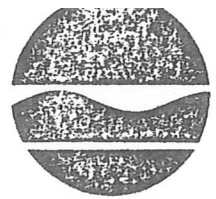


New York State Department of Environmental Conservation

P.O. Box 57, Avon, New York 14414



Peter A. A. Berle,  
Commissioner

Irwin H. King  
Regional Director

November 10, 1977

Re:

Dear

Environmental Conservation Commissioner Peter A.A. Berle has determined that the recommendations of the Hearing Officer's Report shall be adopted regarding the appropriation of Port Bay barrier bar and East Bay barrier bar in Lake Ontario, Wayne County. He has directed this office to proceed with the steps necessary to accomplish appropriation for the purpose of clearing title to the two barrier bars.

The major recommendations included in my Hearing Officer's Report are:

1. Appropriation proceedings for East Bay barrier bar and Port Bay barrier bar should be continued to clear title for once and for all in the name of the State of New York and to provide for continued protection and preservation of those important areas.
2. Occupants claiming a valid title will be required to submit their claims to the courts and the State will pay those claims which the courts may allow.
3. The Department has no interest in the existing structures and present occupants will be permitted to remove them, within one year of the appropriation date. (On those claims which the courts consider valid for just compensation, the State will not pay for structures which have been removed after the date for appropriation.)

November 10, 1977

4. Occupants of the barrier bars will be allowed 12 months from the date of appropriation to remove personal belongings.

5. Protection of personal property following appropriation remains the responsibility of the occupants. However, the Department will increase its patrol and surveillance of the barrier bars.

Although not directly related to the appropriation, recommendations concerning channel maintenance are:

1. The Department should not assume responsibility for annual maintenance of the channel at Port Bay.
2. The Department should favorably consider the annual issuance of a permit to the Port Bay Association as long as maintenance dredging is continued at the same general scale as in the past (frequency, depth, season of the year, etc.)
3. The Department should grant an annual revokable permit to the Association or its agent for access to the site used as a base for equipment used to maintain the channel.
4. The Department should cooperate with the Association to continue the existing spoil disposal site.

Therefore, in accordance with the findings of my report and the determination of the Commissioner, the appropriation map and description will be filed with the Wayne County Clerk on or about December 1, 1977. As an occupant of one of the barrier bars you will be notified when the appropriation has been completed.

Should you have additional questions, please contact: Mr. John Lawrence, Supervisor Real Property Services, Region 8, Department of Environmental Conservation, P.O. Box 57, Avon, New York 14414.

Sincerely,

Irwin H. King

# State begins 1-year takeover along lake

Friday Feb. 17, 1978

By RUTH BENEDICT

**WOLCOTT** — State environmental conservation officials yesterday filed survey maps and land descriptions of the Port Bay and East Bay barrier bars in Wayne County, officially setting a one-year clock to take title to the lands for public access.

The maps, which outline parcels of those who claim deeds to the some 31 parcels on the two narrow bars, refer to the occupants as "reputed occupants."

Irwin King, director of environmental conservation Region 8, said any person who feels he or she has a valid claim to the land can appear before the state Court of Claims. All must remove their personal belongings by a year from yesterday.

"It's too bad we have to prove we own it instead of them proving we don't," said Mary Ann Fischette of Green Moor Way, Henrietta, yesterday. Mrs. Fischette and her husband own a cottage on Port Bay Barrier Bar and have both said losing it will be losing "the place of a lifetime."

State officials have said they want to open the bars that stretch across the bays in northern Wayne County to the public for fishing, picnicking and hiking. Those who can prove valid deeds will be paid an appraised land value. Some claim deeds dating back to the 19th century.

The county sportsmen's federation has praised the plan as a means to open more lakefront to hunters, fisherman and the general public.

Wayne County supervisors last week adopted a resolution asking the state to halt all appropriation proceedings in the area.

King said yesterday such a resolution won't help now "because this has been accomplished on these two bays with a whole series of elaborate hearings and proceedings."

King said all bar occupants will be notified by letter and legal advertisements within two weeks. Signs designating the remaining cottages as "protected areas" will go up sometime this year to give occupants protection from the public during the year of transition. Occupants still can use their cottages this year, he said.

"This ticks me off. My adrenalin is going now," said Mason Yancey of Wolcott, who built a cottage on East Bay Bar with his father years ago. "We would-be squatters are only using about 35 percent of these bars, and the rest is laden with beer bottles, beer cans and other junk. You wouldn't dare walk down here without cement-bottomed shoes. How's the state going to take care of that? They say they won't."

State officials have said they have no plans to maintain the channels leading into Lake Ontario and will enforce only a "you carry in, you carry it out" litter policy. They have said they'll continue to issue dredging permits to the bay improvement associations at each bay to maintain clear channels.

Yancey said, "I want to know why, if I have no claim to this land, I've been paying my taxes all these years? I've never turned anyone away from here. This country's in a heap of trouble. Just take anything you want!"

The state claims it owns the bars because land washing up from the bottom of the lake belongs to the state. The shoreline and shape of the bars change constantly, King said. The maps in the county clerk's office show shoreline surveys done in 1968 and 1974 and shoreline changes again in 1976. State officials have argued this proves deeding such an area is almost impossible.

Patsy Lupiani of Sherman Street, Rochester, said he still owes four years' worth of a \$7,100 federal Small Business Administration loan he took out after the damage to his cottage from Tropical Storm Agnes in 1972. He said he's spent at least \$2,000 more on replacing furnishings, rugs and building improvements on a place he hoped to retire to at Port Bay Bar.

"This is built and almost paid for. I was hoping to only have to look forward to paying taxes and utilities here. I certainly would not have rebuilt it if I knew they were going to take the land . . . because under the terms of my loan I could have rebuilt anywhere. I could have gone to Florida," he said.

Ann Passero of Sherford Road, Rochester, said she and her husband, Dominic, have owned their cottage on East Bay Bar for over 25 years.

"I feel terrible that this will be our last summer there. We're going to fight it, but golly, can you fight city hall? We've never had any trouble, never had it posted, never stopped anyone from using it. And I have no idea how we'll get all our stuff off," she said.

Conservation officials have feared the porous make-up of the bars could mean there is sewage pollution into Lake Ontario and the bays from the cottages. King said no tests have been done, but the bars' make-up gives "sort of a foregone conclusion."

The state already owns a large marsh at the south end of Port Bay.

King said yesterday he has plans to talk with the Wayne County Planning Board about improving access to the bars by making small parking lots on the west sides of each. He said it probably will be several years before all buildings are removed to return the area to its "natural state."