

**FINAL Evaluation Findings**  
**New York State Coastal Management Program**  
**November 2003 through March 2007**



Office of Ocean and Coastal Resource Management  
National Ocean Service  
National Oceanic and Atmospheric Administration  
United States Department of Commerce

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## I. EXECUTIVE SUMMARY

Section 312 of the Coastal Zone Management Act of 1972, as amended (CZMA), requires the National Oceanic and Atmospheric Administration's (NOAA) Office of Ocean and Coastal Resource Management (OCRM) to conduct periodic evaluations of the performance of states and territories with federally approved coastal management programs. This review examined the operation and management of the New York State Coastal Management Program (NYSCMP or coastal program) by the New York Department of State, the designated lead agency, for the period from November 2003 through March 2007.

This document describes the evaluation findings of the Director of NOAA's OCRM with respect to the NYSCMP during the review period. These evaluation findings include discussions of major accomplishments as well as recommendations for program improvement. This evaluation concludes that the New York Department of State is successfully implementing and enforcing its federally approved coastal management program, adhering to the terms of the Federal financial assistance awards, and addressing the coastal management needs identified in section 303(2) (A) through (K) of the CZMA.

The evaluation team documented a number of NYSCMP accomplishments during this review period. The NYSCMP has developed several initiatives, including a management improvement program, staff management training and development program, and a document and work flow system to increase staff skills and productivity and meet increasing workload demands. The state enacted and funded the New York Ocean and Great Lakes Ecosystem Conservation Act during this evaluation period and the Superfund/Brownfield Law during the month just prior to this evaluation period to address additional resource management issues and has assigned the NYSCMP to administer and/or implement these programs in partnership with other state agencies. During the evaluation period, New York State, through the Division of Coastal Resources, awarded more than \$114 million from the Environmental Protection Fund, Brownfield Opportunity Areas Program, and Clean Water/Clean Air Bond Act to support more than 380 projects in the coastal area. This significant investment of State funds supports community revitalization, increases public access, and enhances natural resources.

In the area of federal consistency, New York is the first state to receive interstate approval for consistency reviews and has used the consistency process to initiate the development of a regional dredging team and a dredged materials management plan for Long Island Sound. The state's Coastal and Estuarine Land Conservation Program was developed and integrated into the state's Open Space Conservation Plan. Through the Local Waterfront Revitalization Program, the NYSCMP has worked with hundreds of local communities to address public access, water quality, coastal habitat, and community development through improved local planning and zoning. Previously designated Significant Coastal Fish and Wildlife Habitats have been reviewed, updated, and incorporated into the NYSCMP. As part of the NYSCMP's activities to address coastal hazards, it completed the Long Island South Shore Estuary Reserve Bay Flooding and Erosion Assessment and Recommendations Report. The NYSCMP has developed additional strategies for public participation and outreach.

The evaluation team also identified two areas where the NYSCMP could be strengthened. The program must complete development of the individual LWRP evaluation assessment process, institutionalize the process for all LWRPs, and establish a general schedule for evaluations. The NYSCMP should also continue its efforts to train local government officials and staff and non-governmental organizations and citizens about the federal and state consistency process, including the completion of a consistency manual and a consistency education training module as part of the Community Seminar Series.

## II. PROGRAM REVIEW PROCEDURES

### A. OVERVIEW

The National Oceanic and Atmospheric Administration (NOAA) began its review of the NYSCMP in December 2006. The §312 evaluation process involves four distinct components:

- An initial document review and identification of specific issues of concern;
- A site visit to New York, including interviews and a public meeting;
- Development of draft evaluation findings; and
- Preparation of the final evaluation findings, partly based on comments from the State regarding the content and timetables of necessary actions specified in the draft document.

The recommendations made by this evaluation appear in boxes and **bold** type and follow the findings section where facts relevant to the recommendation are discussed. The recommendations may be of two types:

**Necessary Actions** address programmatic requirements of the CZMA's implementing regulations and of the NYSCMP approved by NOAA. These must be carried out by the date(s) specified;

**Program Suggestions** denote actions that the OCRM believes would improve the program, but which are not mandatory at this time. If no dates are indicated, the State is expected to have considered these Program Suggestions by the time of the next CZMA §312 evaluation.

A complete summary of accomplishments and recommendations is outlined in Appendix A.

Failure to address Necessary Actions may result in a future finding of non-adherence and the invoking of interim sanctions, as specified in CZMA §312 (c). Program Suggestions that must be reiterated in consecutive evaluations to address continuing problems may be elevated to Necessary Actions. The findings in this evaluation document will be considered by NOAA in making future financial award decisions relative to the NYSCMP.

### B. DOCUMENT REVIEW AND ISSUE DEVELOPMENT

The evaluation team reviewed a wide variety of documents prior to the site visit, including: (1) the 2004 NYSCMP §312 evaluation findings; (2) the federally-approved Environmental Impact Statement and program documents; (3) federal financial assistance awards and work products; (4) semi-annual performance reports; (5) official correspondence; and (6) relevant publications on natural resource management issues in New York.

Based on this review and discussions with NOAA's OCRM, the evaluation team identified the following priority issues:

- Program accomplishments since the last evaluation, including changes to the core statutory and regulatory provisions of the NYSCMP;
- Implementation of federal and state consistency authority, including improvements to the consistency process and coordination;
- Effectiveness of interagency and intergovernmental coordination and cooperation at local, regional, state, and federal levels;
- Status and effectiveness of development, review, and support for implementation of Local Waterfront Revitalization Programs and Brownfield Opportunity Areas Program;
- Public participation and outreach efforts;
- Special area management planning, including watershed management planning efforts;
- Natural resources restoration and management, including Significant Coastal Fish and Wildlife Habitat updates;
- Long Island South Shore Estuary Reserve;
- Coastal hazards;
- Water quality;
- Performance measurement efforts; and
- The manner in which the NYSCMP has addressed the recommendations contained in the §312 evaluation findings released in 2004. The NYSCMP's assessment of how it has responded to each of the recommendations in the 2004 evaluation findings is located in Appendix B.

### **C. SITE VISIT TO NEW YORK**

Notification of the scheduled evaluation was sent to the New York Department of State, the NYSCMP, relevant environmental agencies, members of New York's congressional delegation, and regional newspapers. In addition, a notice of NOAA's "Intent to Evaluate" was published in the *Federal Register* on February 27, 2007.

The site visit to New York was conducted from April 9-13, 2007. The evaluation team consisted of L. Christine McCay, Evaluation Team Leader, National Policy and Evaluation Division, Office of Ocean and Coastal Resource Management; Carleigh Trappe, Program Specialist, Coastal Programs Division, Office of Ocean and Coastal Resource Management; and Laren Woolley, Oregon Coastal Management Program.

During the site visit the evaluation team met with Department of State Division of Coastal Resources administrators and staff, representatives of other state agencies, federal agency representatives, local government elected officials and agencies, and representatives of nongovernmental organizations and interest groups. Appendix C lists individuals and institutions contacted during this period.

As required by the CZMA, NOAA held an advertised public meeting on Tuesday, April 10, 2007, at 9:00 a.m. at the Commissioner of Environmental Services Offices, Room 321B, 3<sup>rd</sup> Floor, Rochester City Hall, 30 Church Street, Rochester, New York. The public meeting gave

members of the general public the opportunity to express their opinions about the overall operation and management of the NYSCMP. Appendix D lists persons who signed in at the public meeting. NOAA's responses to written comments submitted during this review are summarized in Appendix E.

The NYSCMP staff members were crucial in setting up meetings and arranging logistics for the evaluation site visit. Their support is most gratefully acknowledged.

### III. COASTAL MANAGEMENT PROGRAM DESCRIPTION

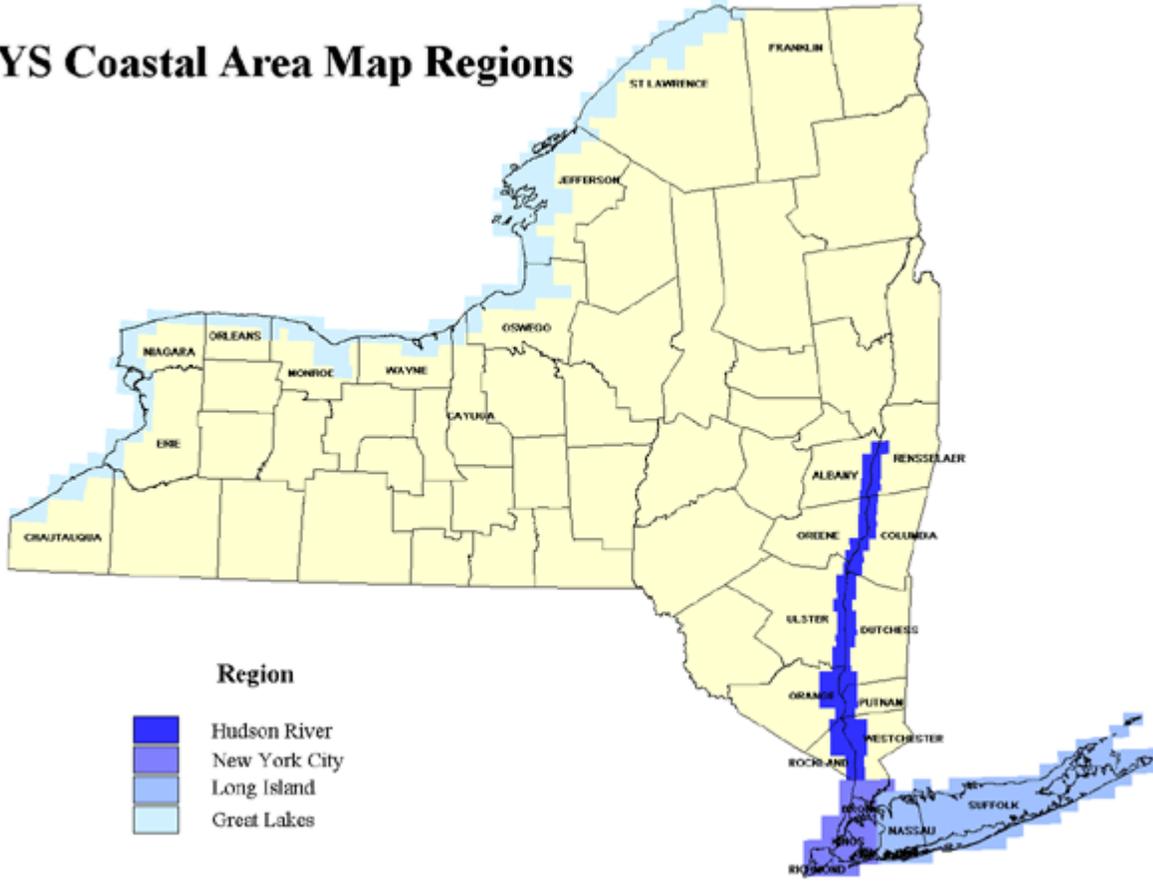
The New York State Coastal Management Program (NYSCMP) was approved by NOAA in September 1982. The Department of State (DOS), through the Division of Coastal Resources, is the lead agency responsible for administration of the NYSCMP. [Throughout this document, the NYSCMP and the Division of Coastal Resources are generally used interchangeably.] The Waterfront Revitalization and Coastal Resources Act (WRCRA) provides DOS with the authority to establish a coastal program, develop coastal policies, define the coastal boundaries, establish state consistency requirements, and provide a coordination mechanism. The WRCRA also links responsible state agencies under the umbrella of the NYSCMP and ensures that actions directly undertaken by state agencies within the coastal area shall be consistent, where applicable, with the coastal area policies.

The NYSCMP contains 44 coastal policies that are implemented through regulatory and management authorities assigned to a number of state agencies. Twenty-seven of these policies are contained in the WRCRA. The Department of Environmental Conservation has regulatory authority over many development and land use activities in the coastal area through a number of resource protection statutes that focus on wetlands (Tidal Wetlands Act; Freshwater Wetlands Act), erosion and flooding hazards (Coastal Erosion Hazard Areas Act), water and air quality, and disposal of hazardous and toxic wastes. The Office of General Services has jurisdiction over most of the state's underwater lands, whereby the use of these lands may be conveyed to the general public through the issuance of grants, easements, or leases.

The WRCRA also provides local governments with the option to establish local waterfront revitalization programs (LWRP), which address local needs and plans in accordance with the NYSCMP policies. When a LWRP has received approval by the Department of State, state consistency provisions automatically apply. The State Environmental Quality Review Act provides the mechanism to ensure that the actions and programs of other state agencies give adequate consideration to the policies of the NYSCMP. Upon NOAA approval and a state public notice of that approval, a LWRP becomes incorporated into the NYSCMP, at which time federal consistency provisions of the program also apply to the local program.

According to the NOAA publication "The Coastline of the United States," New York has 2,625 miles of coast (based on "tidal shoreline"). More than 70% of the state's population inhabits the coastal area. The state contains a diversity of marine and freshwater areas that can be categorized into four distinct regions: Long Island and Long Island Sound; New York City; the Great Lakes-St. Lawrence and Niagara Rivers; and the Hudson River, extending over 150 miles from its mouth to the dam at Troy. The coastal boundary is generally 1,000 feet from the shoreline. When necessary this boundary extends inland to include all identified areas of particular concern. In urbanized areas and other developed locations along the coastline, the boundary is defined by an existing cultural feature that is approximately 500 feet from the shoreline.

# NYS Coastal Area Map Regions



From the New York State Coastal Atlas, NYS Department of State, August 2002

## IV. REVIEW FINDINGS, ACCOMPLISHMENTS, AND RECOMMENDATIONS

### A. OPERATIONS AND MANAGEMENT

#### 1. Organization and Administration

The NYSCMP is administered by the Department of State, Division of Coastal Resources. The coastal program is well established, with a highly respected and experienced staff of approximately 50. In recognition of the regional nature of the natural and human environments in the state's coastal zones, approximately half of the staff is organized into a local and regional structure. In this way the same staff can work with the same communities within a region, providing some continuity of contact, sharing lessons learned, and accumulating 'historical' knowledge.

In 2003 the Division initiated a management improvement program designed to build on organizational strengths and address opportunities for operational improvement. The Division contracted with Empire State Advantage (ESA), a public/private partnership formed to help build economic competitiveness and improve the quality of life within New York State and the Center for Technology in Government (CTG) to help analyze how the Division carries out its functions. In 2004 the Division received the *Empire State Bronze* award from ESA. The award recognized that the Division is in the process of developing sound, forward-looking practices, and that those practices are in use in some areas.

In recognition of the expansion of Division responsibilities, including administration of the New York State Ocean and Great Lakes Ecosystem Conservation Act and the Brownfield Opportunity Areas (BOA) Program, the Professional Management Training and Development Program was developed to help staff members meet increasing work loads and accomplish programs with greater efficiency and effectiveness. Skills and tools to implement tasks in workplace, supervisory, management, and leadership areas were identified. The Program provides a base level of training for all staff in areas such as communication and time management, with more advanced training, project management and supervisory skills, for example, for professionals based on needs and grade level. Eight courses were offered to approximately 50 Division staff members in the Program's first year.

The Division is partnering with the NYS DOS Systems Division to establish a document and work flow management system. At the time of the site visit, vendors had been interviewed and final acquisition decisions had been made. The goal of the system is to increase efficiency, better track and set work priorities, and respond to new opportunities in a timely and flexible manner.

**ACCOMPLISHMENT: The NYSCMP has taken steps that allow it to increase staff skills and productivity, meet increasing work load demands, and respond to new opportunities.**

Subsequent sections of this findings document discuss the very significant levels of funding that the State of New York provides to support coastal management, including the Environmental Protection Fund Local Waterfront Revitalization Program, the Superfund/Brownfield Law, and the Clean Water Clean Air Bond Act, among other sources. The State has moved forward with new initiatives and programs like the New York State Ocean and Great Lakes Ecosystem Conservation Act (OGLECA) to advance ecosystem-based management and the Brownfield Opportunities Area (BOA) Program, which is designed to help communities foster redevelopment and return dormant and blighted land into productive areas while restoring environmental quality. Both of these new initiatives are administered or staffed by the Division of Coastal Resources, reflecting the confidence and support the state places on the NYSCMP.

**ACCOMPLISHMENT: The State of New York continues to provide significant funding through a variety of sources to support coastal management. It is evident from the assignment of administration and implementation of the Brownfield Opportunity Areas Program and the Ocean and Great Lakes Ecosystem Conservation Act to the Division that the State supports and depends upon the NYSCMP and its capabilities and accomplishments.**

## 2. Grants Management

Since 2003, over \$114.6 million from the state's Environmental Protection Fund Local Waterfront Revitalization Program, the Superfund/Brownfield Law, and the Clean Water Clean Air Bond Act have been invested to support over 380 projects, which represent approximately the same number of grant awards that have been managed by the Division.

As is discussed in the section above, the Division has established the Professional Management Training and Development Program to help staff members meet increasing work loads and accomplish programs with greater efficiency and effectiveness. Since the last evaluation, the Division has established a Community Seminar Series (discussed in greater detail in the Public Participation and Outreach section in this document). The first seminar to be developed and offered was Grant Administration/Project Management, which over 120 local community representatives and consultants attended.

## 3. Program Identity and Visibility

The Division of Coastal Resources has always been the entity implementing the New York State Coastal Management Program and is well known and highly visible throughout the state's coastal zones. The Division generally does not identify or "market" itself as the New York State Coastal Management Program. Except for those federal and state agencies involved in the federal consistency process, it is likely that many community and organization officials and citizens are not aware that the Division is the state's coastal management program. Paradoxically, there is very strong support from the state governor and legislature, the Department of State, other state and local government agencies, and many non-profit and non-governmental organizations for the activities that the Division conducts in the implementation of the state's coastal management program. As is evident from the discussions in many other sections of this document, the Division has a very strong, supportive constituency in local

communities through initiatives like the Local Waterfront Revitalization Program. Unlike some coastal programs, however, the LWRP provides significant technical assistance and support in addition to funding, so the local communities do not seem to view the Division as a source of money only. The Division is recognized as the resource for all things relating to coastal management and community waterfront revitalization in New York.

#### 4. Use of Technology

The NYSCMP continues to develop and enhance technology applications for support and assistance to both the Division staff and to the public, community officials, and other users of data and information related to the coastal zone environment and activities.

The Consistency GIS application noted in the previous evaluation has been improved and upgraded, providing easier navigation within the application; improved capabilities for the mapping component; easier database search, retrieval, and print capabilities of consistency reviews; and geographical querying and information retrieval.

During the period covered by this evaluation, the Division has done significant mapping using GIS and PC capabilities for local waterfront revitalization programs and plans, BOA program grant locations, OGLECA pilot projects, and Quality Communities grant locations. To address several resource-related priorities and goals, the NYSCMP (in cooperation with others) created benthic habitat maps for the Great South Bay embayment of the Long Island South Shore Estuary Reserve (SSER) and developed a GIS-based tool to prioritize and analyze open space within the SSER for possible acquisition and for acquisition through the Coastal and Estuarine Land Conservation Program. The NYSCMP has created Significant Coastal Fish and Wildlife Habitats maps as those designated areas are being reviewed and updated.

**ACCOMPLISHMENT: The NYSCMP has enhanced and expanded its technological capacity and capabilities, including specialized mapping projects and a GIS tool to prioritize and analyze open space for possible acquisition in the Long Island South Shore Estuary Reserve.**

#### 5. Measuring Success and Measurable Results

As noted in the 2004 evaluation findings, the Division initiated a process to collect measurable results data for grants awarded in 1998 and thereafter to monitor the effectiveness of the Environmental Protection Fund (EPF) grant program. Grant recipient communities were required to prepare and submit forms that provide information about the results of their EPF-assisted projects and/or programs. The Division developed an electronic database for entry, storage, retrieval and analysis of EPF measurable results data. Presently, the system is intended to facilitate reporting on accomplishments with EPF funding. No baseline data is collected for reporting on long-term trends in addressing hazards, wetlands, cumulative and secondary impacts (CSIs), or other measures. The Division tested the database and temporarily suspended population of the database to fine tune data reporting and address software functionality.

The national Coastal Zone Management Performance Measurement System (CZMPMS) offers the Division a framework for identifying data to be collected and will be used in assessing whether additional data are needed. A new electronic information, document and workflow management system, under development in a separate Division effort, will absorb all the Division's current databases, including the EPF database. The document management system, once acquired, will make information resources including management area boundaries and previous project records available electronically to the entire Division, and will allow for aggregation and analysis of diverse sources of information to prepare reports for CZMPMS.

The CZMPMS will include performance measures for Natural Habitats, Water Quality, Public Access, Coastal Hazards, and Economic Development, all areas which are identified in one or more geographic regions of New York as CSIs of regional growth or change.

Related to this effort is the Division's plan to prepare a strategic plan, which will have a series of performance measures accompanying it to provide measures of success in addressing CSIs, other 309 program areas, and other Division activities, and suggest opportunities for improvement. The data collected for CZMPMS measures will inform this effort, and the process to develop the CZMPMS measures and the activities undertaken to collect and report the data will serve as an important model for development of measures to evaluate the strategic plan to be developed by the Division.

Taken together, performance measurement for the CZMPMS, the EPF, and the new strategic plan will provide the Division with a key tool for evaluating project and program benefits and refocusing management efforts to address the need for programmatic and operational changes, or directing resources to address cumulative and secondary impacts. A broad array of performance measures will allow the Division to track and report on performance in all of the 309 enhancement areas, and evaluate cumulative and secondary impacts. This will lead to coastal program enhancements through new or revised guidance or authorities, as appropriate. This work is being done as part of a Section 309 (2006) strategy.

## **B. PUBLIC ACCESS**

The public lands and waters of the State offer a significant recreation resource. Statewide, the State's outdoor recreation resources include over 300,000 acres of recreation and open space areas managed by the Office of Parks, Recreation and Historic Preservation (OPRHP), and 3.9 million acres managed by the Department of Environmental Conservation (DEC). Within these resources, there are 167 State Parks and 35 Historic Sites administered by OPRHP, 52 DEC campgrounds and over 200 water access sites maintained between the two agencies. DEC's primary coastal focus is on fishing and natural resources, while OPRHP directs its efforts at the full range of recreational boating and water recreation. In addition, there are numerous coastal access sites maintained for local residents and/or the public by counties, towns and park districts for a variety of recreation activities. The State continues to expand the supply of public access and recreation facilities; since 1995, New York State has acquired 22 state park sites. Since 1995, DEC has purchased more than 40 equivalent miles of Public Fishing Rights covering more than 115 acres. County and local governments also continue to develop or improve

existing public access facilities along the coast. These recreational resources are an essential part of the character of many shoreline communities. Recreational facilities reflect a wide variety of active and passive activities, while preserving other important assets such as natural resources and maritime heritage.

While the demand for public access to the waterfront continues to increase, the opportunities to satisfy this demand are affected by the high costs of developing new access or acquiring new sites, by municipal residency requirements, and by a lack of understanding or hesitation by local governments to use the powers they possess to obtain public access interest. Recreational opportunities can be improved by identifying areas with additional recreational potential, working with new partners, and recognizing and seizing small and non-traditional opportunities. (NYSCMP 309 Assessment and Strategies, 2006-2011.)

Both the CZMA and New York State Coastal Policy 19 require the protection, maintenance, and increase in public access on the coast. Much of the Division's success in addressing increased public access to the state's coastal areas has been achieved through its assistance to local communities in a variety of mechanisms, particularly in developing and implementing local waterfront revitalization plans and harbor management plans. Evidence of local community emphasis on and provision of public access to coastal areas is discussed throughout other sections of this findings document. The following discussion is representative, but not all-inclusive, of successes in increased public access since the last evaluation in 2003.

The Town of North Hempstead and the Village of Port Washington North on the north shore of Long Island on Long Island Sound's Manhasset Bay have collaborated on a bay walk. Port Washington North completed a five-year long planning effort and has assembled Bay Walk Park from recently acquired waterfront properties. The park will serve as the Village's only recreational resource. The Town of North Hempstead is now working on a bay walk project that will extend Port Washington North's Bay Walk Park into a nearly two-mile public walkway through three villages and the Town's unincorporated areas in Port Washington. The entire Bay Walk trail will provide significant increased public access to Manhasset Bay.

The City of Watertown within the 1000 Islands region of Lake Ontario has received several grant awards from the Division for the planning, design, and construction of projects to revitalize the City's waterfront area. The Black River running through the City provides an opportunity to capitalize on the already strong market for water-based recreation (principally canoeing, rafting, and kayaking) in the region. Watertown is designing and constructing: a covered pedestrian accessway to connect the business district to the waterfront; improvements at the "Hole Brothers" kayak and canoe site to facilitate boater access; and site improvements at the "Route 3 Wave" feature to facilitate spectator access.

The Town of Clayton and the Village of Clayton, on the St. Lawrence River, have planned a multi-phase project at the waterfront site of the former Frink America Corporation industrial site. Frink Park will ultimately include a commercial dock to accommodate large commercial cruise ships, a dedicated public pathway along the St. Lawrence River, and a riverwalk project that will form a continuous path along the Village waterfront, connecting to a trail within a former railroad right-of-way.

For the past several years the Division has focused much of its effort in New York City on the Brooklyn waterfront. Projects are generally multi-faceted and address much more than public access, but the access is a significant part of each project. The Division has provided funding for planning, design, and construction of new waterfront open space along Brooklyn's Greenpoint/Williamsburg waterfront, including development of a public park, pier, and esplanade. It has also provided support for construction of a new waterfront park at the abandoned Bush Terminal Piers in Brooklyn. This project also includes brownfield remediation and wetland restoration.

The NYSCMP has provided significant technical and financial support over the last several years for work being done on Randall's Island as part of the revitalization project for Randall's Island Park, located in the East River between East Harlem, the South Bronx, and Astoria, Queens. The first segment of an island-wide pathway that provides new pedestrian and bicycle access along the western shore of the Island has been completed. The Park, which is a key New York City revitalization project, offers rare publicly accessible waterfront adjacent to some of New York City's most under-resourced neighborhoods in the communities of the South Bronx and East Harlem.

The Division of Coastal Resources has also supported efforts in the Hudson River Valley to provide public access. The City of Beacon is working with numerous partners to redevelop its formerly industrial, underutilized waterfront. The Division has played a significant role in the Long Dock Beacon redevelopment project. Scenic Hudson Land Trust is the landowner of this parcel and is planning and designing a sustainable redevelopment in partnership with a development group. Planning, design, and construction of the public amenities, waterfront access, and environmental restoration work on this project site have been supported with financial awards to the City of Beacon from the Division.

The City of Kingston, located on the mid-Hudson River at the confluence of Rondout Creek, and the Division have worked closely for nearly 20 years to develop and implement the City's LWRP and LWRP Implementation Plan. Among the wide range of projects addressing public waterfront improvement, several supported by the Division increase public access, improve boater services, optimize new waterfront recreational and visitor opportunities, and create outdoor venues for public events.

**ACCOMPLISHMENT: The NYSCMP continues to support and assist local communities in the provision of public access, as exemplified by, but not limited to, Long Island Sound waterfront, the Great Lakes waterfronts, the Brooklyn waterfront, Randall's Island, and the Hudson River Valley.**

## **C. COASTAL HABITAT**

### **1. Ocean and Great Lakes Ecosystem Conservation Act**

In August 2006 the state enacted the New York State Ocean and Great Lakes Ecosystem Conservation Act to advance ecosystem-based management. This resulted from a symposium on

ocean and Great Lakes policy in New York organized by the Division after the release of the reports from the Pew Oceans Commission and U.S. Commission on Ocean Policy. The Coastal Resources Division Director helped craft the legislation that created the Ocean and Great Lakes Ecosystem Conservation Council and now serves as executive director of the Council. Five public dialogues were then conducted across the state to engage stakeholders and solicit their recommendations for actions by the Council. The Council will coordinate programs and activities that help to protect and restore New York's coastal ecosystems. It will do this, in part, by promoting the understanding, protection, restoration, and enhancement of New York's ocean and Great Lakes ecosystems while promoting sustainable and competitive economic development and job creation; integrating and coordinating ecosystem-based management with existing laws and programs; ensuring that community needs and aspirations are accommodated; developing guidelines for agency programs and activities that affect coastal ecosystems; encouraging scientific research and information sharing; and facilitating regional coordination and cooperation.

Three million dollars was initially allocated in August 2006 for the Council for administration of the Act (to be administered by the Coastal Resources Division), and a management framework will be defined by November 2008. The framework will, among other items, define executive and legislative actions necessary to integrate ecosystem-based management with existing programs; include a plan, schedule, and funding opportunities for implementation of executive actions; establish a research agenda that identifies priority issues in need of further research; recommend actions to preserve, restore, and protect submerged aquatic vegetation populations and meadows; and identify opportunities for regional ecosystem-based management with neighboring states and the federal government.

**ACCOMPLISHMENT: The state passed the New York Ocean and Great Lakes Ecosystem Conservation Act to help protect and restore the state's coastal ecosystems. A council has been created and funded to accomplish this, and the Division of Coastal Resources administers the funds and staffs the Council.**

The Tug Hill Commission is a non-regulatory state agency that assists local governments and organizations in the Tug Hill region with projects in environmental protection, land use, economic development, and technical assistance. The Tug Hill region covers over 2,000 square miles and encompasses 41 of the towns that lie between Lake Ontario and the Adirondacks. The Division of Coastal Resources, the Nature Conservancy, and the Commission are partnering in an ecosystem-based management demonstration project as directed in the Ocean and Great Lakes Ecosystem Conservation Act. The Sandy Creeks demonstration project area is comprised of four stream corridors, the eastern Lake Ontario dune and bays complex, and the nearshore areas of the Lake. The project goal is to demonstrate the links between natural resources and the economy and balance the quality of life with the protection of a restored, sustainable ecosystem. Ongoing project components that will restore key attributes of the Sandy Creeks ecosystem include invasive species control, forestry best management practices workshop, agricultural riparian corridor restoration, and fishery habitat improvements to provide fish passage to 21 miles of spawning habitat for migratory fish currently barred by the Monitor Mills dam.

## 2. Significant Coastal Fish and Wildlife Habitats

New York State Coastal Policy 7 states that significant coastal fish and wildlife habitats will be protected, preserved, and where practical, restored so as to maintain their viability as habitats. The NYSCMP plays a significant role in implementing this policy. The Division of Coastal Resources has designated over 250 Significant Coastal Fish and Wildlife Habitats (SCFWH) throughout the coastal areas of New York. To designate an SCFWH, the Department of Environmental Conservation (DEC) evaluates the significance of an area to determine whether it serves one or more of four specified functions. Following a recommendation for designation from the DEC, the Division designates and maps the area. State agencies use the information provided for each designated habitat in the state and federal consistency review process. Designated SCFWHs played a large part in the successful state objection to the Millennium Pipeline federal consistency finding. In addition, communities that prepare local waterfront revitalization programs are required to protect designated significant habitats and are encouraged to use local land use controls for habitat protection.

In 1987 the Division designated SCFWHs along the north and south shores of Long Island for protection. During the period covered by this evaluation, the Division completed a review of technical information and public comments to update the designated sites. Data and assessment language were updated, and eight new habitats and eight habitat boundary changes on the north shore have been officially incorporated as part of the NYSCMP with OCRM approval. On the south shore, 10 habitat boundary changes and two new habitat site designations are in the final stages of the program change process for incorporation.

**ACCOMPLISHMENT: Previously designated Significant Coastal Fish and Wildlife Habitats (SCFWHs) along the north and south shores of Long Island were reviewed and updated. New and re-designated SCFWH sites on the north shore have been incorporated as part of the NYSCMP, while sites on the south shore are in the final stages of the program change process for incorporation.**

## 3. Restoration

The NYSCMP helps to protect and restore coastal resources, habitats, and their values through a variety of programs within the Division. Much of this work occurs as an integral part of local waterfront revitalization program development and implementation, and several examples are discussed in the section of this findings document entitled “Coastal Dependent Uses and Community Development.”

The coastal management program has been instrumental in preparation, adoption, and ongoing implementation of the state-designated Long Island South Shore Estuary Reserve’s (SSER) comprehensive management plan. The New York State Legislature passed the Long Island South Shore Estuary Reserve Act in 1993. The Act created the South Shore Estuary Reserve – Long Island’s South Shore bays and the adjacent upland areas draining to them – and called for the Reserve’s protection and prudent management. The Act also created the South Shore Estuary Resource Council, which was charged with development of a comprehensive management plan,

named the Secretary of State to chair the Council, and charged the Department of State with providing technical support to the Council. The Division of Coastal Resources worked to develop the management plan, which was adopted in 2001 by the Council. The comprehensive management plan establishes major goals of improving and maintaining water quality; protecting and restoring living resources; improving scientific knowledge of the estuary ecosystem; sustaining the estuary-related economy; and increasing educational outreach and stewardship. During the time period covered by this evaluation, the NYSCMP reassessed the state of the management plan and prepared an implementation status report, which identifies stakeholder and partnership accomplishments from 2003-2005 in the context of the outcomes and implementations of the Reserve's comprehensive management plan. Successful steps have been taken, but the status report also identifies next steps to take to continue successful implementation. To address several resource-related priorities and goals, the coastal program (in cooperation with others) created benthic habitat maps for Great South Bay within the SSER and developed a GIS-based tool to prioritize open space within the SSER.

#### **D. WATER QUALITY**

The NYSCMP uses several mechanisms to address water quality in New York's coastal zones. The state's Coastal Nonpoint Pollution Control Program (CNPCP) received full approval in December 2006. The focus of the CNPCP is now primarily on watershed protection, reducing pollution from existing development, wastewater management, and mitigating hydrologic modification. During part of the period covered by this evaluation, the NYSCMP administered funds from the New York State Clean Water Clean Air Bond Act that are directed to the Department of State for award to local municipalities and other entities. (The funds are now depleted.) Since 1996, 75 projects addressing stormwater management and aquatic habitat protection have been or are being managed by the Division of Coastal Resources: 20 have been completed since 2003, and 35 are currently under way. The state's Environmental Protection Fund (a permanent fund dedicated to addressing a broad range of environmental and coastal issues that is funded from real estate transfer tax revenues) has funded local waterfront revitalization programs, many of which have prepared and implemented watershed plans. At the time of the site visit, 12 watershed plans have been completed and 13 plans are in progress. Other special planning tools, such as harbor management plans, also are funded, in part, to protect water quality. As is the case with many of the NYSCMP's projects and initiatives, planning and implementation for water quality improvement do not occur in isolation but as integrated parts of multi-faceted projects.

The towns of Irondequoit, Penfield, and Webster share jurisdiction over Irondequoit Bay, an embayment on Lake Ontario. The towns formed the Irondequoit Bay Coordinating Committee, an oversight group including the New York Departments of State and Environmental Conservation and Monroe County. The towns developed a single harbor management plan and implementing laws for Irondequoit Bay, in part, to protect water quality in the bay. They developed a new zoning district to eliminate undesirable/non-conforming uses, and two of the towns have developed mirror ordinances with the same zoning. Each town is now updating its LWRP to incorporate these management tools.

The Village of Sodus Point along the Lake Ontario shore developed a local waterfront revitalization program in 2006 and is completing a harbor management plan in partnership with the towns of Huron and Sodus, which surround the bay. Sodus Bay is one of the largest sheltered bays on Lake Ontario and is also a designated Significant Coastal Fish and Wildlife Habitat. All three municipalities want to encourage use of the bay while maintaining and enhancing water quality. Wayne County and private organizations such as Save Our Sodus, Inc., and the Great Sodus Bay Association have committed funds to help finance the harbor management plan.

The Tug Hill Commission, working closely with the 37 towns in the Black River watershed and the Lewis County Soil & Water Conservation District, is preparing a Black River watershed plan, which will encompass portions of five counties (Hamilton, Herkimer, Jefferson, Lewis, and Oneida). Local Waterfront Revitalization Program funds have also been provided to the Town of Greig in the Tug Hill region and supplemented with funding to the Tug Hill Commission from the U.S. Fish and Wildlife Service to prepare the watershed plan. The final plan will detail water quality characteristics, natural resources, land use, critical built infrastructure, and water quality stresses and priorities in the watershed. The completed plan will give communities decision-making information, build capacity in local government on water quality issues critical to their well-being, provide better understanding of the link between water quality and economics, and identify opportunities for local actions to help improve and manage water quality.

The Commission has been a partner with the Division in the preservation of 45,000 acres of coastal forested land acquired through purchase or conservation easement with Great Lakes Coastal Restoration funding. The transfer of all easements and/or ownership was completed in 2006. The acreage is at the headwaters of several rivers, and the protection of this land will eliminate the threat of development, improve the protection of municipal water supplies by maintaining a natural watershed, and protect riparian and woodland habitats.

As part of the NYSCMP's emphasis on water quality and watershed planning, the Division is nearing completion of a third multimedia package entitled Watershed Plans: Protecting and Restoring Water Quality. The package includes a video/DVD, explanatory guidebook, and how-to web pages prepared to guide watershed planning in New York. The NYSCMP worked with a production company to complete a short film intended to motivate communities to collaborate and develop watershed plans that will improve water quality and habitat. The guidebook and web pages are nearly complete and will provide more specific detail regarding watershed planning.

**ACCOMPLISHMENT: The NYSCMP works through a variety of initiatives and supports local communities with an array of resources to emphasis water quality and watershed planning. It has developed a multimedia package for communities to guide watershed planning.**

## **E. COASTAL HAZARDS**

The assessment of coastal hazards in the NYSCMP's Section 309 Assessment and Strategies for 2006-2011 indicates that the marine coast, the Great Lakes area, and the Hudson/St.

Lawrence/Niagara rivers shorelines are vulnerable to some similar and some unique hazards based upon location. Hazards on the marine coast include storm surge, tidal inundation, shoreline erosion, bluff failure, and flooding from high rainfall events. The Great Lakes area is subject to shallow area inundation and coastal erosion associated with high lake water levels, while the major tidally influenced rivers are subject to inundation, hydraulic erosion, and ice erosion. The St. Lawrence River occasionally experiences bluff failure. The NYSCMP has chosen to focus on three primary activities to address coastal hazards in the coastal zones: technical assistance, U.S. Army Corps of Engineers projects, and outreach information. The emphasis through these activities is generally on non-structural options.

Technical assistance to communities addressing coastal hazards occurs most frequently through guidance in project development and implementation for local erosion management plans and local waterfront revitalization programs (LWRPs). The LWRP incorporates the state's coastal hazards policies of avoidance of hazards and minimization of impacts of development (NYSCMP Policies 11 – 17: Flooding and Erosion Hazards). The NYSCMP has produced a substantial guidebook for LWRP development (“Making the Most of Your Waterfront: Enhancing Waterfronts to Revitalize Communities”) that includes a section on flooding and erosion hazards: how to assess them, tools and approaches to manage them, risk assessment, and a section with suggestions about partners, resources, and additional information.

The Division of Coastal Resources has provided funding and technical assistance to several local governments on shoreline treatments to address erosion and/or flooding during this evaluation time period. For example, the Town of Southold on northeastern Long Island used funding and technical assistance from the Division to evaluate the impacts of jetties, which led to recommendations for jetty shortening and revised sand bypassing to address shoreline erosion and inlet maintenance.

The Division, working with staff at the Long Island South Shore Estuary Reserve (SSER) office, completed surveys and interviews of staff from all the towns within the Reserve regarding flooding and erosion along the shoreline. The resulting “SSER Bay Flooding and Erosion Assessment and Recommendations Report” summarizes existing conditions and provides a context for comprehensive planning and management actions Reserve communities may choose to undertake to reduce the future impact of these hazards. Recommendations for local governments are included to address a number of issues, including but not limited to post-disaster plans, education and outreach, erosion, flood preparedness, and mitigation actions. The report also provides contact information to government agencies and non-government organizations with programs that can assist communities with coastal hazard mitigation, information on flooding and erosion problems, how the towns address the problems, outstanding issues, and resources available to municipalities for help.

**ACCOMPLISHMENT: The NYSCMP completed the Long Island South Shore Estuary Reserve Bay Flooding and Erosion Assessment and Recommendations Report.**

The Division continues to participate in the *New York Atlantic Coast Monitoring Program* (NYACMP), which is an interagency effort including the Division of Coastal Resources, the

Army Corps of Engineers, the NY Department of Environmental Conservation, and New York Sea Grant. Since its inception in 1995, the NYACMP has been gathering data on shoreline conditions along the south shore of Long Island and distributes data to local governments for hazard management. During this evaluation period the NYACMP partners developed a data viewer web site for coastal managers, planners, and government officials. Information provided on CD-ROM with a custom viewing application can now be viewed on a web site, which saves the state of New York thousands of dollars in software licensing fees associated with the CD-ROMs. Officials have been able to use the web site data to identify areas in need of erosion mitigation before roads are damaged and to evaluate erosion management strategies for heavily used parks.

During this evaluation period the Division of Coastal Resources continued to participate in the ongoing development of the *Fire Island Inlet to Montauk Point Reformulation Study*, which is an Army Corps of Engineers' funded storm damage reduction strategy involving the preparation of an implementable, comprehensive, long-term regional strategy for the 83-mile portion of the south shore of Suffolk County, Long Island. The Division remains committed to emphasizing non-structural options wherever possible.

## **F. COASTAL DEPENDENT USES AND COMMUNITY DEVELOPMENT**

The NYSCMP has a strong community-oriented, waterfront revitalization component. The Division of Coastal Resources “works in partnership with community groups, non-profit organizations, state and federal agencies, and local governments to make communities better places to live, work and visit...” and “...is involved in a wide variety of programs and initiatives that help revitalize, promote and protect New York's communities and waterfronts...” (NYSCMP website). Perhaps the most significant of these initiatives is the Local Waterfront Revitalization Program (LWRP). There are 743 communities throughout the state that are eligible to prepare and participate in the LWRP; 228 of those communities are in the NYSCMP coastal zone. During this evaluation period 12 LWRPs have been approved, and 77 are being prepared (this includes amendments). According to the NYSCMP, communities with approved LWRPs and those preparing LWRPs account for over 60% of the state's federally defined coastal area.

After LWRPs are approved, they must maintain consistency with the state's coastal management program. The previous evaluation findings noted that it is in the interests of local governments, the NYSCMP, and OCRM to be able to evaluate the performance of a LWRP to determine and confirm the ongoing consistency. The evaluation findings dated August 2004 required the NYSCMP to complete development of an evaluation process for approved LWRPs and to provide a written copy of the process to OCRM. OCRM had no specific requirements for the process, but the overall goal of such a process should be the ability to determine ongoing consistency of a LWRP, its implementation activities, and the local government's approvals and decision-making procedures for the LWRP with the NYSCMP and its enforceable policies.

Since then, the NYSCMP has partially met the Necessary Action. It has developed a monitoring process for communities with approved LWRPs. At the time of the site visit, the process had

been completed in one test pilot community, the City of Kingston, and was scheduled for the City of Oswego, the second pilot community. For Kingston, the process began with survey questions to the City, a conference call to discuss the City's answers to the survey questions, and a follow-up meeting with representatives of the City. The follow-up meeting allowed the NYSCMP staff to more fully assess the City's implementation of its LWRP and local consistency review process, and to clarify items discussed during the conference call. At the time of the site visit the NYSCMP had not completed the evaluation of Oswego's LWRP and had not determined the effectiveness of its proposed process. Based on the results of these two initial assessments, the NYSCMP indicates it will evaluate the approach and process and refine it as necessary.

**NECESSARY ACTION: The NYSCMP must complete the pilot community evaluation assessment, refine the evaluation approach based upon the two initial pilot assessments, and institutionalize an evaluation process for LWRPs by January 2009. The process should be able to clearly identify issues and recommendations and should include the establishment of a general schedule for individual LWRP evaluations.**

The Village of Port Jefferson, on the north shore of Long Island, continues to work with Division staff and with LWRP grant funds to implement its master plan for Harborfront Park. The Village has completed a waterfront playground and picnic area; a 350-foot pier with a wide deck and railings for fishing and walking; a promenade along the shoreline, a seasonal outdoor ice skating rink and construction of a large Village Green area.

During the evaluation site visit, the evaluation team visited the city of Watertown, within the Great Lakes (Lake Ontario) coastal zone, where the Black River runs through the city. Within Watertown, a section of the Black River includes Class IV whitewater rafting opportunities, and the city wants to capitalize on water-based recreation in its waterfront revitalization program. Since 2003 the City has been actively involved with the Division of Coastal Resources. With the Division's assistance and with grant support from the Environmental Protection Fund LWRP, the state's Quality Communities initiative, and the Brownfield Opportunities Area Program, the City is designing and constructing several access and tourism amenities. These were direct outcomes from economic and market analyses, brownfield studies, and downtown awareness campaign studies that were conducted earlier in this evaluation period and guided later decisions for waterfront revitalization.

The team also visited the Town of Clayton and Village of Clayton, which joined together to create a new LWRP after an industrial business on the waterfront failed. The ongoing use of the property for industrial use had been assumed in the Village's initial LWRP. With assistance from the Division, the Town and Village are remediating the former industrial land and have now planned and begun construction on a commercial dock to accommodate large commercial cruise ships and a riverwalk project that will form a continuous path along the waterfront. In partnership with the Thousand Islands Performing Arts Fund, the Town is undertaking renovation of the historic Clayton Opera House, located adjacent to the waterfront. When completed, it will be a year-round cultural center and destination for visitors and draw investment and visitors to the downtown business district and other local attractions.

The Division's work with both the City of Watertown and the Town and Village of Clayton is indicative of its efforts and success in helping local communities coordinate multiple funding sources and use creative techniques for community and waterfront redevelopment.

**ACCOMPLISHMENT: The NYSCMP continues to work through an expanding array of programs and initiatives to help local communities revitalize, promote, and protect their waterfronts. It helps local communities coordinate multiple funding sources and use creative techniques for community and waterfront redevelopment. NYSCMP staff members have excellent relationships with local communities.**

At the time of the last evaluation, the Governor had recently signed the state's Superfund/Brownfield Law of 2003. From that legislation came the Brownfield Opportunity Areas (BOA) Program, which is designed to help communities foster redevelopment and return dormant and blighted land into productive areas while restoring environmental quality. This program provides municipalities and community-based organizations with resources to address local brownfields by providing areawide brownfield redevelopment planning, access to expert environmental and economic analysis, and environmental site assessment for strategic redevelopment parcels. Since 2003, the Division and communities have begun to develop, market, and get economic and land use plans underway. The Division is now managing 53 active projects from the 2004 application solicitation; 50 projects from the 2005 and 2006 solicitations will also be managed by the Division.

**ACCOMPLISHMENT: The NYSCMP is commended for the development and implementation of the Brownfield Opportunity Areas Program that has occurred since the last evaluation.**

## **G. GOVERNMENT COORDINATION AND DECISION-MAKING**

### **1. Federal Consistency and Program Changes**

During the period of 2004-2006, the NYSCMP reviewed over 3,000 federal authorizations, activities, and financial assistance applications for consistency with the enforceable policies of the NYSCMP. There were approximately 10 objections by the NYSCMP to the consistency determinations. Ongoing trends noted by the NYSCMP staff involving consistency reviews during this evaluation period are: an increased number of offshore proposals; new types and increased numbers of energy facilities; an increase in large scale residential developments; and an increased number of structures being elevated in response to anticipated flood erosion hazards and sea level rise.

Prior to this evaluation period, New York Department of State objected to Millenium Pipeline Company's proposal to construct and operate a natural gas pipeline from a point along the US-Canada border in Lake Erie to a terminus outside New York City. The state found that construction impacts associated with those portions of the pipeline crossing the Hudson River

and approaching New York City were inconsistent with the NYSCMP. The objection was upheld by the Secretary of Commerce on December 12, 2003.

The DOS also objected to a consistency certification for a proposal by the St. Lawrence Cement Company to construct and operate a major new cement manufacturing and port operation facility in the Hudson River region. The objection was based on visual impairments, aesthetics, community character compatibility, and inconsistency with a designated Scenic Area of Statewide Significance (SASS). NYSCMP Policy 24 provides for the designation and protection of scenic areas of statewide significance; and Policy 25 requires that proposed actions located outside a designated SASS must protect, restore or enhance the overall scenic quality of the coastal area. Both policies call for agencies to determine if a proposed action would impair scenic quality. The Company did not appeal the objection, the Corps permit was not issued, and the company withdrew its application for a NYSDEC permit. The Company announced publicly that it had dropped its plans to build the facilities.

During this review period, the Department of State objected to the US Environmental Protection Agency's designation of Long Island Sound open water dredged material disposal sites. As a condition of the settlement of the objection, a Long Island Sound dredged materials management plan (DDMP) will be developed by 2012, with an emphasis on beneficial uses of dredged materials and other alternatives to open water disposal in Long Island Sound. If the DDMP is not completed by that deadline, existing disposal sites will be discontinued. In the interim, a regional dredging team has been formed to facilitate beneficial reuse and to address disposal for immediate projects.

**ACCOMPLISHMENT: The NYSCMP has used the consistency process to initiate the development of a Regional Dredging Team and a Long Island Sound Dredged Materials Management Plan to promote beneficial uses of dredged materials and to decrease dependence upon open water disposal.**

In 2006 the NYSCMP submitted to OCRM a proposed list of activities that are permitted, licensed, or otherwise approved by the U.S. Army Corps of Engineers within clearly defined areas in the state of Connecticut to be subject to consistency review by the state of New York. The NYSCMP sought approval of this interstate list as a routine program change. The OCRM approved the interstate list in March 2006, making New York the first state to receive interstate approval for consistency review.

**ACCOMPLISHMENT: The NYSCMP is the first state to receive interstate approval for consistency review.**

Because of the complexity of the federal and state consistency processes, the large number of LWRPs that conduct consistency reviews, and the consistency review issues that arose in New York City that led to lawsuits against NOAA, the State of New York, and New York City, the previous evaluation findings included a Program Suggestion recommending training and outreach efforts about consistency to both government officials and staffs as well as non-

governmental organizations and citizens. Another Program Suggestion recommended completion and distribution of the NYSCMP consistency manual and training and education workshop schedule, with an early focus on New York City agencies.

During this evaluation period, the NYSCMP fostered new partnerships between nongovernmental organizations (NGOs) and New York City government by recruiting project ideas for the LWRP grant program from NGO and local community partners. The Division staff members have been assisting the New York City Department of City Planning to develop and plan the implementation of newly developed training on the waterfront revitalization program for federal and city agency staff. Because of the size and scope of New York City local government, priority emphasis has been placed on ensuring ongoing, consistent internal training to key City agencies and entities involved in waterfront and land use decision-making and development. The NYSCMP believes this is a key step because city agencies are well-positioned to provide outreach and information as part of their regular coordination with community boards and citizen groups in the context of project planning and review.

The Division has delivered consistency training to the New York State Department of Environmental Conservation, the Town of Southold, and the Village of Athens. Training sessions are already planned for the Village of Mamaroneck. In addition, the Division is now creating a “Consistency Educational Training” module as part of the Community Seminar Series to address procedural aspects of federal and state consistency and to provide substantive guidance in conducting consistency reviews at the local level. This training module and the entire seminar series are open to anyone, so that training process for NGOs and citizens is available.

The completion of the NYSCMP consistency manual completion was on hold at the time of the site visit pending a decision on the issuance of new federal and state coastal consistency regulations. The Division has reviewed the existing NYSCMP and its regulations and has proposed to make three major changes: update and condense the state’s 44 coastal policies; revise existing consistency regulations; and develop a new regulations section outlining the federal consistency process and procedures.

**PROGRAM SUGGESTION: The NYSCMP has initiated several efforts to reach out to and/or train both local government officials and staff members and non-governmental organizations and citizens about the federal and state consistency process. The Office of Ocean and Coastal Resource Management urges the NYSCMP to continue with and expand these efforts, including the completion and distribution of a consistency training manual and the completion and provision of the consistency education training module as part of the Community Seminar Series. The consistency manual and training modules (presentation and any supplemental materials) should be made available on the NYSCMP web site.**

## 2. Programmatic Coordination and Partnerships

The Division developed the New York State Coastal and Estuarine Land Conservation Program (CELCP), which was then adopted as part of the New York State Open Space Conservation Plan. The Open Space Conservation Plan addresses many of the CELCP plan requirements, including an opportunity for public participation and a process for project review and prioritization. By incorporating the CELCP plan into the Open Space Conservation Plan, the State used an existing structure and administrative process for the Open Space Conservation Plan with additions and changes to highlight coastal resources areas and address specific CELCP plan requirements. The CELCP plan represents a partnership among the Division, the Department of Environmental Conservation, and the Office of Parks, Recreation and Historic Preservation. Grant applications were developed jointly with the Department of Environmental Conservation. (Since the time of the site visit, the state's CELCP plan has been approved by NOAA.)

**ACCOMPLISHMENT: The integration of the New York State Coastal and Estuarine Land Conservation Program into the State's Open Space Conservation Plan is a good example of the programmatic coordination and partnerships the NYSCMP establishes and uses.**

Other sections of this document have noted programmatic coordination and partnerships that are furthering the goals of coastal management in New York. For example, the Division is working in partnership with other state and federal agencies in a regional dredging team to stress beneficial use in the development of a dredged materials management plan for Long Island Sound. The Division also continues to work in partnership with a number of agencies in the *Fire Island Inlet to Montauk Point Reformulation Study*, which is an Army Corps of Engineers' funded storm damage reduction strategy.

## 3. Public Participation and Outreach

Because the NYSCMP has such a strong partnership with local communities, efforts at public outreach and participation must be, and are, significant components in those partnerships. The NYSCMP has developed several mechanisms to stretch its staff resources even further.

The previous evaluation findings document included a Program Suggestion urging the NYSCMP to complete the updating and expansion of the Division web site, populate it with as much information and data as possible, and keep it updated and refreshed. Since the last site visit, the NYSCMP has been doing that. As new programs have been created and developed, such as the Brownfield Opportunity Program, associated information, downloads, and other resources have been developed and incorporated into the web site. The LWRP process has been converted to maximize the use of internet technology, enabling the online web site availability of interim review drafts (posted only during the public review period) and final LWRPs (these have not yet been posted). The Division is currently working on a "resource library" component of the web site to improve the public's accessibility to key NYSCMP documents. It is also developing an interactive mapping interface to replace the existing on-line Coastal Atlas. The Division's web

site was awarded the Standard of Excellent WebAward for Government Entities throughout the US and Canada in 2004.

The third multi-media package entitled Watershed Plans: Protecting and Restoring Water Quality was completed during this evaluation period. (Two other multi-media packages for waterfront redevelopment and for abandoned buildings were completed during the previous evaluation period.) The package includes a video/DVD, explanatory guidebook, and how-to web pages prepared to guide watershed planning in New York.

The NYSCMP has developed a Community Seminar Series to provide direction and professional assistance for community leaders and others to successfully plan, design, and implement projects funded through the Environmental Protection Program LWRP. Seminar topics include Organization for Community Leadership, Developing a Vision, Organization for Implementing the Vision and Capacity Building, The Role of Consultants, Overview of the LWRP Process, Inventory and Analysis, Using the Adopted LWRP, Grand Administration, Economic and Market Trends Analysis, New York State Environmental Quality Review Act (SEQRA), and Harbor Management. At the time of the site visit, seminars had been offered in Grant Administration/Project Management and Developing a Vision. The Division is now creating a Consistency Educational Training module as part of the Community Seminar Series to address procedural aspects of federal and state consistency and to provide substantive guidance in conducting consistency reviews at the local level.

The NYSCMP has also developed new coastal fact sheets on a variety of topics, including one in the Division and its activities, revitalizing communities and waterfronts, grant programs offered through the Division, and improving water quality.

**ACCOMPLISHMENT: The NYSCMP continues to develop, update, and make available multiple strategies for providing information and assistance to members of the public and community leaders about the importance of and mechanisms for coastal management. This includes the new Community Seminar Series, new coastal fact sheets, and the third multi-media package dealing with watershed planning.**



## VI. APPENDICES

### Appendix A. Summary of Accomplishments and Recommendations

The evaluation team documented a number of the NYSCMP's accomplishments during the review period. These include:

<b>Issue Area</b>	<b>Accomplishment</b>
Organization and Administration	The NYSCMP has taken steps to increase staff skills and productivity, meet increasing work load demands, and respond to new opportunities.
Organization and Administration	The State of New York continues to provide significant funding through a variety of sources to support coastal management. It is evident from the assignment of administration and implementation of the Brownfield Opportunity Areas Program and the Ocean and Great Lakes Ecosystem Conservation Act to the Division that the State supports and depends upon the NYSCMP and its capabilities and accomplishments.
Use of Technology	The NYSCMP has enhanced and expanded its technological capacity and capabilities, including specialized mapping projects and a GIS tool to prioritize and analyze open space for possible acquisition in the Long Island South Shore Estuary Reserve.
Public Access	The NYSCMP continues to support and assist local communities in the provision of public access, as exemplified by, but not limited to, Long Island Sound waterfront, the Great Lakes waterfronts, the Brooklyn waterfront, Randall's Island, and the Hudson River Valley.
Coastal Habitat	The state passed the New York Ocean and Great Lakes Ecosystem Conservation Act to help protect and restore the state's coastal ecosystems. A council has been created and funded to accomplish this, and the Division of Coastal Resources administers the funds and staffs the Council.
Coastal Habitat	Previously designated Significant Coastal Fish and Wildlife Habitats (SCFWHs) along the north and south shores of Long Island were reviewed and updated. New and re-designated SCFWH sites on the north shore have been incorporated as part of the NYSCMP, while sites on the south shore are in the final stages of the program change process for incorporation.

Water Quality	The NYSCMP works through a variety of initiatives and supports local communities with an array of resources to emphasis water quality and watershed planning. It has developed a multimedia package for communities to guide watershed planning.
Coastal Hazards	The NYSCMP completed the Long Island South Shore Estuary Reserve Bay Flooding and Erosion Assessment and Recommendations Report.
Coastal Dependent Uses and Community Development	The NYSCMP continues to work through an expanding array of programs and initiatives to help local communities revitalize, promote, and protect their waterfronts. It helps local communities coordinate multiple funding sources and use creative techniques for community and waterfront redevelopment. NYSCMP staff members have excellent relationships with local communities.
Coastal Dependent Uses and Community Development	The NYSCMP is commended for the development and implementation of the Brownfield Opportunity Areas Program that has occurred since the last evaluation.
Federal Consistency and Program Changes	The NYSCMP has used the consistency process to initiate the development of a Regional Dredging Team and a Long Island Sound Dredged Materials Management Plan to promote beneficial uses of dredged materials and to decrease dependence upon open water disposal.
Federal Consistency and Program Changes	The NYSCMP is the first state to receive interstate approval for consistency review.
Programmatic Coordination and Partnerships	The integration of the New York State Coastal and Estuarine Land Conservation Program into the State's Open Space Conservation Plan is a good example of the programmatic coordination and partnerships the NYSCMP establishes and uses.
Public Participation and Outreach	The NYSCMP continues to develop, update, and make available multiple strategies for providing information and assistance to members of the public and community leaders about the importance of and mechanisms for coastal management. This includes the new Community Seminar Series, new coastal fact sheets, and the third multi-media package dealing with watershed planning.

In addition to the accomplishments listed above, the evaluation team identified several areas where the program could be strengthened. Recommendations are in the form of Program Suggestions and Necessary Actions. Areas for improvement include:

<b>Issue Area</b>	<b>Recommendation</b>
Coastal Dependent Uses and Community Development	NECESSARY ACTION: The NYSCMP must complete the pilot community evaluation assessment, refine the evaluation approach based upon the two initial pilot assessments, and institutionalize an evaluation process for LWRPs by January 2009. The process should be able to clearly identify issues and recommendations and should include the establishment of a general schedule for individual LWRP evaluations.
Federal Consistency and Program Changes	PROGRAM SUGGESTION: The NYSCMP has initiated several efforts to reach out to and/or train both local government officials and staff members and non-governmental organizations and citizens about the federal and state consistency process. The Office of Ocean and Coastal Resource Management urges the NYSCMP to continue with and expand these efforts, including the completion and distribution of a consistency training manual and the completion and provision of the consistency education training module as part of the Community Seminar Series. The consistency manual and training modules (presentation and any supplemental materials) should be made available on the NYSCMP web site.

## **Appendix B. Response to Previous (2004) Evaluation Findings**

**Program Suggestion:** The NYSCMP is urged to seek ways to expand the process of performance measurement beyond those projects funded by the Environmental Protection Fund to other funding sources and other program activities, including its CZMA awards.

**Response:** The Division is developing performance measures as part of the National Coastal Zone Management Act Performance Measurement System as required by OCRM.

**Program Suggestion:** As evidenced by the concerns raised during this evaluation about public access within the New York City LWRP boundaries, there is a need for the NYSCMP to explore new or enhanced mechanisms for providing some level of informational outreach to smaller, less traditional non-governmental organizations such as neighborhood associations, particularly in New York City, to provide a better understanding of the state's coastal management program and the local waterfront revitalization program. In New York City, the city should be equally involved in consideration of such efforts. This program suggestion is not meant to be considered in isolation or as a separate staff priority work effort but should be considered a part of the program suggestions recommended under "Federal Consistency, Permitting, and Changes to the Statutory and Regulatory Provisions of the NYSCMP" and "Public Outreach."

**Response:** The Division acts as a resource for a wide variety of non-governmental organizations (NGOs) throughout New York City working on local waterfront revitalization activities and projects. The Division is fostering new partnerships between NGOs and City government by recruiting project ideas for the EPF LWRP grant program from new NGO and community partners. The Division provides a critical service in assisting NGOs to develop a working relationship with City government to advance their neighborhood vision and project ideas as part of the EPF LWRP grant program. The Division targets funding to those organizations that provide umbrella representation to smaller, non-traditional groups, and assist these groups with capacity building. This includes providing technical assistance and successive years of grant funding to: the Partnership for Parks Catalyst Program, who are working with citizens and small neighborhood groups in three waterfront neighborhoods in New York City - Red Hook, Long Island City/Astoria, and the Highbridge area of Manhattan and the Bronx; and the Brooklyn Greenway Initiative, who are providing critical coordination for all greenway planning and implementation activities borough-wide, and are integrating different visions developed by community groups from Greenpoint/Williamsburg, Sunset Park, and Community Boards 2 & 6 into one plan.

**Necessary Action:** Within two years of the date of these findings, the NYSCMP must complete development of an evaluation process for approved LWRPs and provide a written copy of the process to OCRM. OCRM has no specific requirements for the process, but the overall goal of such a process should be the ability to determine ongoing consistency of a LWRP, its implementation activities, and the local government's approvals and decision-making procedures for the LWRP with the NYSCMP and its enforceable policies. Secondly, the process could be

used to highlight successes; areas for improvement; and training, technical assistance, and outreach needs for the local government and the public.

**Response:** The Division has developed a monitoring process for communities with approved Local Waterfront Revitalization Programs. This process is being tested in two pilot communities, and recently completed the process in the first location, the City of Kingston. We have scheduled the monitoring process for the City of Oswego, our second location. Both the monitoring process and the City of Kingston LWRP assessment are attached. Based on the results of these two initial assessments, we will evaluate the approach and refine it as necessary.

**Program Suggestion:** The NYSCMP staff should complete and distribute its consistency manual as quickly as possible and devise a training and education workshop schedule for federal, state, and local government agencies. In relation to the Program Suggestion under Section E, “Public Access,” which recommends that the NYSCMP explore mechanisms for providing some level of informational outreach to smaller, less traditional non-governmental organizations, particularly in New York City, this training schedule should provide an early focus on New York City agencies. As part of the City’s role in training additional staff following initial training by the NYSCMP, the City should invite the participation of local community boards and interested neighborhood-type associations to provide an educational opportunity for them about the consistency process.

**Response:** In New York City, Division staff have been assisting the Department of City Planning to develop and plan the implementation of newly developed training on the Waterfront Revitalization Program (WRP) for agency staff. A presentation that explains the origins, priorities, and policies of the WRP and how consistency decision making is applied in New York City has been developed and the Department of City Planning is working with other agencies to determine the best plan for offering this training on a regular basis. Because of the size and scope of New York City local government, priority emphasis has been placed on ensuring ongoing, consistent internal training to key City agencies and entities involved in waterfront and land use decision making and development. This is viewed as a foundation step both in WRP implementation, and in improving public understanding of the WRP, because city agencies are well-positioned to provide outreach and information as part of their regular coordination with community boards and citizens groups in the context of project planning and review.

The Division has delivered consistency training to the Department of Environmental Conservation, the Town of Southold and the Village of Athens. Training sessions are planned for the Village of Mamaroneck. The Consistency Manual is on hold pending a decision on the issuance of new coastal consistency regulations. If the regulations go forward, a new manual may not be needed. If the regulations do not go forward, the manual will go forward.

In addition, the Division is creating a Consistency Educational Training Module (ETM), as part of its Community Seminar Series. The Consistency ETM will address all procedural aspects of federal and state consistency, as well as provide substantive guidance in conducting consistency reviews at the local level.

**Program Suggestion:** In order to support the multi-media approaches to providing technical assistance and outreach/educational information, the NYSCMP is urged to quickly complete the updating and expansion of the Division of Coastal Resources website, populate it with as much information and data as possible, and keep it updated and refreshed. This program suggestion has a relationship to the program suggestion addressing “Public Access,” in that this could be an enhanced mechanism for providing informational outreach.

**Response:** The NYSCMP has continued to improve and expand the offerings available on its website. As new programs have come online, such as the New York State Brownfield Opportunity Areas (BOA) program, associated information, downloads and other resources have been developed and incorporated into the website. In addition, the Division has converted its Local Waterfront Revitalization Program (LWRP) process to maximize the use of internet technology, enabling the online availability of interim review drafts (e.g. click on the Chautauqua Lake 60-day review notice on the left side of the screen at [www.nyswaterfronts.com](http://www.nyswaterfronts.com)), and final LWRPs. The Division is working on a resource library tab for the Division’s website to improve the accessibility of key NYSCMP documents including the Scenic Areas of Statewide Significance (SASS) documentation, the LWRP and Abandoned Buildings guidebooks, the Significant Coastal Fish and Wildlife Habitat narratives, and regional coastal management programs, including the South Shore Estuary Reserve Comprehensive Management Plan and Long Island Sound Coastal Management Program. The Division also continues to pursue development of an interactive mapping interface that will replace the Coastal Atlas that is currently offered, improving the public’s ability to obtain and review geographically specific project, site and resource information, and assist in preparing and submitting grant applications and consistency review information.

## **Appendix C. Persons and Institutions Contacted**

### New York State Department of State, Division of Coastal Resources

George Stafford, Deputy Secretary of State for Coastal Resources

Sally Ball, Deputy Director

Fred Anders

Dave Ashton

Greg Capobianco

Bonnie Devine

Jeff Herter

Nancy Kunz

Andy Labruzzo

Paula Marshman

Rod McNeill

Denis Mildner

Kevin Millington

Renee Parsons

Barry Pendergrass

Steve Resler

Steve Ridler

Nancy Rucks

Ken Smith

Peter Walsh

Nancy Welsh

Stephanie Wojtowicz

Tom Zyskowski

Jeff Fullmer, South Shore Estuary Reserve

### New York State Department of Environmental Conservation

Lois New, Chief, Partnership Section Division of Water

Francis Sheehan, Assistant Director, Division of Lands and Forests

Jeffrey Mapes, Division of Lands and Forests

### New York State Office of Parks, Recreation and Historic Preservation

Robert Reinhardt, Director, Resource and Facility Planning

Erik Kulleseid, Deputy Commissioner for Open Space Protection

### Federal Agency Representatives

Douglas Pabst, U.S. Environmental Protection Agency, Region 2

Diane Rusanowsky, NOAA, National Marine Fisheries Service

Roselle Henn, U.S. Army Corps of Engineers/NY District, Planning Division

Mike Vissichelli, U.S. Army Corps of Engineers/NY District, Regulatory Branch

Robin Lepore, National Park Service, Northeast Region

### Local Government Representatives

Chuck Thomas, Planning Director, City of Rochester

Thomas Hack, Acting City Engineer, City of Rochester

R. Carlos Carballada, Commissioner of Economic Development, City of Rochester

Kal Wysokowski, Economic Development Director, City of Fairport

Tom Goodwin, Department of Planning and Development, Monroe County

Charles Knauf, Department of Public Health, Monroe County

Donna Martello, Town of Irondequoit

James Costello, Director, Developmental Service, Town of Penfield

Gary Kleist, Commissioner, Town of Webster

Robert Corby, Mayor, Village of Pittsford

Michael Sullivan, Mayor, Village of Sodus Point

Bret DeRoo, Planning Department, Wayne County  
Jeffrey Graham, Mayor, City of Watertown  
Mary Corriveau, City Manager, City of Watertown  
Ken Mix, Planning and Community Development Coordinator, City of Watertown  
Christine Hoffman, Downtown Development Specialist, City of Watertown  
Jason White, Chairman, River Committee, City of Watertown  
Sara Freda, City of Watertown  
Dale Kenyon, Mayor, Village of Clayton  
Robert Cantwell, Supervisor, Town of Clayton  
Kevin Braun, Department of Planning & Economic Development, Town of North Hempstead  
Bob Weitzner, Mayor, Village of Port Washington North  
Bill Woods, Director, Waterfront and Open Space Division, New York City Department of City  
Planning  
Eddie Greenfield, Waterfront and Open Space Division, New York City Department of City  
Planning  
Andrew Genn, New York City Economic Development Corporation  
Joshua Laird, Assistant Commissioner for Planning and Natural Resources, New York City  
Department of Parks and Recreation  
Bill Tai, Director, Natural Resources Group, New York City Department of Parks and  
Recreation  
Clara Lou Gould, Mayor, City of Beacon  
Joseph Braun, City Administrator, City of Beacon  
James Sottile, Mayor, City of Kingston  
Stephen Finkle, Director, Office of Economic Development, City of Kingston

Other Organizations and Representatives

Bob Elliott, Executive Director, New York Planning Federation  
Timothy Poley, President, Strategic Consulting Associates  
Donald Riley, Vice President, Marketing and Development, Mark IV Enterprises  
Ann Hayslip, President, Save Our Sodus, Inc.  
Frank Sciremammano, F-E-S Associates  
Katie Malinowski, Associate Director, New York State Tug Hill Commission  
Jim Howe, Director, Central & Western NY Chapter, The Nature Conservancy  
Gretchen Wainwright, Director of Conservation Programs, Central & Western NY Chapter, The  
Nature Conservancy  
Mary Mascott, Thousand Islands Performing Arts Center  
Patrice Benneward, Director, Manhasset Bay Protection Committee  
Jennifer Wilson-Pines, Chair, Manhasset Bay Protection Committee  
Eric Swenson, Executive Director, Hempstead Harbor Protection Committee  
Milton Puryear, Brooklyn Greenway Initiative  
Robert Pirani, Regional Plan Association  
Tamara Greenfield, Partnerships for Parks  
Emily Maxwell, Partnerships for Parks  
Savona Bailey-McClain, West Harlem Art Fund  
Margery Groten, Scenic Hudson  
Regan Chichester, The Beacon Institute for Rivers and Estuaries

#### **Appendix D. Persons Attending the Public Meetings**

The public meeting was held on Tuesday, April 10, 2007, at 9:00 a.m. at the Commissioner of Environmental Services Offices, Room 321B, 3<sup>rd</sup> Floor, Rochester City Hall, 30 Church Street, Rochester, New York. The following attended the meeting:

Tom Goodwin, Monroe County Department of Planning and Development

Chuck Thomas, Planning Director, City of Rochester

Kal Wysokowski, Village of Fairport, Community and Economic Development

Lee Loomis, Center for Environmental Information

Dr. Dan Barletta

Frank Sciremammano, Rochester Institute of Technology

## **Appendix E. NOAA's Response to Written Comments**

NOAA received written comments regarding the New York State Coastal Management Program. Each of the letters is part of the official record of the evaluation and is briefly summarized below, followed by NOAA's response.

### **Mr. John Baxter**

#### **Rockaway Park, New York**

**Comment:** Mr. Baxter's written comments indicate that certain actions approved and undertaken by New York State and New York City within the coastal zone boundary of the Rockaway Peninsula are inconsistent with the CZMA, the NYSCMP, and the City's waterfront revitalization program. He indicates that NOAA has failed to force the City and the State to meet the requirements of the CZMA and the terms of funding awards made to the NYSCMP. Mr. Baxter says that NOAA has failed to conduct Section 312 evaluations in accordance with the intent of Congress and the CZMA.

**NOAA's Response:** See the response above to Mr. George's comments below.

### **Richard George, Director**

#### **Beachside Bungalow Preservation Association**

#### **Far Rockaway, New York**

**Comment:** Mr. George has submitted numerous letters and e-mail throughout the course of this evaluation. NOAA and OCRM staff members were the direct recipients of some of this correspondence and were copied on correspondence directed to other New York State and New York City officials. As he did during the previous evaluation, Mr. George's written documents indicate that certain actions approved and undertaken by New York State and New York City within the coastal zone boundary of the Rockaway Peninsula are inconsistent with NYSCMP policies and New York City LWRP policies, and that the actions must be corrected using CZMA funds. He indicates that because the CZMA, the New York CMP, and the New York City LWRP all support public access to the beach, development being approved is not in compliance with those laws and regulations and must be removed. He also indicates that certain approved development is incompatible with the character and adjoining uses of the adjacent one-story bungalow homes.

He also indicates that there has been a pattern of non-adherence to the federal Coastal Zone Management Act by New York City, New York State and federal agencies, including NOAA. Mr. George says that NOAA has failed to properly enforce the terms of CZMA funded award agreements to the state coastal management program, has failed to force the NYSCMP to adhere to the requirements of the CZMA, and has failed to conduct proper programmatic evaluations of the NYSCMP for many years. He indicates that New York State has failed to monitor and enforce actions of New York City in the City's waterfront revitalization program.

**NOAA's Response:** In September 2004 Mr. George and Mr. John Baxter filed several suits (since consolidated into one complaint), representing themselves, in Federal district court in New York City, challenging NOAA's review of New York State's plan to protect its coastal zone

under the CZMA. In the suit, they ask the court to prohibit future development in the New York coastal area, and specifically in Far Rockaway Borough, until the claimed CZMA violations are remedied. In March 2007 the suit was dismissed. Mr. George and Mr. Baxter have appealed that dismissal. That appeal is outstanding at the time of these findings.

NOAA and OCRM believe that the City, the State and the NYSCMP, and NOAA have acted appropriately. NOAA's response to the written comments submitted by Mr. George during the previous evaluation and included in the final findings dated August 2004 are appropriate as comments to Mr. George's same claims as indicated above. The 2004 comments and response follow:

*Comments 2004*

**Richard George, Director  
Beachside Bungalow Preservation Association  
Far Rockaway, New York**

**Comment:** Mr. George has submitted many written letters and e-mails and binders of accompanying documentation throughout the course of this evaluation and site visit. He has included letters to the FBI, the Secretary of Commerce, the NY Secretary of State, NY State Inspector General, the mayor of New York City, numerous U.S. and New York State senators and representatives, City of New York and New York State elected officials, among others, and has requested that those letters become a part of this evaluation record. His written comments submitted at the public meeting as well as the other correspondence and information contend that certain actions approved and undertaken by New York State and New York City within the coastal zone boundary of the Rockaway Peninsula are inconsistent with NYSCMP policies and New York City LWRP policies, and that the actions must be corrected using CZMA funds. Specifically, these actions involve the Wavecrest Gardens 2 project, Duane Reade drugstore, Arverne Urban Renewal project, the Impressive Homes/YOMA Development, and demolition permits. Actions that Mr. George cites and believes are inconsistent with New York City, New York State, and federal Coastal Zone Management Act public access policies involve the obstruction of a public access easement and visual corridor, construction over public access easements, demolition of bungalows, construction of non water-related facilities on a waterfront lot, and "de-mapping" of public streets and sidewalks used as perpendicular access to the waterfront.

Mr. George cites federal and state law, court cases, and the public trust doctrine and provides his interpretation of all of these to support his contention that the actions are illegal. He also indicates that City and state actions involving all four development projects have benefitted a private individual or corporation and deprived the public of a benefit, thus resulting in official misconduct. He indicated that he presented this information to the New York Office of the Inspector General, but that office closed the case, finding the allegations were unsubstantiated. He also argues that the city and state agencies are unaware of their responsibilities under the City LWRP, the NYSCMP, and the federal Coastal Zone Management Act and that members of the public are also not made aware of agency obligations or public rights.

*NOAA's Response to All Written Comments Pertaining to Far Rockaway Issues 2004:* The CZMA is a voluntary partnership between the federal government and a state. The state and all

units of local government in the state still retain their sovereign rights and jurisdictional authorities after NOAA has approved the state's CMP. A programmatic evaluation under Section 312 of the CZMA considers the totality of actions and activities undertaken during the specific period covered by the review as an indication of whether the state CMP still meets the policies and provisions of the CZMA as it did when originally approved and through subsequent program change approvals. If a state is found to be not in compliance with its approved management program or the terms of any CZMA grant or cooperative agreement, enforcement authority given to NOAA in the CZMA consists solely of: 1) suspension and reallocation of CZMA financial assistance to address the reasons for a finding of noncompliance; and 2) withdrawal of coastal management program approval and withdrawal of CZMA financial assistance.

Thus, a programmatic evaluation under Section 312 of the CZMA, and this New York State CMP evaluation and site visit, are not intended to resolve specific disputes over local permitting decisions, or to collect evidence regarding specific actions taken, or to issue a finding about whether a governmental entity was correct or incorrect in specific project-related decisions. NOAA, through the CZMA, cannot and does not overturn or supersede state or local decisions or 'force' a state or local government to enforce or implement a state or local law or regulation. Citizens who do not agree with decisions made by the city or the state have available appropriate recourse through state law.

Information and comments presented to OCRM about the Far Rockaway developments are contradictory and subject to interpretation. What many of the citizens at the site visit public meeting said, and what some of the written comments directly indicate or indirectly reflect, is that there could be better knowledge or understanding on the part of both local officials and citizens about local, state, and federal coastal management laws and regulations. The question of accountability of the many local waterfront revitalization programs as they relate to the NYSCMP has also been raised. It is the responsibility of both officials and citizens to be aware of such laws and regulations, but the reality is that the New York City LWRP covers a large geographic area and no doubt encompasses some citizens who are unaware that they live and work within the LWRP boundaries. There are also many governmental and quasi-governmental agencies and entities with certain responsibilities under the LWRP, some of which may not be as well-informed about those responsibilities as they should be. Information exchange and learning/training opportunities may be too infrequent, primarily because of limited staff and time on the part of both the NYSCMP and the New York City agencies and entities.

Through this evaluation and site visit, NOAA has found New York state to be adhering to its approved coastal management program and making satisfactory progress in implementing the provisions of its approved program. This evaluation has found no indication of a pattern, intentional or otherwise, of citywide or statewide failure to appropriately implement the approved coastal management program and address the coastal management policies and needs identified in the CZMA. However, there may be an opportunity to increase the awareness of and knowledge about the specific elements of the NYSCMP, particularly related to the process and activities of the local waterfront revitalization programs. NOAA believes the site visit and 49 written comments demonstrate that a specific emphasis should now be placed on education and outreach with regard to consistency, permitting, and the general function and process of the state's coastal management program, particularly in New York City. NOAA has included two

Program Suggestions in this evaluation findings document under the “Public Access” and “Federal Consistency, Permitting, and Changes to the Statutory and Regulatory Provisions of the NYSCMP” sections to address these concerns. NOAA has also included a Necessary Action under the “Waterfront Revitalization” section to establish a mechanism for periodic state review and evaluation of LWRPs that are part of the NYSCMP.