



State of New York
Executive Chamber
Albany 12224

Andrew M. Cuomo
GOVERNOR

June 8, 2019

The Honorable Jane Corwin
Chair, U.S. Section
International Joint Commission
1717 H Street NW, Suite 801
Washington, D.C. 20006

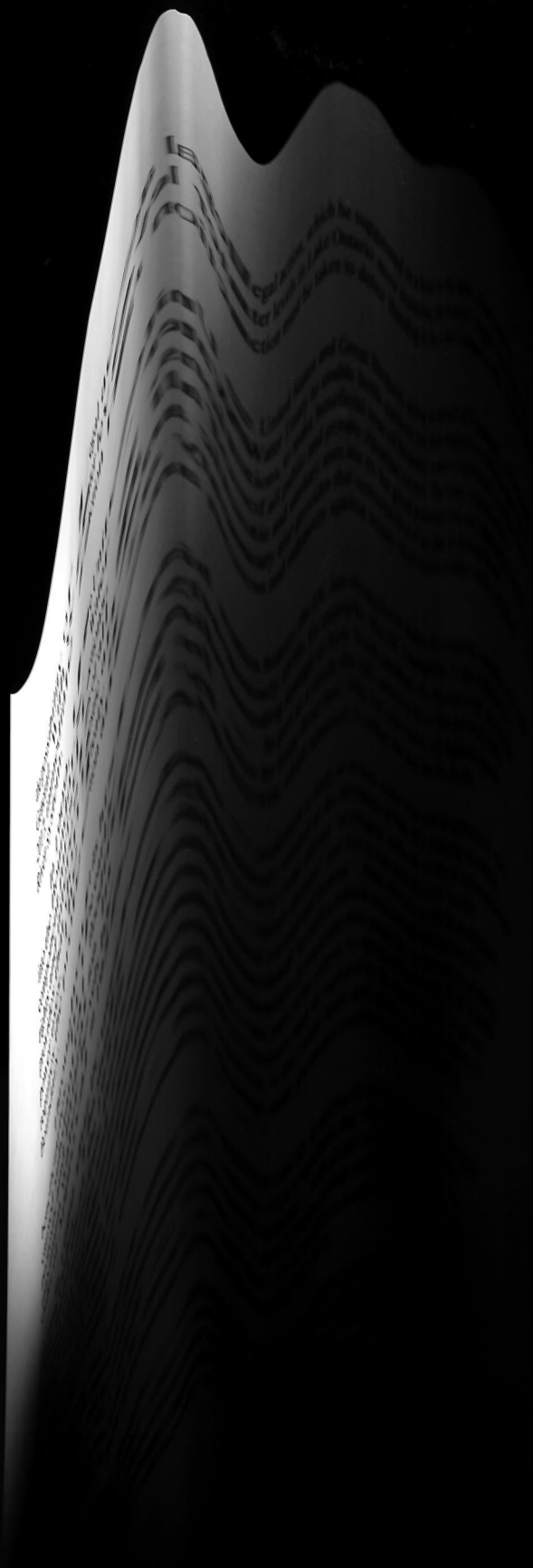
The Honorable Merrell-Ann Phare
Chair, Canadian Section
234 Laurier Avenue West, 22nd Floor
Ottawa ON K1P 6K6
Canada

Re: Demand for Immediate Action in Response to Lake Ontario Flooding

Dear Chairpersons Corwin and Phare:

For the second time in three years, many communities and businesses along the Lake Ontario Shoreline are experiencing flooding because of record-high water levels. As a result, New York State has responded, committing over \$100 million in funds to repair shoreline properties in 2017, and spending tens of millions more to respond to flooding this year. The International Joint Commission (IJC) has no excuse for its failure to prepare for adequately managing the high-water levels Lake Ontario has experienced and continues to experience this year. The IJC was put on notice in 2017 when the Lake set high-water level records and should have been aware of the present danger from the massive snowpack and likelihood of continued rains into the spring of this year. Yet, rather than acting, the IJC continued the *status quo*, resulting in more flooding and more property damage in New York. We demand that the IJC make New York whole for its millions in unreimbursed expenditures, and that the IJC modify its water management and planning to reduce the flooding and damage being done to New York's shoreline communities.

The current devastation and the ongoing threat to the citizens and businesses of New York caused by Lake Ontario flooding must be remedied. Senator Ortt has raised



the possibility of legal action, which he suggested in a letter to the state Attorney General. With water levels in Lake Ontario now exceeding the historic high levels of 2017, immediate action must be taken to deter flooding in the Lake Ontario-St. Lawrence River system.

In 1909, the United States and Great Britain, acting on behalf of Canada, entered into the Boundary Water Treaty to enable both nations, and their respective citizens and component jurisdictions, to make beneficial use of boundary waters consistent with the rights and interests of all public and private riparian owners. The Treaty expressly provides that domestic and sanitary uses are to be given preference over navigation and power uses. The Treaty also provides that construction of any dam or obstruction requires the protection and indemnity against injury of all interest on either side of the Boundary.

Throughout its history, the IJC has struggled to balance the competing needs of all beneficiaries. In the early 1950s, for example, the IJC's management of Lake Ontario caused substantial flooding damage to New York residents, who responded with strong protests and litigation. In part as a result, the IJC removed the Gut Dam and lowered maximum water levels by some three feet. The IJC also issued a new Supplementary Order of Approval in 1956, which remained in effect for more than five decades.

In 1999 the IJC undertook a study to assess water levels under the application of the 1956 Order. This study resulted in the adoption of Plan 2014. In adopting the plan, the IJC found that the 1956 Order did not "accurately reflect the full range of experienced conditions or anticipate future changes" and that it was necessary to now "consider environmental issues and recreational boating." Plan 2014 also provided that discharges of water would be administered "in such a manner as to provide no less protection for navigation and riparian interests downstream than would have occurred under pre-project conditions." Moreover, as part of the criteria for administering discharges, the IJC found that "the levels of Lake Ontario shall be regulated for the benefit of property owners on the shores of Lake Ontario in the United States and Canada so as to reduce extremes of stage which have occurred under pre-project conditions and supplies of the past as adjusted on Lake Ontario."

In adopting Plan 2014 the IJC found that the new regulatory scheme would result in "less frequent deviations from a regulation plan" and would "provide long-term benefits, upstream and downstream ... with greater security and predictability." The high-water events of 2017 and 2019 demonstrate that this could not be farther from the truth. The IJC must provide a more protective management system that delivers on the promises that it made in adopting Plan 2014.

Flooding and other high-water impacts continue around the Great Lakes, including Lake Ontario and the upper St. Lawrence River, especially during periods of active weather, such as that observed recently. On June 4, 2019, Lake Ontario remained at 75.90 m (249.02 ft), extending the new historic lake level record first reached on June 2, 2019. It is expected that the water level of Lake Ontario will continue rising gradually

over the next several days. Lake Erie water levels and outflows into Lake Ontario remain above record-highs and have risen slightly over the past several days.

While floods and high-water levels damage New Yorkers' property, water levels in Montreal Harbor are below record-highs for this time of year and continue to drop. To provide relief to New York's adversely affected riparian owners, the IJC must immediately maximize the outflows to the greatest extent possible, even if that impacts navigation along the river temporarily.

The IJC has acknowledged that its actions, or lack thereof, have served to protect commercial shipping at the expense of riparian land-owners. But, under its own foundational treaty and under Plan 2014, it cannot refrain from such releases to protect commercial shipping interests over the safety and property of New Yorkers. The Boundary Waters Treaty of 1909 states that "no use shall be permitted which tends materially to conflict with or restrain any other use...". Moreover Plan 2014 specifically states that "[i]n the event that Lake Ontario water levels reach or exceed extremely high levels, the works in the International Rapids Section shall be operated to provide all possible relief to the riparian owners upstream and downstream." The burden of high-water flows must be shared equally among all users of the system – including the transportation and shipping sector.

In 2017, New York took action to protect communities from further flooding and delivered critical State and federal funding to help families and businesses rebuild. The State committed over \$100 million to rebuild communities along the Lake Ontario shoreline that were devastated by the flooding in 2017, only to once again this year experience record high-water levels and flooding in those same communities. Following the 2017 flooding, the IJC knew or should have known of the significant potential for future flooding events, but failed to exercise the forethought to protect against the devastating impacts of flooding.

New York continues to address the impacts from past flood levels and mitigate potential future flooding. New York is staging equipment and sand bags; working closely with municipal governments along the shorelines; advancing and reimbursing flood protection and remediation projects; and providing support for resiliency planning efforts. New York expects that the cost associated with rebuilding and providing future resiliency will exceed costs from 2017 and be well over \$100 million. New York also strongly urges the appropriation of federal funding, which is critical for continuation of those efforts and additional efforts to improve coastal resiliency along the Lake and River. New York should not have to bear the costs solely for the impacts of this international plan and federal funding is critical to addressing the consequences.

The IJC's power to act derives from the Boundary Waters Treaty, which prioritizes non-power uses of Lake Ontario and the St. Lawrence River. It is apparent that the IJC's management has not adequately addressed the new normal of extreme high-water events that have disproportionately affected the riparian owners in New York. The IJC must ensure that it considers and addresses these extreme wet weather conditions that have led to extensive flooding in two of the last three years in future planning and implementation of flows moving forward. The IJC must adopt a fairer course to ensure

that the protection of the public on both sides of the Lake and the River are, at all times, its highest priority.

In light of the devastating flooding occurring, the State of New York demands that the IJC reimburse New York for its costs, and make additional funds available for resiliency projects and other protective measures made necessary by the IJC's acts and omissions. The IJC must also immediately determine how much water can be safely released, irrespective of shipping, and release that amount. Finally, the IJC must immediately correct its water management protocols to avoid damage to riparian owners. Failure to act upon these demands will result in New York taking any and all actions to compel the IJC to act, including legal action.

Sincerely,



ANDREW M. CUOMO
Governor

cc: Members of the New York State Assembly
Members of the New York State Senate



LAKE ONTARIO REDI

Resiliency & Economic Development Initiative

JUNE 10, 2019

REDI

RESILIENCY & ECONOMIC DEVELOPMENT INITIATIVE

Summit Schedule
Monday, June 10, 2019

9:30AM Registration
Riverside Court

10:15AM Opening Session

Governor Andrew M. Cuomo, Michael Kopy, Director of Emergency Management, Basil Seggos, Commissioner, Department of Environmental Conservation, and Lieutenant Governor Kathy Hochul welcome conference participants and outline their vision for the Resiliency & Economic Development Initiative.

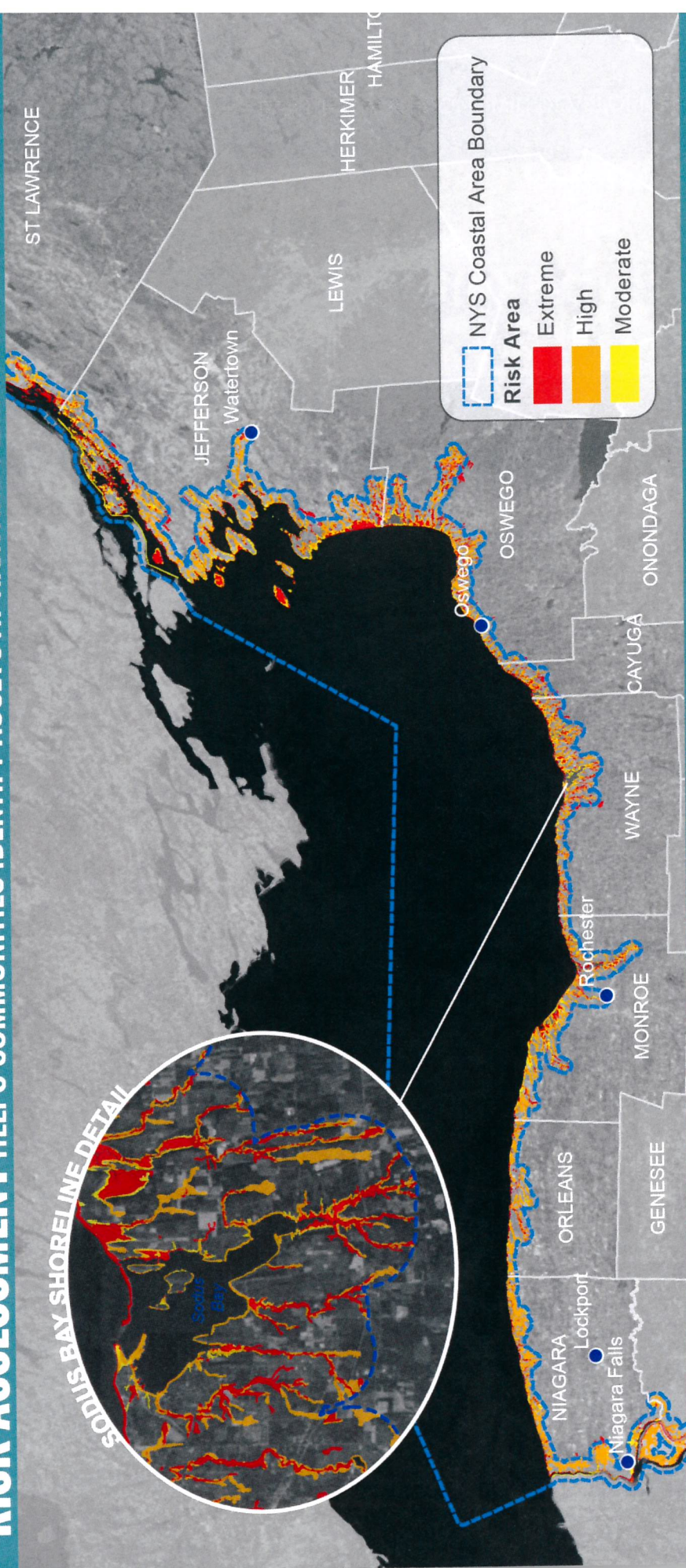
12:00PM Lunch and Regional Breakout Sessions

Conference participants will break out into smaller regional groups. In this session, each regional breakout group will learn more about the Resiliency & Economic Development Initiative and the work that lies ahead.

REGIONAL BREAKOUT SESSIONS

<i>Planning for Resilience: Niagara & Orleans Counties</i>	<i>Planning for Resilience: Monroe County</i>	<i>Planning for Resilience: Wayne County</i>	<i>Planning for Resilience: Cayuga & Oswego Counties</i>	<i>Planning for Resilience: Jefferson & St. Lawrence Counties</i>
<p>REDI Planning Team:</p> <p>The Honorable Erik Kulleseid, Commissioner of NYS Parks and Historic Preservation</p> <p>Abby Snyder, Regional Director, NYS Department of Environmental Conservation</p> <p>Nick MacVie, Regional Coordinator, NYS Division of Homeland Security and Emergency Services</p> <p>Adam Sassone, Governor's Regional Representative</p>	<p>REDI Planning Team:</p> <p>The Honorable Rossana Rosado, Secretary of State of New York</p> <p>The Honorable Roberta Reardon, Commissioner of NYS Department of Labor</p> <p>Dan O'Hara, Director, Office of Emergency Management, NYS Division of Homeland Security and Emergency Services</p> <p>Tim Walsh, Chief, Western Flood Protection and Dam Safety Section, NYS Department of Environmental Conservation</p> <p>Vincent Esposito, VP, Regional Director, Finger Lakes Regional Office, Executive Director, Finger Lakes Regional Economic Development Council</p> <p>Conor McMahon, Governor's Regional Representative</p>	<p>REDI Planning Team:</p> <p>The Honorable RuthAnne Visnauskas, Commissioner of NYS Homes and Community Renewal</p> <p>The Honorable Gerrard Bushell, President and CEO of Dormitory Authority of the State of New York</p> <p>Paul D'Amato, Regional Director, NYS Department of Environmental Conservation</p> <p>Nikhil Natarajan, Deputy Director, Office of Emergency Management, NYS Division of Homeland Security and Emergency Services</p> <p>Zach King, Governor's Regional Representative</p>	<p>REDI Planning Team:</p> <p>The Honorable RoAnn Destito, Commissioner of NYS Office of General Services</p> <p>The Honorable Marie Therese Dominguez, Commissioner of NYS Department of Transportation</p> <p>Julie Sweet, Regional Project Manager, NYS Department of State</p> <p>Pat Coyle, Assistant Commissioner, NYS Division of Homeland Security and Emergency Services</p> <p>Matt Marko, Regional Director, NYS Department of Environmental Conservation</p> <p>Jim Fayle, Central NY Regional Director, Empire State Development</p> <p>Colleen Deacon, Governor's Regional Representative</p>	<p>REDI Planning Team:</p> <p>The Honorable Basil Seggos, Commissioner of NYS Department of Environmental Conservation</p> <p>The Honorable Gil C. Quiniones, President and CEO of New York Power Authority</p> <p>Randall Young, Acting Regional Director, NYS Department of Environmental Conservation</p> <p>Stephen Hunt, North Country NY Regional Director, Empire State Development</p> <p>Joe LaBella, Assistant Commissioner, NYS Division of Homeland Security and Emergency Services</p> <p>Seth Belt, Governor's Regional Representative</p>

RISK ASSESSMENT HELPS COMMUNITIES IDENTIFY ASSETS AT RISK AND PLAN FOR A RESILIENT FUTURE



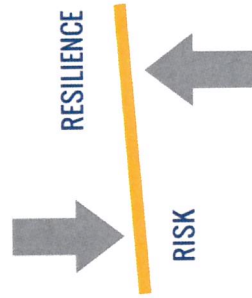
RISK is the chance an asset will be damaged or destroyed

RISK = HAZARD x EXPOSURE x VULNERABILITY

- **HAZARD** the likelihood and magnitude of flooding
- **EXPOSURE** the moderating effect of topography and landscape features
- **VULNERABILITY** the level of impairment an asset would experience from a flood event

MANAGING RISK improves community resilience

Understanding which areas are most susceptible to hazards, such as flooding and erosion, is the first step toward understanding risk to community assets. The Department of State developed risk area maps to identify Lake Ontario's most vulnerable coastal areas. These maps can be used in conjunction with the Department of State-developed risk assessment tool to enable communities to plan for and prioritize resilience strategies.



While the degree and/or magnitude of a hazard is beyond human control, communities can reduce risk and increase resilience through planning and implementation projects that reduce exposure and vulnerability.

RISK ASSESSMENT: CATEGORIZING THE DEGREE OF RISK ON THE LANDSCAPE

The RISK AREA MAPS depict geographic areas of extreme, high, and moderate risk within NY's Coastal Area.

RISK AREAS define areas at risk from coastal hazards by looking at the exposure of the landscape and its susceptibility to damage. The risk areas assign a level of risk to areas according to the likelihood and severity of flooding, erosion, overtopping from storm or high water events within the project area.

EXTREME RISK AREAS

- Areas where flooding or erosion is likely to occur within a 20 year timeframe
- Includes areas susceptible to storm induced waves
- Soils in this area are likely to flood under usual weather conditions
- Landscape features that are dynamic and are highly susceptible to erosion

HIGH RISK AREAS

- Areas where flooding or erosion occurs less frequently than in the extreme risk area, but has a 1% or greater annual chance of occurring
- Includes the Federal Emergency Management Agency's (FEMA) 100 Year Floodplain
- Accounts for buffer areas adjacent to streams and rivers with increasing susceptibility to flooding

MODERATE RISK AREAS

- Areas with a lower probability of flooding or erosion face a moderate risk of inundation from infrequent storm events
- Includes FEMA's 500 year floodplain
- Soils dominated by running water or originated from past flood events
- Encompasses an estimation of the water level associated with a 100 year storm event plus an additional two feet of vertical elevation

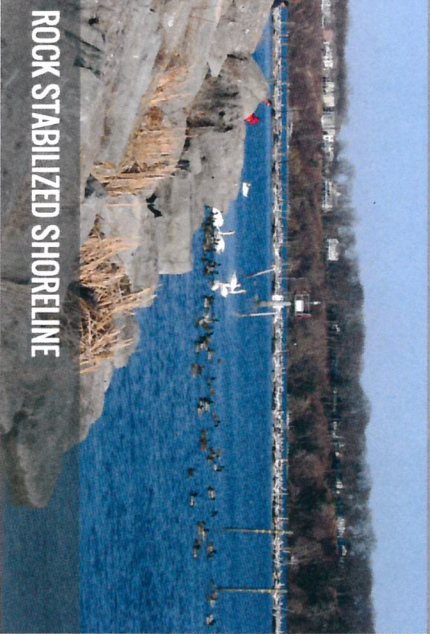
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Using the risk assessment tool to advance resilience:

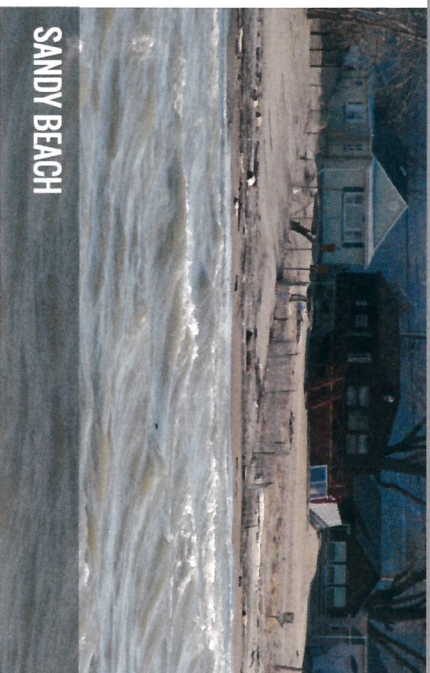
The Department of State is advancing the resilience of waterfront communities by providing planning and technical support on risk assessment and development of resilience strategies to manage flood and erosion risks, such as innovative land use and nature-based shoreline features. Communities with an approved Local Waterfront Revitalization Program are eligible to receive implementation funds for resilience projects.

The Department of State risk assessment tool has been used by state agencies to help assess vulnerable coastal assets, as well as by the Governor's Office of Storm Recovery after Superstorm Sandy to help identify areas for home buyouts in Staten Island.

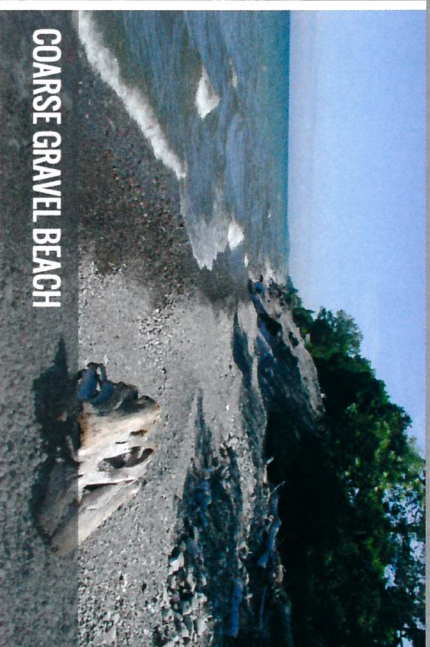
EXAMPLES OF COMMON LAKE ONTARIO LANDFORMS



ROCK STABILIZED SHORELINE



SANDY BEACH



COARSE GRAVEL BEACH

Contact us for additional information about the Lake Ontario Risk Areas or the Risk Assessment Tool:

phone: 518.474.6000

email: opd@dos.ny.gov

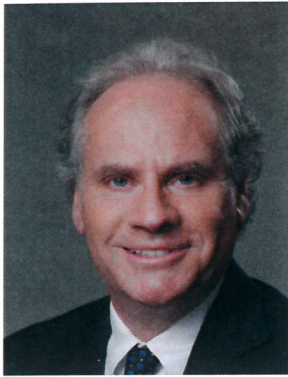


Department of State

TIMELINE & GOALS

Kick Off	Meeting 1	Meeting 2	Meeting 3	Meeting 4	REDI Commission Review
<p>June 10</p> <p>Launch rapid action planning process using REDI framework</p> <p>Schedule first community meeting</p>	<p>Week of July 8</p> <p>Site tour and community needs assessment</p> <p>Discussion of assets and the risk to those assets</p> <p>Brainstorm strategies for mitigating risk</p> <p>Generate initial project list</p>	<p>Week of July 29</p> <p>Project screening and development</p>	<p>Week of August 12</p> <p>Further refinement of project proposals</p>	<p>Week of September 12</p> <p>REDI proposal refinement</p>	<p>Week of September 16</p> <p>REDI Commission review of regional proposals</p>

REDI COMMISSION



Howard Zemsky

President and CEO of Economic State Development

Howard Zemsky has served as President and CEO of Empire State Development (ESD) and Commissioner of the New York State Department of Economic Development since 2015 and was appointed Chair of ESD in 2019. As the head of (ESD), New York State's chief economic development agency, Mr. Zemsky leads the Governor's decentralized, collaborative and strategic approach to economic development. ESD administers a range of programs, initiatives, incentives and services designed to increase private sector investment and job creation across New York State.



Basil B. Seggos

Commissioner, New York State Department of Environmental Conservation

Basil B. Seggos has served as Commissioner of the New York State Department of Environmental Conservation (DEC) since 2015. As Commissioner, he oversees programs that promote a clean, healthy and accessible environment, including: protecting and restoring New York's air; lands and waters; combatting climate change; enforcing State environmental laws and regulations; responding to natural and man-made disasters; and supporting world-class outdoor recreation on state lands and waters; including hunting; fishing; hiking; and paddling.



Gil C. Quiniones

President and Chief Executive Officer New York Power Authority

Gil C. Quiniones has served as President and Chief Executive Officer of the New York Power Authority (NYPA), the nation's largest state-owned electric utility, since 2011. He is responsible for developing and implementing the statewide utility's strategic vision and mission to power the economic growth and competitiveness of New York State by providing customers with low-cost, clean, reliable power and the innovative energy infrastructure and services they value.



Erik Kulleseid

Commissioner, New York State Department of Parks, Recreation and Historic Preservation

Erik Kulleseid was appointed Commissioner of the Office of Parks, Recreation and Historic Preservation in January 2019. As commissioner, he oversees more than 250 individual parks, historic sites, recreational trails, golf courses, boat launches and more, which are visited by 74 million people annually. The agency also administers the state's historic preservation programs to preserve the state's historic places and to encourage heritage tourism and community revitalization.



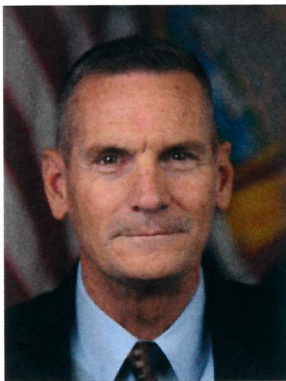
Marie Therese Dominguez
Acting Commissioner, New York State Department of Transportation

Marie Therese Dominguez has served as Acting Commissioner of the New York State Department of Transportation (DOT) since May 2019. As Commissioner, she ensures those who live, work and travel in New York State have a safe, efficient, balanced and environmentally sound transportation system. She is directly responsible for the safety of all modes, with an emphasis on bridge safety assurance; planning, management and delivery of projects to ensure an integrated multi-modal transportation system; and developing and implementing standards and approved materials for use by local governments in transportation projects.



RoAnn M. Destito
Commissioner, New York State Office of General Services

RoAnn M. Destito has served as Commissioner of the New York State Office of General Services (OGS) since 2011. She is leading transformational changes at the Office of General Services as it implements programs in support of Governor Cuomo's vision to change the way government does business and make it more effective, efficient, and responsive to the needs of citizens. Destito is intensifying OGS' focus on procuring services and commodities at best value and maximizing the use of state-owned and leased office space.



Patrick A. Murphy
Acting Commissioner, New York State Division of Homeland Security and Emergency Services

Patrick A. Murphy joined the New York State Division of Homeland Security and Emergency Services (DHSES) in 2019 after 41 years of military service with his final assignment as the Director National Guard Bureau Joint Staff at the Pentagon, Washington D.C. He has formerly served as the principal staff officer to the Chief National Guard Bureau and was The Adjutant General of the New York National Guard. Under Acting Commissioner Murphy's management, DHSES provides leadership, coordination and support for efforts to prevent, prepare for, respond to, and recover from terrorism, natural disasters, security threats, fires and other emergencies.



Rossana Rosado
Secretary of State, New York State Department of State

Rossana Rosado has served as Secretary of State with the New York Department of State (DOS) since 2016. The Secretary plays a key role in the Governor's economic development agenda and is responsible for making the State's municipalities govern more efficiently. She oversees the State's Consumer Protection division and leads the Administration's anti-poverty initiatives and Office of New Americans. Under the Secretary's leadership, DOS works strategically to benefit communities, assist local tourism efforts and protect the State's environment.



RuthAnne Visnauskas
Commissioner and CEO, New York State Homes and Community Renewal

RuthAnne Visnauskas has served as Commissioner of New York State Homes and Community Renewal (HCR) since 2017. As the agency charged with carrying out the Governor's \$1 billion House NY plan and financing the development and preservation of affordable housing statewide, HCR's portfolio includes issuing billions of dollars in bonds, providing grants, loans and bonding authority to local municipalities, and awarding low income housing tax credits and mortgages for thousands of low- and moderate-income homebuyers. HCR also oversees rent regulation and works on behalf of tenants facing landlord harassment or rent overcharges.



Gerrard P. Bushell
President and CEO, New York State Dormitory Authority

Dr. Gerrard P. Bushell has served as President and CEO of the Dormitory Authority of the State of New York (DASNY) since 2015. He leads one of the nation's top issuers of infrastructure financing, and infrastructure project management. Under Dr. Bushell's leadership, DASNY has been ranked the nation's number one issuer twice, and has executed on transactions worth approximately \$35 billion of municipal debt for some of the most important public and private infrastructure projects across New York State in higher education and health services.



Roberta L. Reardon
Commissioner, New York State Department of Labor

Roberta L. Reardon has served as Commissioner of the New York State Department of Labor (DOL) since 2015. In this position, she oversees the agency's mission to connect job seekers with employers, assist the unemployed and protect workers.