

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.