action, shall make a determination that it is consistent with the LWRP policy standards and conditions set forth in Section G herein. No action in the Coastal Area shall be approved, funded or undertaken without a determination that it is consistent.
- B. Whenever an agency receives an application for approval or funding of an action or as early as possible in the agency's formulation of a direct action to be located in or outside the Coastal Area, the applicant, or in the case of a direct action, the agency, shall prepare a Coastal Assessment Form (CAF) to assist with the consistency review. All agencies of the Town, except the ZBA, shall refer a copy of the CAF to the Town Board. All agencies, including the ZBA, shall also refer a copy of the CAF to the Town Board in the other two Towns participating in the LWRP. All referrals shall be made within ten days of receipt of the completed CAF.
- C. After referral from an agency, the Town Board shall consider whether the proposed action is consistent with the Kendall, Yates and Carlton LWRP policy standards and conditions set forth in Paragraph G below. The Town Board shall require the agency or applicant to submit all completed forms, applications, CAFs and any other information necessary to its consistency review. During its deliberations, the Town Board may solicit advisory opinions from other boards and departments in the Town, and from the Town Boards of the other two Towns participating in the LWRP. If an opinion is requested, a response shall be made by the entity receiving the request within fifteen days of receipt. If no response is received, the Town Board shall proceed without such advisory opinions.
- D. The Town Board shall make a written determination of consistency and forward it to the agency within thirty days following referral of the CAF from the agency, unless extended by mutual agreement of the Town Board and the applicant, or in the case of a direct action, the agency. The determination shall indicate in writing whether the action is consistent or inconsistent with all of the applicable LWRP policy standards and conditions. The Town Board may, along with its determination, impose conditions on the proposed action which would make it consistent with the LWRP policy standards and conditions or would greater advance them.
- E. The ZBA shall make its own consistency determinations as described above, and shall be governed by the time frames and the permissive referral of an action to other agencies and departments in the Town and referral to the Town Boards of the other two participating Town Boards for advisory opinions. Under no circumstances, however, shall the Town Board have the authority to overrule the decision of the ZBA on any matter within the ZBA's statutory jurisdiction to grant variances or decide appeals.
- F. Consistency determinations by a Town Board or ZBA shall be made based upon the CAF, the Environmental Assessment Form (EAF), any advisory opinions received, and any other information considered relevant.

Where it is determined that an action may have a significant affect on the environment, the Draft Environmental Impact Statement (DEIS) and the Final Environmental Impact Statement (FEIS) each must contain a discussion of the effects of the action on, and its consistency with, the LWRP policy standards and conditions identified as applicable.

Where it is determined that the action will not have a significant affect upon the environment, the Town Board or the ZBA shall none the less make a written determination of consistency.

After receipt of the consistency determination of the Town Board the agency shall have the authority to impose conditions specified by the Town Board on an action to ensure it is conducted in accordance with this local law.

G. Actions to be undertaken within the Coastal Area shall be evaluated for consistency in accordance with the following LWRP policy standards and conditions, which are derived from and further explained and described in Section III of the Towns of Kendall, Yates and Carlton LWRP. In the case of direct actions by agencies, the Town Boards shall also consult with Section IV of the LWRP in making its consistency determination. The action shall be consistent with the policy to:

1. Revitalize deteriorated and underutilized waterfront areas through a mixture of uses (Policies 1, 1A, 1B and 1C);
2. Retain and preserve existing and promote new water dependent uses (Policies 2, 2A, 2B, 2C and 2D);
3. Ensure that development occurs where adequate public infrastructure is available (Policies 5, and 5A);
4. Streamline development permit procedures (Policy 6);
5. Protect significant and locally important fish and wildlife habitats from human disruption and chemical contamination (Policies 7, 7A, 7B, 7C, 7D and 8);
6. Maintain and expand recreational fishing opportunities (Policies 9, 9A and 9B);
7. Minimize flooding and erosion hazards through protection of natural features, non-structural means, carefully selected long term structural measures and appropriate siting of structures (Policies 11, 12, 13, 13A, 14, 15, 15A, 16, 17, and 17A);
8. Safeguard economic, social and environmental interests in the coastal area in which major actions are undertaken (Policy 18);
9. Maintain and improve public access to the shoreline and other water related recreational facilities while protecting the environment (Policies 1B, 2, 2A, 2B, 9B, 19, 19A, 19B, 19C, 19D, 20, 20A, 21, 21A and 22);

10. Protect and restore historic and archeological resources (Policy 23);
11. Protect and upgrade local scenic resources (Policy 25);
12. Protect and conserve agricultural lands (Policy 26);
13. Site and construct energy facilities in a manner which will be compatible with the environment and contingent upon the need for a waterfront location (Policies 27 and 40);
14. Prevent ice management practices which could damage significant fish and wildlife and their habitat (Policy 28);
15. Protect surface and groundwater from direct and indirect discharge of pollutants and from overuse (Policies 30, 30A, 31, 32, 33, 34, 35, 36, 37, 37A and 38);
16. Perform dredging and dredge spoil disposal in a manner protective of natural resources (Policies 15, 15A and 35);
17. Handle and dispose hazardous wastes and effluent in a manner which will not adversely affect the environment (Policies 39, 39A and 40);
18. Protect air quality (Policy 41, 42, 43);
19. Preserve and protect freshwater wetlands (Policies 44 and 44A).

H. If the Town Board or the ZBA determines that the action would not be consistent with one or more of the LWRP policy standards and conditions, such action shall not be undertaken unless the such Town Board or ZBA makes a written finding with respect to the proposed action that:

1. no reasonable alternatives exist which would permit the action to be undertaken in a manner which will not substantially hinder the achievement of such LWRP policy standards and conditions;
2. the action would be undertaken in a manner which will minimize all adverse effects on such LWRP policy standards and conditions;
3. the action will advance one or more of the other LWRP policy standards and conditions; and
4. the action will result in an overriding Town, regional or statewide public benefit.

Such a finding shall constitute a determination that the action is consistent with the LWRP policy standards and conditions.

- I. The Town Board or ZBA shall maintain a file for each action which is the subject of a consistency determination, and shall make these files available for inspection upon request under the Freedom of Information Law.

VI. ENFORCEMENT

The Town Building Inspector and/or Code Enforcement Officer shall be responsible for enforcing this local law. No work or activity on a project in the Coastal Area that is subject to review under this local law shall be commenced or undertaken until the Building Inspector and/or Code Enforcement Officer has been presented with a written determination from a Town Board or ZBA that the action is consistent with the LWRP policy standards and conditions. In the event that an activity is not being performed in accordance with this local law or any conditions imposed thereunder, the Building Inspector and/or Code Enforcement Officer shall issue a stop work order and all work shall immediately cease. No further work or activity shall be undertaken on the project so long as a stop work order is in effect.

VII. VIOLATIONS

- A. Any person who violates any of the provisions of, or who fails to comply with any condition imposed by, this local law shall have committed a violation, punishable by a fine not exceeding five hundred dollars (\$500.00) for a conviction of a first offense and punishable by a fine not exceeding one thousand dollars (\$1,000.00) for a conviction of a second or subsequent offense. For the purpose of conferring jurisdiction upon courts and judicial officers, each week of continuing violation shall constitute a separate additional violation.
- B. The Town Attorney is authorized and directed to institute any and all actions and proceedings necessary to enforce this local law for violations which occur within their jurisdiction. Any civil penalty shall be in addition to and not in lieu of any criminal prosecution and penalty.

VIII. SEVERABILITY

The provisions of this local law are severable. If any provision of this local law is found invalid, such finding shall not affect the validity of this local law as a whole or any part or provision hereof other than the provision so found to be invalid.

IX. EFFECTIVE DATE

This local law shall take effect immediately upon its filing in the office of the Secretary of State in accordance with Section 27 of the Municipal Home Rule Law.

(Use this form to file a local law with the Secretary of State.)

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

~~County~~
~~City~~ of YATES, ORLEANS COUNTY, NEW YORK
Town
~~Village~~

Local Law No. 1 of the year 19 96

A local law TO IMPLEMENT AND PROVIDE PROCEDURES FOR CONSISTENCY REVIEW
~~(REPEALING)~~ FOR THE TOWNS OF KENDALL, YATES AND CARLTON LOCAL
WATERFRONT REVITALIZATION PROGRAM

Be it enacted by the Town Board of the
(Name of Legislative Body)

~~County~~
~~City~~ of YATES, ORLEANS COUNTY, NEW YORK as follows:
Town
~~Village~~

SEE ATTACHED REGULATIONS

I. TITLE

This local law will be known as the Town of Yates Waterfront Consistency Review Law.

II. AUTHORITY AND PURPOSE

- A. This Local Law is adopted under the authority of Section 10 of the Municipal Home Rule Law; the Waterfront Revitalization of Coastal Areas and Inland Waterways Act (Article 42 of the Executive Law); Article IX, Section 1 of the New York State Constitution; and Article 5-G of the General Municipal Law of the State of New York and expressly supersedes any inconsistent general or local law regarding consistency review, zoning and waterways.
- B. The purpose of this Local Law is to provide a framework for agencies of the Town of Yates to consider the policies, purposes and common interests contained in the Local Waterfront Revitalization Program of the Towns of Kendall, Yates and Carlton when reviewing applications for actions or direct agency actions located in the Coastal Area; and to assure that such actions are consistent with those policies and purposes.
- C. It is the intention of the Town of Yates that the preservation, enhancement and utilization of the natural and man-made resources of the unique Coastal Area of the Town take place in a coordinated and comprehensive manner to ensure a proper balance between natural resources and the need to accommodate population growth and economic development. Accordingly, it is the purpose of this Local Law to achieve such a balance, permitting the beneficial use of coastal resources while preventing loss of living coastal resources and wildlife, diminution of open space areas and public access to the waterfront; erosion of shoreline; impairment of scenic beauty; losses due to flooding, erosion and sedimentation; or permanent adverse changes to ecological systems.
- D. The substantive provisions of this local law shall only apply while there is in existence a LWRP which has been adopted in accordance with Article 42 of the Executive Law of the State of New York.

III. APPLICABILITY

All boards, departments, offices, other bodies or officers of the Town of Yates must comply with this local law, to the extent applicable, prior to carrying out, approving, or funding any action other than Type II, Exempt, or Excluded actions as those terms are defined in Part 617 of Title 6 of the Official Compilation of Codes, Rules, and Regulations of the State of New York.

IV. DEFINITIONS

- A. "Actions" shall mean either Type I or unlisted actions as defined in SEQR regulations (6 NYCRR Part 617) which are undertaken by an agency and which include:
1. projects or physical activities, such as construction or other activities, that may affect the environment by changing the use, appearance or condition of any natural resource or structure, which:
 - (a) are directly undertaken by an agency, or
 - (b) involve funding by an agency, or
 - (c) require one or more permits or approvals from an agency or agencies;
 2. agency planning and policy making activities that may affect the environment and commit the agency to a definite course of future decisions;
 3. adoption of agency rules, regulations, and procedures including local laws, codes, ordinances, executive orders and resolutions that may affect the environment; and
 4. any combination of the above.
- B. "Agency" means any board, agency, department, office, other body, or officer of the Town of Yates.
- C. "Applicant" means any person making an application or other request to an agency to provide funding or to grant approval or permit in connection with a proposed action.
- D. "Coastal Area" means that portion of the New York State coastal waters and adjacent shorelands as defined in Article 42 of the Executive Law which is located within the boundaries of the Town of Yates, as shown on the Coastal Area map on file in the office of the Secretary of State and as delineated in the Kendall, Yates and Carlton LWRP.
- E. "Coastal Assessment Form" (CAF) means the form, contained in Appendix A to this local law, used by an agency to assist it in determining the consistency of an action with the LWRP.
- F. "Consistent" means that the action will fully comply with the LWRP policy standards and conditions and, whenever practicable, will advance one or more of them.
- G. "Direct Actions" means actions planned and proposed for implementation by a Town agency, such as, but not limited to capital projects, promulgation of rules, regulations, laws, codes or ordinances and policy making which commits an agency or the Town to a course of action.
- H. "Local Waterfront Revitalization Program (LWRP)" means the Local Waterfront Revitalization Program of the Towns of Kendall, Yates and Carlton, as approved by the Secretary of State pursuant to the Waterfront Revitalization of Coastal Areas and Inland Waterways Act (Executive Law, Article 42), a copy of which is on file in the Office of the Town Clerk.

V. REVIEW OF ACTIONS

- A. Whenever an action is proposed in the Town's Coastal Area affecting any land or water use or any natural resource of such Coastal Area, the Town Board or the Zoning Board of Appeals (ZBA), as appropriate, prior to an agency or such Town Board approving, funding or undertaking the action, shall make a determination that it is consistent with the LWRP policy standards and conditions set forth in Section G herein. No action in the Coastal Area shall be approved, funded or undertaken without a determination that it is consistent. The ZBA shall make consistency determinations only for variance applications which are subject to the provisions of this Local Law.
- B. Whenever an agency receives an application for approval or funding of an action or as early as possible in the agency's formulation of a direct action to be located in the Coastal Area, the applicant, or in the case of a direct action, the agency, shall prepare a Coastal Assessment Form (CAF) to assist with the consistency review. All agencies of the Town, except the ZBA, shall refer a copy of the CAF to the Town Board. All agencies, including the ZBA, shall also refer a copy of the CAF to the Town Board in the other two Towns participating in the LWRP. All referrals shall be made within ten days of receipt of the completed CAF.
- C. After referral from an agency, the Town Board shall consider whether the proposed action is consistent with the Kendall, Yates and Carlton LWRP policy standards and conditions set forth in Paragraph G below. The Town Board shall require the agency or applicant to submit all completed forms, applications, CAFs and any other information necessary to its consistency review. During its deliberations, the Town Board may solicit advisory opinions from other boards and departments in the Town, and from the Town Boards of the other two Towns participating in the LWRP. If an opinion is requested, a response shall be made by the entity receiving the request within fifteen days of receipt. If no response is received, the Town Board shall proceed without such advisory opinions.
- D. The Town Board shall make a written determination of consistency and forward it to the agency within thirty days following referral of all completed forms, applications, CAFs and any other information necessary for its consistency review from the agency and the applicant, unless extended by mutual agreement of the Town Board and the applicant, or in the case of a direct action, the agency. The determination shall indicate in writing whether the action is consistent or inconsistent with all of the applicable LWRP policy standards and conditions. The Town Board may, along with its determination, impose conditions on the proposed action which would make it consistent with the LWRP policy standards and conditions or would greater advance them.
- E. The ZBA shall make its own consistency determinations as described above, and shall be governed by the time frames and the permissive referral of an action to other agencies and departments in the Town and referral to the Town Boards of the other two participating Town Boards for advisory opinions. Under no circumstances, however, shall the Town Board have the authority to overrule the decision of the ZBA on any matter within the ZBA's statutory jurisdiction to grant variances or decide appeals.

- F. Consistency determinations by a Town Board or ZBA shall be made based upon the CAF, the Environmental Assessment Form (EAF), any advisory opinions received, and any other information considered relevant.

Where it is determined that an action may have a significant affect on the environment, the Draft Environmental Impact Statement (DEIS) and the Final Environmental Impact Statement (FEIS) each must contain a discussion of the effects of the action on, and its consistency with, the LWRP policy standards and conditions identified as applicable.

Where it is determined that the action will not have a significant affect upon the environment, the Town Board or the ZBA shall none the less make a written determination of consistency.

After receipt of the consistency determination of the Town Board the agency shall have the authority to impose conditions specified by the Town Board on an action to ensure it is conducted in accordance with this local law.

- G. Actions to be undertaken within the Coastal Area shall be evaluated for consistency in accordance with the following LWRP policy standards and conditions, which are derived from and further explained and described in Section III of the Towns of Kendall, Yales and Carlton LWRP. In the case of direct actions by agencies, the Town Boards shall also consult with Section IV of the LWRP in making its consistency determination. The action shall be consistent with the policy to:

1. Revitalize deteriorated and underutilized waterfront areas through a mixture of uses (Policies 1, 1A, 1B and 1C);
2. Retain and preserve existing and promote new water dependent uses (Polices 2, 2A, 2B, 2C and 2D);
3. Ensure that development occurs where adequate public infrastructure is available (Policies 5, and 5A);
4. Streamline development permit procedures (Policy 6);
5. Protect significant and locally important fish and wildlife habitats from human disruption and chemical contamination (Policies 7, 7A, 7B, 7C, 7D and 8);
6. Maintain and expand recreational fishing opportunities (Policies 9, 9A and 9B);
7. Minimize flooding and erosion hazards through protection of natural features, non-structural means, carefully selected long term structural measures and appropriate siting of structures (Policies 11, 12, 13, 13A, 14, 15, 15A, 16, 17, and 17A);
8. Safeguard economic, social and environmental interests in the coastal area in which major actions are undertaken (Policy 18);

9. Maintain and improve public access to the shoreline and other water related recreational facilities while protecting the environment (Policies 1B, 2, 2A, 2B, 9B, 19, 19A, 19B, 19C, 19D, 20, 20A, 21, 21A and 22);
10. Protect and restore historic and archeological resources (Policy 23);
11. Protect and upgrade local scenic resources (Policy 25);
12. Protect and conserve agricultural lands (Policy 26);
13. Site and construct energy facilities in a manner which will be compatible with the environment and contingent upon the need for a waterfront location (Policies 27 and 40);
14. Prevent ice management practices which could damage significant fish and wildlife and their habitat (Policy 28);
15. Protect surface and groundwater from direct and indirect discharge of pollutants and from overuse (Policies 30, 30A, 31, 32, 33, 34, 35, 36, 37, 37A and 38);
16. Perform dredging and dredge spoil disposal in a manner protective of natural resources (Policies 15, 15A and 35);
17. Handle and dispose hazardous wastes and effluent in a manner which will not adversely affect the environment (Policies 39, 39A and 40);
18. Protect air quality (Policy 41, 42, 43);
19. Preserve and protect freshwater wetlands (Policies 44 and 44A).

H. If the Town Board or the ZBA determines that the action would not be consistent with one or more of the LWRP policy standards and conditions, such action shall not be undertaken unless the such Town Board or ZBA makes a written finding with respect to the proposed action that:

1. no reasonable alternatives exist which would permit the action to be undertaken in a manner which will not substantially hinder the achievement of such LWRP policy standards and conditions;
2. the action would be undertaken in a manner which will minimize all adverse effects on such LWRP policy standards and conditions;
3. the action will advance one or more of the other LWRP policy standards and conditions; and
4. the action will result in an overriding Town, regional or statewide public benefit.

Such a finding shall constitute a determination that the action is consistent with the LWRP policy standards and conditions.

- I. The Town Board or ZBA shall maintain a file for each action which is the subject of a consistency determination, and shall make these files available for inspection upon request under the Freedom of Information Law.

VI. ENFORCEMENT

The Town Building Inspector and/or Code Enforcement Officer shall be responsible for enforcing this local law. No work or activity on a project in the Coastal Area that is subject to review under this local law shall be commenced or undertaken until the Building Inspector and/or Code Enforcement Officer has been presented with a written determination from a Town Board or ZBA that the action is consistent with the LWRP policy standards and conditions. In the event that an activity is not being performed in accordance with this local law or any conditions imposed thereunder, the Building Inspector and/or Code Enforcement Officer shall issue a stop work order and all work shall immediately cease. No further work or activity shall be undertaken on the project so long as a stop work order is in effect.

VII. VIOLATIONS

- A. Any person who violates any of the provisions of, or who fails to comply with any condition imposed by, this local law shall have committed a violation, punishable by a fine not exceeding five hundred dollars (\$500.00) for a conviction of a first offense and punishable by a fine not exceeding one thousand dollars (\$1,000.00) for a conviction of a second or subsequent offense. For the purpose of conferring jurisdiction upon courts and judicial officers, each week of continuing violation shall constitute a separate additional violation.
- B. The Town Attorney is authorized and directed to institute any and all actions and proceedings necessary to enforce this local law for violations which occur within their jurisdiction. Any civil penalty shall be in addition to and not in lieu of any criminal prosecution and penalty.

VIII. SEVERABILITY

The provisions of this local law are severable. If any provision of this local law is found invalid, such finding shall not affect the validity of this local law as a whole or any part or provision hereof other than the provision so found to be invalid.

IX. EFFECTIVE DATE

This local law shall take effect immediately upon its filing in the office of the Secretary of State in accordance with Section 27 of the Municipal Home Rule Law.



(Please Use this Form for Filing your Local Law with the Secretary of State)

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

~~County~~
~~City~~
Town of CARLTON
~~Village~~
Local Law No. 3 of the year 19 98

A local law, TO IMPLEMENT AND PROVIDE PROCEDURES FOR CONSISTENCY REVIEW
(Insert title)
FOR THE TOWNS OF KENDALL, YATES AND CARLTON LOCAL WATERFRONT REVITALIZATION PROGRAM.

Be it enacted by the TOWN BOARD of the
(Name of Legislative Body)

County
City of TOWN OF CARLTON as follows:
Town
Village

I. TITLE
This local law will be known as the Town of Carlton Waterfront Consistency Review Law.

II. AUTHORITY AND PURPOSE
A. This Local Law is adopted under the authority of Section 10 of the Municipal Home Rule Law; the Waterfront Revitalization of Coastal Areas and Inland Waterways Act (Article 42 of the Executive Law); Article IX, Section 1 of the New York State Constitution; and Article 5-G of the General Municipal Law of the State of New York and expressly supersedes any inconsistent general or local law regarding consistency review, zoning and waterways.
B. The purpose of this Local Law is to provide a framework for agencies of the Town of Carlton to consider the policies, purposes and common interests contained in the Local Waterfront Revitalization Program of the Towns of Kendall, Yates and Carlton when reviewing applications for actions or direct agency actions located in the Coastal Area; and to assure that such actions are consistent with those policies and purposes.

(If additional space is needed, please attach sheets of the same size as this and number each)

C. It is the intention of the Town of Carlton that the preservation, enhancement and utilization of the natural and man-made resources of the unique Coastal Area of the Town take place in a coordinated and comprehensive manner to ensure a proper balance between natural resources and the need to accommodate population growth and economic development. Accordingly, it is the purpose of this Local Law to achieve such a balance, permitting the beneficial use of coastal resources while preventing loss of living coastal resources and wildlife, diminution of open space areas and public access to the waterfront; erosion of shoreline; impairment of scenic beauty; losses due to flooding, erosion and sedimentation; or permanent adverse changes to ecological systems.

D. The substantive provisions of this local law shall only apply while there is in existence a LWRP which has been adopted in accordance with Article 42 of the Executive Law of the State of New York.

III. APPLICABILITY

All boards, departments, offices, other bodies or officers of the Town of Carlton must comply with this local law, to the extent applicable, prior to carrying out, approving, or funding any action other than Type II, Exempt, or Excluded actions as those terms are defined in Part 617 of Title 6 of the Official Compilation of Codes, Rules, and Regulations of the State of New York.

IV. DEFINITIONS

A. "Actions" shall mean either Type I or unlisted actions as defined in SEQR regulations (6 NYCRR Part 617) which are undertaken by an agency and which include:

1. projects or physical activities, such as construction or other activities, that may affect the environment by changing the use, appearance or condition of any natural resource or structure, which:
 - (a) are directly undertaken by an agency, or
 - (b) involve funding by an agency, or
 - (c) require one or more permits or approvals from an agency or agencies;
2. agency planning and policy making activities that may affect the environment and commit the agency to a definite course of future decisions;
3. adoption of agency rules, regulations, and procedures including local laws, codes, ordinances, executive orders and resolutions that may affect the environment; and
4. any combination of the above.

B. "Agency" means any board, agency, department, office, other body, or officer of the Town of Carlton.

C. "Applicant" means any person making an application or other request to an agency to provide funding or to grant approval or permit in connection with a proposed action.

D. "Coastal Area" means that portion of the New York State coastal waters and adjacent shorelands as defined in Article 42 of the Executive Law which is located within the boundaries of the Town of Carlton, as shown on the Coastal Area map on file in the office of the Secretary of State and as delineated in the Kendall, Yates and Carlton LWRP.

F. "Consistent" means that the action will fully comply with the LWRP policy standards and conditions and, whenever practicable, will advance one or more of them.

G. "Direct Actions" means actions planned and proposed for implementation by a Town agency, such as, but not limited to capital projects, promulgation of rules, regulations, laws, codes or ordinances and policy making which commits an agency or the Town to a course of action.

H. "Local Waterfront Revitalization Program (LWRP)" means the Local Waterfront Revitalization Program of the Towns of Kendall, Yates and Carlton, as approved by the Secretary of State pursuant to the Waterfront Revitalization of Coastal Areas and Inland Waterways Act (Executive Law, Article 42), a copy of which is on file in the Office of the Town Clerk.

V. REVIEW OF ACTIONS

A. Whenever an action is proposed in the Town's Coastal Area affecting any land or water use or any natural resource of such Coastal Area, the Town Board or the Planning Board as appropriate, prior to an agency or such Town Board approving, funding or undertaking the action, shall make a determination that it is consistent with the LWRP policy standards and conditions set forth in Section G herein. No action in the Coastal Area shall be approved, funded or undertaken without a determination that it is consistent.

B. Whenever an agency receives an application for approval or funding of an action or as early as possible in the agency's formulation of a direct action to be located in or outside the Coastal Area, the applicant, or in the case of a direct action, the agency, shall prepare a Coastal Assessment Form (CAF) to assist with the consistency review. All agencies of the Town, except the Planning Board, shall refer a copy of the CAF to the Town Board. All agencies, including the Planning Board, shall also refer a copy of the CAF to the Town Board in the other two Towns participating in the LWRP. All referrals shall be made within ten days of receipt the completed CAF.

C. After referral from an agency, the Town Board shall consider whether the proposed action is consistent with the Kendall, Yates and Carlton LWRP policy standards and conditions set forth in Paragraph G below. The Town Board shall require the agency or applicant to submit all completed forms, applications, CAF's and any other information necessary to its consistency review. During its deliberations, the Town Board may solicit advisory opinions from other boards and departments in the Town, and from the Town Boards of the other two Towns participating in the LWRP. If an opinion is requested, a response shall be made by the entity receiving the request within fifteen days of receipt. If no response is received, the Town Board shall proceed without such advisory opinions.

D. The Town Board shall make a written determination of consistency and forward it to the agency within thirty days following referral of the CAF from the agency, unless extended by mutual agreement of the Town Board and the applicant, or in the case of a direct action, the agency. The determination shall indicate in writing whether the action is consistent or inconsistent with all of the applicable LWRP policy standards and conditions. The Town Board may, along with its determination, impose conditions on the proposed action which would make it consistent with the LWRP policy standards and conditions or would greater advance them.

E. The Planning Board shall make its own consistency determinations as described above, and shall be governed by the time frames and the permissive referral of an action to other agencies and departments in the Town and referral to the Town Boards of the two participating Town Boards for advisory opinions.

F. Consistency determinations by a Town Board or Planning Board shall be made based upon the CAF, the Environmental Assessment Form (EAF), any advisory opinions received, and any other information considered relevant.

Where it is determined that an action may have a significant affect on the environment, the Draft Environmental Impact Statement (DEIS) and the Final Environmental Impact Statement (FEIS) each must contain a discussion of the effects of the action on, and its consistency with, the LWRP policy standards and conditions identified as applicable.

Where it is determined that the action will not have a significant affect upon the environment, the Town Board or the Planning Board shall none the less make a written determination of consistency.

After receipt of the consistency determination of the Town Board the agency shall have the authority to impose conditions specified by the Town Board on an action to ensure it is conducted in accordance with this local law.

G. Actions to be undertaken within the Coastal Area shall be evaluated for consistency in accordance with the following LWRP policy standards and conditions, which are derived from and further explained and described in Section III of the Towns of Kendall, Yates and Carlton LWRP. In the case of direct actions by agencies, the Town Boards shall also consult with Section IV of the LWRP in making its consistency determination. The action shall be consistent with the policy to:

1. Revitalize deteriorated and underutilized waterfront areas through a mixture of uses (Policies 1, 1A, 1B and 1C);
2. Retain and preserve existing and promote new water dependent uses (Policies 2, 2A, 2B, 2C and 2D);
3. Ensure that development occurs where adequate public infrastructure is available (Policies 5, and 5A);
4. Streamline development permit procedures (Policy 6);
5. Protect significant and locally important fish and wildlife habitats from human disruption and chemical contamination (Policies 7, 7A, 7B, 7C, 7D and 8);
6. Maintain and expand recreational fishing opportunities (Policies 9, 9A and 9B);
7. Minimize flooding and erosion hazards through protection of natural features, non-structural means, carefully selected long term structural measures and appropriate siting of structures (Policies 11, 12, 13, 13A, 14, 15, 15A, 16, 17 and 17A);
8. Safeguard economic, social and environmental interests in the coastal area in which major actions are undertaken (Policy 18);
9. Maintain and improve public access to the shoreline and other water related recreational facilities while protecting the environment (Policies 18, 2, 2A, 2B, 9B, 19, 19A, 19C, 20, 20A, 21, 21A and 22);
10. Protect and restore historic and archeological resources (Policy 23);
11. Protect and upgrade local scenic resources (Policy 25);
12. Protect and conserve agricultural lands (Policy 26);
13. Site and construct energy facilities in a manner which will be compatible with the environment and contingent upon the need for a waterfront location (Policies 27 and 40);
14. Prevent ice management practices which could damage significant fish and wildlife and their habitat (Policy 28);
15. Protect surface and groundwater from direct and indirect discharge of pollutants and from overuse (Policies 30, 30A, 31, 32, 33, 34, 35, 36, 37, 37A and 38);
16. Perform dredging and dredge soil disposal in a manner protective of natural resources (Policies 15, 15A and 35);

17. Handle and dispose hazardous wastes and effluent in a manner which will not adversely affect the environment (Policies 39, 39A and 40);
18. Protect air quality (Policy 41, 42, 43);
19. Preserve and protect freshwater wetlands (Policies 44 and 44A);

H. If the Town Board or the Planning Board determines that the action would not be consistent with one or more of the LWRP policy standards and conditions, such action shall not be undertaken unless the such Town Board or Planning Board makes a written finding with respect to the proposed action that:

1. no reasonable alternatives exist which would permit the action to be undertaken in a manner which will not substantially hinder the achievement of such LWRP policy standards and conditions;
2. the action would be undertaken in a manner which will minimize all adverse effects on such LWRP policy standards and conditions;
3. the action will advance on or more of the other LWRP policy standards and conditions; and
4. the action will result in a overriding Town, regional or statewide public benefit.

Such a finding shall constitute a determination that the action is consistent with the LWRP policy standards and conditions.

I. The Town Board or Planning Board shall maintain a file for each action which is the subject of a consistency determination, and shall make these files available for inspection upon request under the Freedom of Information Law.

VI. ENFORCEMENT

The Town Zoning Enforcement Officer shall be responsible for enforcing this local law. No work or activity on a project in the Coastal Area that is subject to review under this local law shall be commenced or undertaken until the Zoning Enforcement Officer has been presented with a written determination from a Town Board or Planning Board that the action is consistent with the LWRP policy standards and conditions. In the event that an activity is not being performed in accordance with this local law or any conditions imposed hereunder, the Zoning Enforcement Officer shall issue a stop work order and all work shall immediately cease. No further work or activity shall be undertaken on the project so long as a stop work order is in effect.

V. VIOLATIONS

A. Any person who violates any of the provisions of, or who fails to comply with any condition imposed by, this local law shall have committed a violation, punishable by a fine not exceeding five hundred dollars (\$500.00) for a conviction of a second or subsequent offense. For the purpose of conferring jurisdiction upon courts and judicial officers, each week of continuing violation shall constitute a separate violation.

B. The Town Attorney is authorized and directed to institute any and all actions and proceedings necessary to enforce this local law for violations which occur within their jurisdiction. Any civil penalty shall be in addition to and not in lieu of any criminal prosecution and penalty.

VII. SEVERABILITY

The provisions of this local law are severable. If any provision of this local law is found invalid, such finding shall not affect the validity of this local law as a whole or any part or provision hereof other than the provision so found to be invalid.

IX. EFFECTIVE DATE

This local law shall take effect immediately upon its filing in the office of the Secretary of State in accordance with Section 27 of the Municipal Home Rule Law.

APPENDIX C

**PROCEDURAL GUIDELINES FOR COORDINATING
NYSDOS & LWRP CONSISTENCY REVIEW OF
FEDERAL AGENCY ACTIONS**

**PROCEDURAL GUIDELINES FOR COORDINATING
NYS DEPARTMENT OF STATE (DOS) & LWRP
CONSISTENCY REVIEW OF FEDERAL AGENCY ACTIONS**

DIRECT ACTIONS

1. After acknowledging the receipt of a consistency determination and supporting documentation from a federal agency, DOS will forward copies of the determination and other descriptive information on the proposed direct action to the program coordinator (of an approved LWRP) and other interested parties.
2. This notification will indicate the date by which all comments and recommendations must be submitted to DOS and will identify the Department's principal reviewer for the proposed action.
3. The review period will be about twenty-five (25) days. If comments and recommendations are not received by the date indicated in the notification, DOS will presume that the municipality has "no opinion" on the consistency of the proposed direct federal agency action with local coastal policies.
4. If DOS does not fully concur with and/or has any questions on the comments and recommendations submitted by the municipality, DOS will contact the municipality to discuss any differences of opinion or questions prior to agreeing or disagreeing with the federal agency's consistency determination on the proposed direct action.
5. A copy of DOS' "agreement" or "disagreement" letter to the federal agency will be forwarded to the local program coordinator.

PERMIT AND LICENSE ACTIONS

1. DOS will acknowledge the receipt of an applicant's consistency certification and application materials. At that time, DOS will forward a copy of the submitted documentation to the program coordinator and will identify the Department's principal reviewer for the proposed action.
2. Within thirty (30) days of receiving such information, the program coordinator will contact the principal reviewer for DOS to discuss: (a) the need to request additional information for review purposes; and (b) any possible problems pertaining to the consistency of a proposed action with local coastal policies.
3. When DOS and the program coordinator agree that additional information is necessary, DOS will request the applicant to provide the information. A copy of this information will be provided to the program coordinator upon receipt.
4. Within thirty (30) days of receiving the requested additional information or discussing possible problems of a proposed action with the principal reviewer for DOS, whichever is later, the program coordinator will notify DOS of the reasons why a proposed action may be inconsistent or consistent with local coastal policies.
5. After the notification, the program coordinator will submit the municipality's written comments and recommendations on a proposed permit action to DOS before or at the conclusion of the official public comment period. If such comments and recommendations

are not forwarded to DOS by the end of the public comment period, DOS will presume that the municipality has "no opinion" on the consistency of the proposed action with local coastal policies.

6. If DOS does not fully concur with and/or has any questions on the comments and recommendations submitted by the municipality on a proposed permit action, DOS will contact the program coordinator to discuss any differences of opinion prior to issuing a letter of "concurrence" or "objection" letter to the applicant.
7. A copy of DOS' "concurrence" or "objective" letter to the applicant will be forwarded to the program coordinator.

FINANCIAL ASSISTANCE ACTIONS

1. Upon receiving notification of a proposed federal financial assistance action, DOS will request information on the action from the applicant for consistency review purposes. As appropriate, DOS will also request the applicant to provide a copy of the application documentation to the program coordinator. A copy of this letter will be forwarded to the coordinator and will serve as notification that the proposed action may be subject to review.
2. DOS will acknowledge the receipt of the requested information and provide a copy of this acknowledgement to the program coordinator. DOS may, at this time, request the applicant to submit additional information for review purposes.
3. The review period will conclude thirty (30) days after the date on DOS' letter of acknowledgement or the receipt of requested additional information, whichever is later. The review period may be extended for major financial assistance actions.
4. The program coordinator must submit the municipality's comments and recommendations on the proposed action to DOS within twenty days (or other time agreed to by DOS and the program coordinator) from the start of the review period. If comments and recommendations are not received within this period, DOS will presume that the municipality has "no opinion" on the consistency of the proposed financial assistance action with local coastal policies.
5. If DOS does not fully concur with and/or has any questions on the comments and recommendations submitted by the municipality, DOS will contact the program coordinator to discuss any differences of opinion or questions prior to notifying the applicant of DOS' consistency decision.
6. A copy of DOS' consistency decision letter to the applicant will be forwarded to the program coordinator.

APPENDIX D

**GUIDELINES FOR NOTIFICATION AND REVIEW OF
STATE AGENCY ACTIONS WHERE LWRPS ARE IN EFFECT**

**NEW YORK STATE DEPARTMENT OF STATE
COASTAL MANAGEMENT PROGRAM**

**Guidelines for Notification and Review of State Agency Actions
Where Local Waterfront Revitalization Programs are in Effect**

I. PURPOSES OF GUIDELINES

- A. The Waterfront Revitalization of Coastal Areas and Inland Waterways Act (Article 42 of the Executive Law) and the Department of State's regulations (19 NYCRR Part 600) require certain state agency actions identified by the Secretary of State to be consistent to the maximum extent practicable with the policies and purposes of approved Local Waterfront Revitalization Programs (LWRPs). These guidelines are intended to assist state agencies in meeting that statutory consistency obligation.
- B. The Act also requires that state agencies provide timely notice to the situs local government whenever an identified action will occur within an area covered by an approved LWRP. These guidelines describe a process for complying with this notification requirement. They also provide procedures to assist local governments in carrying out their review responsibilities in a timely manner.
- C. The Secretary of State is required by the Act to confer with state agencies and local governments when notified by a local government that a proposed state agency action may conflict with the policies and purposes of its approved LWRP. These guidelines establish a procedure for resolving such conflicts.

II. DEFINITIONS

- A. Action means:
 - 1. A "Type 1" or "Unlisted" action as defined by the State Environmental Quality Review Act (SEQRA);
 - 2. Occurring within the boundaries of an approved LWRP; and
 - 3. Being taken pursuant to a state agency program or activity which has been identified by the Secretary of State as likely to affect the policies and purposes of the LWRP.
- B. Consistent to the maximum extent practicable means that an action will not substantially hinder the achievement of any of the policies and purposes of an approved LWRP and, whenever practicable, will advance one or more of such policies. If an action will substantially hinder any of the policies or purposes of an approved LWRP, then the action must be one:
 - 1. For which no reasonable alternatives exist that would avoid or overcome any substantial hindrance;
 - 2. That will minimize all adverse effects on the policies or purposes of the LWRP to the maximum extent practicable; and
 - 3. That will result in an overriding regional or statewide public benefit.

- C. Local Waterfront Revitalization Program or LWRP means a program prepared and adopted by a local government and approved by the Secretary of State pursuant to Executive Law, Article 42; which program contains policies on the management of land, water and man-made resources, proposed land uses and specific projects that are essential to program implementation.

III. NOTIFICATION PROCEDURE

- A. When a state agency is considering an action as described in II above, the state agency shall notify the affected local government.
- B. Notification of a proposed action by a state agency:
1. Shall fully describe the nature and location of the action;
 2. Shall be accomplished by use of either the State Clearinghouse, other existing state agency notification procedures, or through an alternative procedure agreed upon by the state agency and local government;
 3. Should be provided to the local official identified in the LWRP of the situs local government as early in the planning stages of the action as possible, but in any event at least 30 days prior to the agency's decision on the action. (The timely filing of a copy of a completed Coastal Assessment Form with the local LWRP official should be considered adequate notification of a proposed action.)
- C. If the proposed action will require the preparation of a draft environmental impact statement, the filing of this draft document with the chief executive officer can serve as the state agency's notification to the situs local government.

IV. LOCAL GOVERNMENT REVIEW PROCEDURE

- A. Upon receipt of notification from a state agency, the situs local government will be responsible for evaluating a proposed action against the policies and purposes of its approved LWRP. Upon request of the local official identified in the LWRP, the state agency should promptly provide the situs local government with whatever additional information is available which will assist the situs local government to evaluate the proposed action.
- B. If the situs local government cannot identify any conflicts between the proposed action and the applicable policies and purposes of its approved LWRP, it should inform the state agency in writing of its finding. Upon receipt of the local government's finding, the state agency may proceed with its consideration of the proposed action in accordance with 19 NYCRR Part 600.
- C. If the situs local government does not notify the state agency in writing of its finding within the established review period, the state agency may then presume that the proposed action does not conflict with the policies and purposes of the municipality's approved LWRP.
- D. If the situs local government notifies the state agency in writing that the proposed action does conflict with the policies and/or purposes of its approved LWRP, the state agency shall not proceed with its consideration of, or decision on, the proposed action as long as the

Resolution of Conflicts procedure established in V below shall apply. The local government shall forward a copy of the identified conflicts to the Secretary of State at the time when the state agency is notified. In notifying the state agency, the local government shall identify the specific policies and purposes of the LWRP with which the proposed action conflicts.

V. RESOLUTION OF CONFLICTS

- A. The following procedure applies whenever a local government has notified the Secretary of State and state agency that a proposed action conflicts with the policies and purposes of its approved LWRP:
1. Upon receipt of notification from a local government that a proposed action conflicts with its approved LWRP, the state agency should contact the local LWRP official to discuss the content of the identified conflicts and the means for resolving them. A meeting of state agency and local government representatives may be necessary to discuss and resolve the identified conflicts. This discussion should take place within 30 days of the receipt of a conflict notification from the local government.
 2. If the discussion between the situs local government and the state agency results in the resolution of the identified conflicts, then, within seven days of the discussion, the situs local government shall notify the state agency in writing, with a copy forwarded to the Secretary of State, that all of the identified conflicts have been resolved. The state agency can then proceed with its consideration of the proposed action in accordance with 19 NYCRR Part 600.
 3. If the consultation between the situs local government and the state agency does not lead to the resolution of the identified conflicts, either party may request, in writing, the assistance of the Secretary of State to resolve any or all of the identified conflicts. This request must be received by the Secretary within 15 days following the discussion between the situs local government and the state agency. The party requesting the assistance of the Secretary of State shall forward a copy of their request to the other party.
 4. Within 30 days following the receipt of a request for assistance, the Secretary or a Department of State official or employee designated by the Secretary, will discuss the identified conflicts and circumstances preventing their resolution with appropriate representatives from the state agency and situs local government.
 5. If agreement among all parties cannot be reached during this discussion, the Secretary shall, within 15 days, notify both parties of his/her findings and recommendations.
 6. The state agency shall not proceed with its consideration of, or decision on, the proposed action as long as the foregoing Resolution of Conflicts procedures shall apply.