

Executive Orders Compliance Analysis –  
EO 11988 Floodplain Management and EO 11990 Wetlands  
Protection Determination

**Project #031-ED-32257-2013 EO 11988 Floodplain Management and**  
**EO 11990 Wetlands Protection Determination**  
***Commercial & Economic Development Initiative within NY State Community Development Block***  
***Grant Disaster Recovery Program***  
*November 20, 2017*

**Introduction & Overview**

The purpose of Executive Order 11988, Floodplain Management, is “to avoid to the extent possible the long- and short-term adverse impacts associated with occupancy and modification of floodplains and to avoid direct or indirect support of floodplain development wherever there is a practicable alternative.” This report contains the analysis prescribed by 24 CFR Part 55.

This project involves U.S. Department of Housing and Urban Development (HUD) Community Development Block Grant Program – Disaster Recovery (CDBG-DR) funding for completed replacement of building insulation, floating docks and a bulkhead and future construction-related activities to the marina store, travel lift pit area and boat ramp for a single business impacted by Hurricane Irene. The analysis that follows focuses on floodplain impacts, as there are no direct wetland impacts associated with this project. Based on case characteristics and the elevation of the marina store’s lowest floor at two feet above BFE and the restaurant’s elevation at least two feet above BFE, it is concluded that there is a reasonable basis to proceed with funding for this project/ activity within floodplain. Moreover, in the [March 5, 2013 Federal Register Notice](#), HUD expressly recognized that “without the return of businesses and jobs to a disaster-impacted area, recovery may be impossible. Therefore, HUD strongly encourages grantees to envision economic revitalization as a cornerstone to a long-term recovery” (78 FR 14335). Thus, alternatives preventing or impeding small business recovery are not considered reasonable alternatives.

**Description of Proposed Action & Land Use**

Indian Bay Marina, Inc (Applicant) owns the property located at 237 and 239 Corlear Drive, Town of Willsboro, Essex County, New York 12996 where the marina operates. The Applicant also owns the adjoining parcels as shown on the project location maps which in total encompasses three parcels known as Tax Map #s: 21.5-1-71.110, 21.5-1-29.000, and 21.5-1-30.000. The Property Description shows a 8.4-acre lot across the three parcels. This small business is located within the Adirondack Park, and has been zoned by the Adirondack Park Agency as a Moderate Intensity Land use area.

The proposed HUD Community Development Block Grant-Disaster Recovery (CDBG-DR) support involves a limited grant award of \$15,470.19 in reimbursed construction related activities, \$60,391.10 in proposed construction support, and \$71,747.12 in proposed mitigation support. The completed construction-related activities involved the replacement of building insulation, floating docks and a bulkhead. The new bulkhead replaced an existing 75-foot long by 4- to 6-foot high sea wall within the same footprint. The replacement bulkhead was installed in the same footprint and using a similar method as the original construction. Some large rocks were retrieved from the lake floor in front of the damaged bulkhead and placed landward behind the bulkhead as recommended by the USACE. An excavator was used to perform most of the work and remained on land. In addition, repairs and replacement of the existing decking on the floating docks were completed, and existing insulation for the restaurant on the property was replaced.

Future construction-related activities on the marina store will include the repair of the west wall, replacement of a window, and removal and replacement of the existing wooden overhead door with double-man doors. In addition, the roof and siding will be replaced to match the restaurant on the property. The existing siding on the marina store is wood and will be replaced with vinyl shakes.

Future construction-related mitigation activities for the travel lift pit area will include the installation of a temporary silt fence, removal of the damaged steel barrier, and installation of approximately 300 square feet of new barrier in all three sections of the north wall allowing for a two-inch opening at the top. Material will be reinforced according to specifications. Additionally, excess fill that has accumulated inside the travel lift pit area will be removed to maintain the center depth of eight feet.

Future construction-related mitigation activities for the existing damaged concrete boat ramp will include re-grading and leveling, then framing up and pouring approximately 20 yards of 3,000 psi concrete, which will be reinforced with #4 bar and six-inch wire mesh throughout the entire concrete slab. The concrete will be poured on land and then slid into place.

Mitigation techniques for building in floodplain were applied during the reimbursed construction of the restaurant structure by elevating it to the Base Flood Elevation (BFE) plus three feet. The Applicant provided an elevation survey demonstrating that the lowest floor of the marina store is located more than two feet above BFE. A previous environmental review for separate activities categorized under 24 CFR 58.35(b)(4) for this Applicant was completed on February 2, 2017 and is included in the Environmental Review Record.

#### **Applicable Regulatory Procedure Per EO 11988**

The proposed action corresponds with a noncritical action not excluded under 24 CFR §55.12(b) or (c). Funding is permissible for the use in the floodplain if the proposed action is processed under §55.20 and the findings of the determination are affirmative to suggest that the project may proceed.

Based on online data, including data managed and updated by the U.S. Fish & Wildlife Service (USFWS) and NYSDEC, there are mapped wetlands adjacent to the Subject Property (**Appendix I**). While the project activities will be conducted partly in the wetlands on the edge of the Subject Property, the bulkhead replacement and maintenance dredging does not constitute new construction in wetlands. Thus, in accordance with the decision-making process set forth in 24 CFR Part 55, this analysis focuses exclusively on floodplains since a Wetlands Protection Determination is not required.

According to 24 CFR §55, the activity planned to repair impacted building(s) and/ or structure(s) occurs in a community that is in the regular program of the National Flood Insurance Program (NFIP) and the community is currently in good standing. However, based on the total amount of damage reported after Hurricane Irene, this project exceeds a substantial improvement threshold of 50% in 24 CFR §55.2(b)(10). As such, the full eight-step floodplain determination process in §55.20 is required. The following analysis examines each step in a floodplain management determination process.

#### ***Step 1. Determine Whether the Proposed Action is Located in the 100-year Floodplain (500-year for Critical Actions) or results in New Construction in Wetlands.***

The location of the proposed action, per the FEMA flood map Firmette as attached in **Appendix II**, is within 100-year floodplain (SFHA - AE Zone). There is an established BFE of approximately 102 feet across the property. This action does not require a Section 404 permit under the Clean Water Act (see 55.20(a)(1)).

#### ***Step 2. Initiate Public Notice for Early Review of Proposal.***

Because the proposed project is located in floodplain and wetlands, the Governor's Office of Storm Recovery (GOSR) published an early notice that allowed for public and public agency input on the decision to provide funding for reconstruction and development activities. The early public notice and 15-day comment period is complete. No public comments were received.

The early notice and corresponding 15-day public comment period started on July 13, 2017 with the "Early Notice of a Proposed Activity in 100-Year Floodplain" being published in the Post\*Star newspaper, with the 15-day period expiring on July 28, 2017. The notice targeted local residents, including those in the floodplain. The notice was also sent to the following state and federal agencies on July 13, 2017: Federal Emergency Management Agency (FEMA); U.S. Environmental Protection Agency (EPA); U.S. Department of Housing and Urban Development; U.S. Army Corps of Engineers (USACE); NYSDEC; and New York State Office of Emergency Management. The notice was also sent to Essex County and the Town of Willsboro. (See **Appendixes III and IV** of this EO 11990 Wetlands Protection and EO 11988 Floodplain Management Determination for the letter distributed to these agencies and the associated newspaper notice affidavit).

***Step 3. Identify and Evaluate Practicable Alternatives to Locating the Proposed Action in a 100-year Floodplain (or 500-year Floodplain if a Critical Action) or Wetland.***

The Program is structured to provide eligible businesses with loan or grant assistance for activities necessary to restore storm-damaged businesses, including through damage reimbursements, and support for rehabilitation, reconstruction, elevation, and/ or other mitigation activities. This small business suffered substantial damage during Hurricane Irene, as such potential alternatives must be considered in order to try and mitigate the amount of damage from future flood events.

The alternative to funding the necessary repairs and mitigation activities would be for no action to occur, meaning the Applicant would not be receiving grant funds to restore and sustain their small business. This option means there would be a potential inability for the business to survive rebuilding after the storm. Furthermore, the ability for the owner to successfully mitigate any future damages from floods would be impeded due to the lack of financial support; which means the property would be more vulnerable. This could greatly impact this business and the surrounding community, as recovery would be greatly impaired due to lack of support. Accordingly, the 'no action' decision would neither support this business's recovery nor help the community recover from the devastating storms.

Due to the number of developed parcels within this community located within the Adirondack Park, prohibition of rehabilitation within floodplain is not practicable. Applicants who choose to rebuild substantially damaged structures within floodplain using CDBG-DR grant funds must adhere to the relevant elevation requirements in order to mitigate or avoid future damages.

The above identified alternatives will be re-evaluated in response to public comments received.

***Step 4. Identify & Evaluate Potential Direct & Indirect Impacts Associated with Occupancy or Modification of 100-year Floodplain and Potential Direct & Indirect Support of Floodplain and Wetland Development that Could Result from Proposed Action.***

The focus of floodplain evaluation should be on adverse impacts to lives and property, and on natural and beneficial floodplain values. Natural and beneficial values include consideration of potential for adverse impacts on water resources such as natural moderation of floods, water quality maintenance, and groundwater recharge.

According to the FEMA Report - [A Unified National Program for Floodplain Management](#), two definitions commonly used in evaluating actions in floodplain are "structural" and "non-structural" activities. Per the report, structural activity is usually intended to mean adjustments that modify the behavior of floodwaters through the use of measures such as public works dams, levees and channel work. Non-structural is usually intended to include all other adjustments (e.g., regulations, insurance, etc.) in the way society acts when occupying or modifying a floodplain. These definitions are used in describing impacts that may arise in association with potential advancement of this case.

### *Natural moderation of floods*

As the Applicant's property is located in an area with limited availability for development within the 100-year floodplain due to the functionally dependent nature of this small business and the location within a zoned moderate intensity use area within the Adirondack State Park, the continued occupancy may potentially result in future direct impacts to property during certain severe floods and related natural disasters. However, the direct effects to this property would be no greater than those expected to the other adjacent occupied properties within this floodplain.

### *Living resources such as flora and fauna*

This land use may constitute a type of business where, after flooding, materials used in operations could potentially be released into the environment, thereby having unquantifiable potential to impact water quality maintenance and ecological resources. A potential impact that may arise is that materials used or stored on-site would be caused to be released into the environment, such as a result of wind or floodwaters. However, this would be more likely if there are not non-structural and structural floodproofing techniques in place, such as if materials are not stored in water-tight containers, and/ or said containers break or migrate out of a non-enclosed building due to lack of proper preparation. A qualitative evaluation suggests the potential would be relatively small and if such releases do occur, it is likely as part of a potential area-wide impact. In such an instance, floatable debris could contribute to litter and if there were minor amounts of chemicals used on the Subject Property, floodwaters may induce rapid dilution. Given the nature of this business, the potential for an acute or chronic level of water quality impact from the Subject Property is low.

### *Impacts to Property & Lives*

The action does present potential to impact commercial occupancy of the floodplain, but it does not impact residential structures or directly cause modification of the 100-year floodplain. The project does not alter the floodplain because it does not in any way directly or physically modify the floodplain through new ground disturbance – it only repairs the structure(s) in-kind. Moreover, supporting the recovery of small businesses is an essential component of recovery in storm-affected communities, as recognized by the March 2013 Federal Register Notice.

Occupancy of this floodplain in this area has taken place since the industrial revolution, with the area relying heavily on access to the waterways for their industrial needs and, later, tourism. According to Essex County's Pre-Disaster Multi-Jurisdictional Hazard Mitigation Plan<sup>1</sup>, 2011, the town of Willsboro is subject to frequent floods (31) and is one of the reported 21 properties that meet guidelines of severe repetitive loss due to flooding (26). Considering the context of the area, this action represents an activity at only one parcel among others that are located within contiguous floodplain. Thus, funding this project/ activity does constitute indirect continued support of floodplain occupancy and development for this business. In the event of severe flooding and associated natural hazards in the future, there is potential for further damage to this property, business disruption, and impacts to this small business.

The predominantly in-kind and in-place rehabilitation of the Subject Property sustains area property values and community character within a district and neighborhood that has been settled for a long time. It enables continued viability of this small business, which might otherwise degrade, or cease to exist, without support in rehabilitating facilities, restarting business operations, and/or recouping some revenue lost as a result of the disaster. Similarly, the proposed investment supports the area by sustaining an asset. With sustained operations here, the market is not disrupted in that customers and tenants are required to travel greater distances. Support to sustain this business also helps ensure a diverse economic base. If this project were not funded, there probably would be other undefined, undesirable indirect impacts to lives and the area economy, on a short- and long-term basis, such as relating to economic multipliers and

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<sup>1</sup> <https://www.co.essex.ny.us/wp/pre-disaster-multi-jurisdictional-hazard-mitigation-plan/>

support that this business provides to surrounding businesses, as it purchases products and services.

*Cultural resources such as archaeological, historic & recreational aspects*

The impacted property appears to have been developed more than 50 years ago. There are no recorded historic properties listed on or deemed eligible for the State and National Register of Historic Places adjacent to the Subject Property. The New York State Historic Preservation Office confirmed on February 13, 2017 that this project has no effect on historic or tribal resources. Without support, building resources could degrade and there could be loss of development character and identity for the building and the area.

According to the Outdoor Industry Association's two page fact sheet [New York The Outdoor Recreation Economy](#), outdoor recreation generates \$338 Billion in consumer spending and 305,000 direct jobs within the State. This is an important sector of the regional economy and the subject business is an example of a constituent part of this aspect of the economic base. It is presumed that market demand for a marina and family restaurant is strong and if the service here were disrupted, consumer demand could not easily shift to other facilities located in the floodplain because of finite supply.

*Agricultural, aquacultural, & forestry resources*

The Essex County area has approximately 243 farms covering approximately 50,226 acres, as well as approximately 501,934 acres of wild forest and wilderness property. There is substantial agriculture and tourism industry in Essex County, while the town of Willsboro has a thriving agricultural tradition. This town is also located in the Adirondack State Park, with a wide variety of habitats that include wetlands and old-growth forests. It is possible that if there is a materials release from this property, it could potentially affect natural resources including agricultural and forestry. However, while it is conceivable that flooding of a business like this could be part of a cumulative influence on such resources, the impact attributable to this use could not have been quantitatively derived, and the potential impact, with planning for and practice of non-structural management practices, is considered minor.

**Step 5. Where Practicable, Design or Modify the Proposed Action to Minimize the Potential Adverse Impacts To and From the 100-Year Floodplain and to Restore and Preserve its Natural and Beneficial Functions and Values.**

While the proposed rehabilitation funded by this Program is limited, it is not always financially feasible to specify mitigation measures such as elevating the building, dry floodproofing it, or promoting strategic retreat such as through government acquisition. It is reasonable to promote business owner awareness of future risks of natural hazards, including flooding, plus the physical, social and economic impacts that potential events could convey, including through potential for future physical damage to property, buildings, supplies, and equipment. However, a substantial damage/ substantial improvement determination does trigger certain building regulations set forth by local and state agencies.

It is reasonable to promote business owner awareness of actions they can take to define and prepare for the impacts of many hazards they may face. There are free resources available to aid such preparedness planning found at the link: <http://www.ready.gov/business>. Also, the Applicant could consider participating in The Clean Marina Initiative, an incentive-based program promoted by the National Oceanic and Atmospheric Administration that offers information about engaging in marina-specific operating and maintenance procedures in order to protect coastal water quality.

**Step 6. Reevaluate the Alternatives and Proposed Action.**

The action to fund business infrastructure rehabilitation and continuity at this small business is still practicable in light of exposure to flood hazards in the floodplain, possible adverse impacts on the floodplain, the extent to which it may aggravate current hazards to other floodplains, and the potential to disrupt natural and beneficial functions and values of floodplains. Moreover, the [March 5, 2013 Federal Register Notice](#) strongly recommends that the grantee engage in a robust policy for ensuring small

business recovery affected by the storm events, as such recovery is essential to the continued vitality of surrounding communities. Thus, alternatives preventing or impeding small business recovery are not considered reasonable alternatives.

***Step 7. Issue Findings and Public Explanation.***

It is the finding of this report that there is no better alternative than to provide funding for the repairs at this small business. The location within floodplain cannot be avoided due to requirements of a marina and land economics, in terms of the high expected cost of land outside floodplain and the high development costs of relocating the business. However, not funding any actions would mean that this small business would struggle to recover, much less be able to mitigate any future damages. A final notice, formally known as “Notice of Policy Determination”, was published on November 20, 2017, in accordance with 24 CFR 55. This notice was combined with the “Notice of Intent to Request Release of Funds (*NOI-RROF*)” publication. (See **Appendix V** of this EO 11988 Floodplain Management Determination and EO 11990 Wetlands Protection for the letter distributed to the associated agencies). The comment period for the combined notice began with the Final Notice publishing in the Post\*Star newspaper on November 20, 2017. The comment period for the combined notice is 7 days, which expires at 5pm on November 27, 2017. The combined notice describes the reasons why the project must be located in the floodplain, alternatives considered, and all mitigation measures to be taken to minimize adverse impacts and preserve natural and beneficial floodplain values.

***Step 8. Continuing Responsibility of Responsible Entity & Recipient.***

The Governor's Office of Storm Recovery (GOSR), operating under the auspices of the New York State Homes and Community Renewal's (NYSHCR) Housing Trust Fund Corporation, is the responsible entity. The responsible entity will make available educational materials regarding best practices for businesses located in floodplains. It will also require the business to demonstrate proof of current flood insurance, when applicable. It is acknowledged there is a continuing responsibility by the responsible entity to ensure, to the extent feasible and necessary, compliance with the steps herein.

## **Appendix I**

**NYSDEC Environmental Resources Map**

**USFWS NWI Maps**



# Environmental Resource Mapper

Base Map:



Search

Tools

## Layers and Legend

All Layers

Unique Geological Features

Waterbody Classifications for Rivers/Streams

Waterbody Classifications for Lakes

State Regulated Freshwater Wetlands

State Regulated Wetland Checkzone

Significant Natural Communities

Natural Communities Near This Location

Rare Plants and Rare Animals

Other Wetland Layers

Reference Layers

Tell Me More...

Need A Permit?

Contacts



Approximate Boundary of  
237 Corlear Dr. &  
239 Corlear Dr.  
Willsboro, NY 12996



-73.396, 44.423



NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

# Environmental Resource Mapper

Base Map:



Search

Tools

## Layers and Legend

- All Layers

---

- Unique Geological Features
- Waterbody Classifications for Rivers/Streams
- Waterbody Classifications for Lakes
- State Regulated Freshwater Wetlands
  - State Regulated Wetland Checkzone
- Significant Natural Communities
  - Natural Communities Near This Location
- Rare Plants and Rare Animals

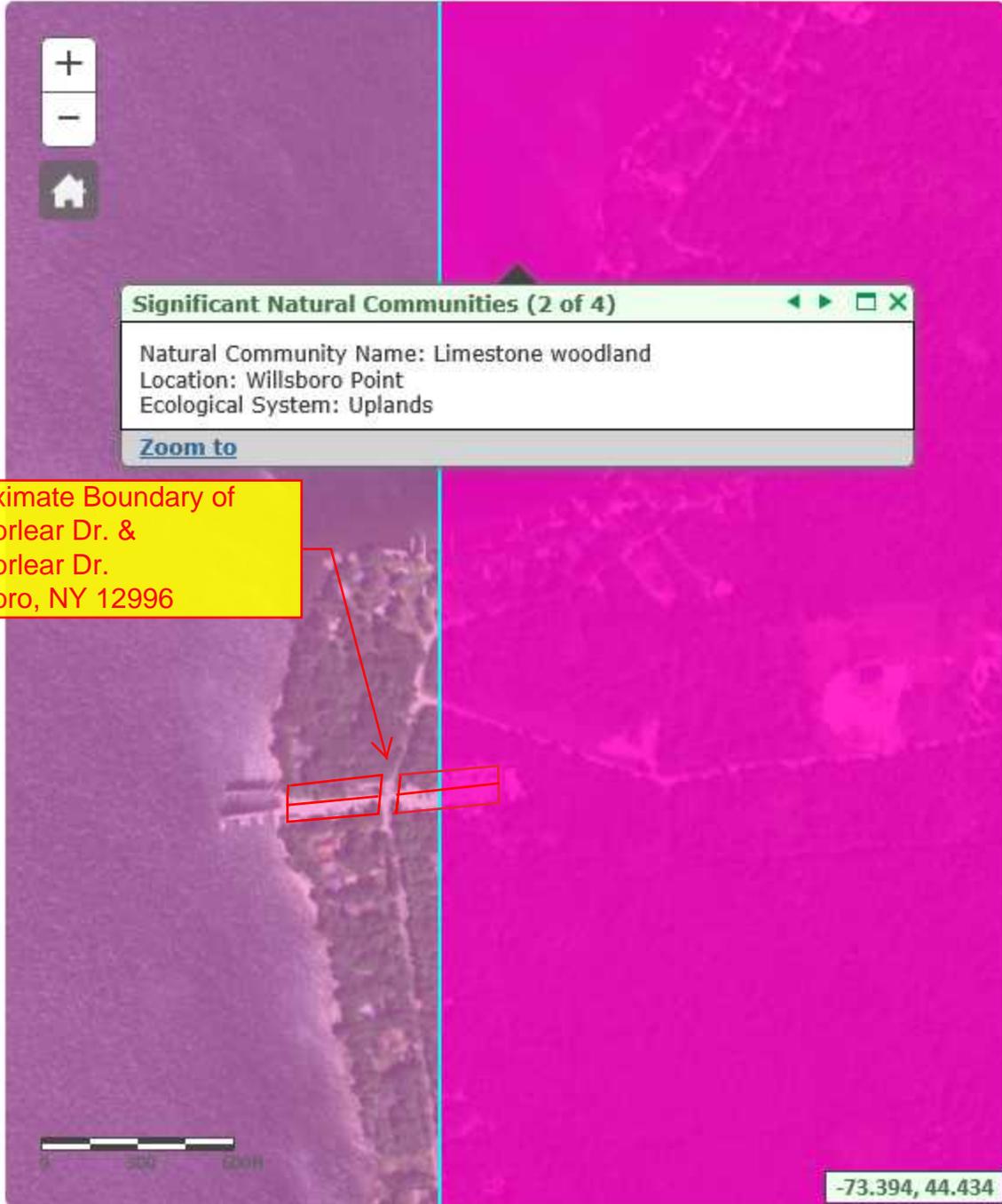
Other Wetland Layers

Reference Layers

Tell Me More...

Need A Permit?

Contacts

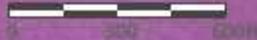


**Significant Natural Communities (2 of 4)** ◀ ▶ □ ×

Natural Community Name: Limestone woodland  
Location: Willsboro Point  
Ecological System: Uplands

[Zoom to](#)

Approximate Boundary of  
237 Corlear Dr. &  
239 Corlear Dr.  
Willsboro, NY 12996



-73.394, 44.434



NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

# Environmental Resource Mapper

Base Map:

Search

Tools

### Layers and Legend

All Layers

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Unique Geological Features

Waterbody Classifications for Rivers/Streams

Waterbody Classifications for Lakes

State Regulated Freshwater Wetlands

State Regulated Wetland Checkzone

Significant Natural Communities

Natural Communities Near This Location

Rare Plants and Rare Animals

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Other Wetland Layers

Reference Layers

Tell Me More...

Need A Permit?

Contacts

**Significant Natural Communities (3 of 4)**

Natural Community Name: Calcareous shoreline outcrop  
Location: Willsboro Point  
Ecological System: Uplands

[Zoom to](#)

Approximate Boundary of  
237 Corlear Dr. &  
239 Corlear Dr.  
Willsboro, NY 12996

**-73.396, 44.425**



NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

# Environmental Resource Mapper

Base Map:



Search

Tools

### Layers and Legend

All Layers

Unique Geological Features

Waterbody Classifications for Rivers/Streams

Waterbody Classifications for Lakes

State Regulated Freshwater Wetlands

State Regulated Wetland Checkzone

Significant Natural Communities

Natural Communities Near This Location

Rare Plants and Rare Animals

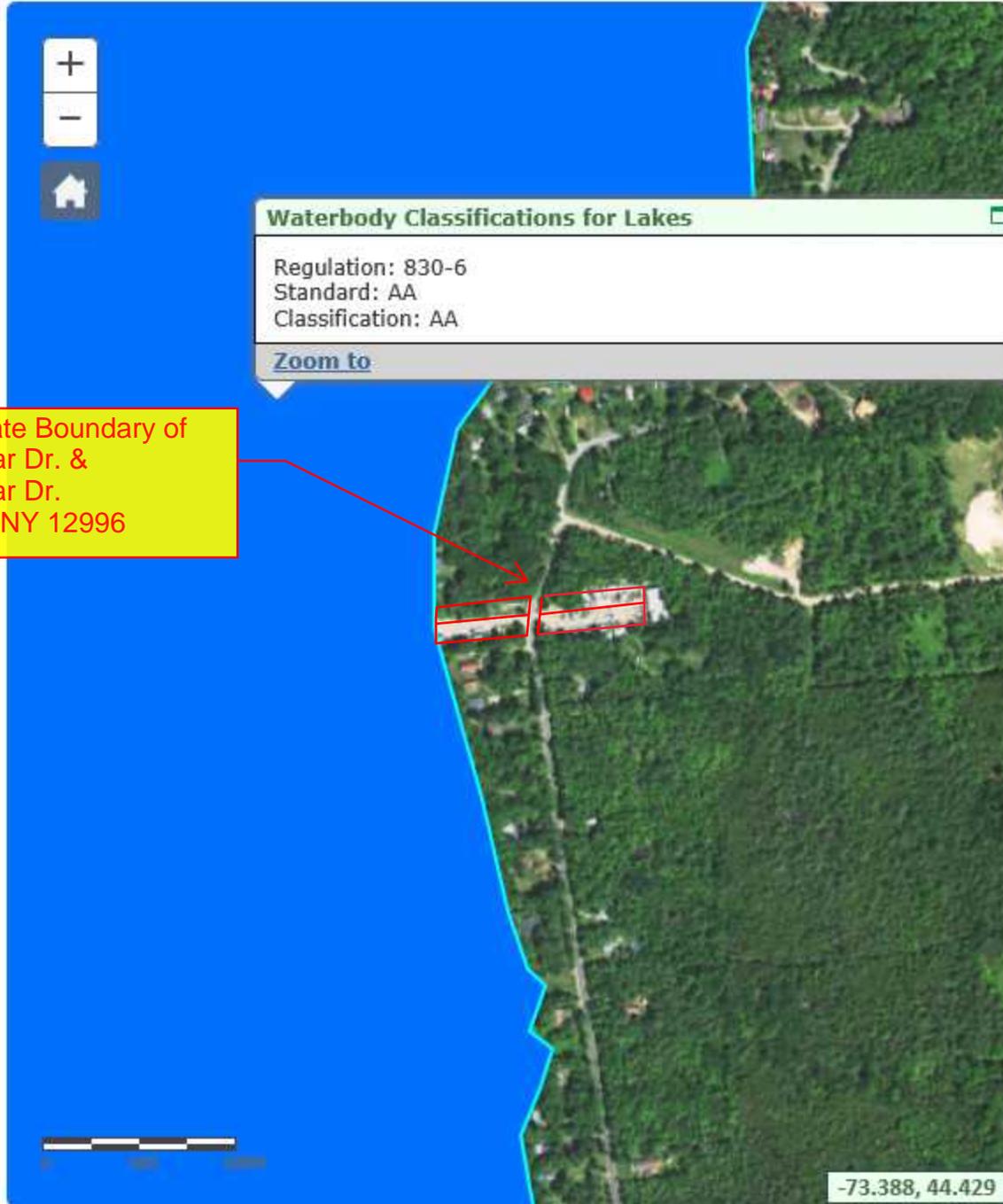
Other Wetland Layers

Reference Layers

Tell Me More...

Need A Permit?

Contacts



### Waterbody Classifications for Lakes

Regulation: 830-6  
Standard: AA  
Classification: AA

[Zoom to](#)

Approximate Boundary of  
237 Corlear Dr. &  
239 Corlear Dr.  
Willsboro, NY 12996

-73.388, 44.429



Measure

Approximate Boundary of  
237 Corlear Dr. &  
239 Corlear Dr.  
Willsboro, NY 12996

## LEGEND

### Wetlands

#### Wetlands

- Estuarine and Marine Deepwater
- Estuarine and Marine Wetland
- Freshwater Emergent Wetland
- Freshwater Forested/Shrub Wetland
- Freshwater Pond
- Lake
- Other
- Riverine

1:9,028  
44,423 | -73.381



Measure



## LEGEND

### Wetlands

#### Wetlands

- Estuarine and Marine Deepwater
- Estuarine and Marine Wetland
- Freshwater Emergent Wetland
- Freshwater Forested/Shrub Wetland
- Freshwater Pond
- Lake
- Other
- Riverine

### Wetland

**Classification:** L1UBH ([decode](#))

**Wetland Type:** Lake

**Acres:** 230207.05

**Image Date(s):** xx/10

**Project Metadata:** [click here](#)

[Zoom to wetland](#)

Approximate Boundary of  
237 Corlear Dr. &  
239 Corlear Dr.  
Willsboro, NY 12996

1:9,028  
44.422 | -73.394

+ Measure  
-  
Refresh  
Home

Approximate Boundary of  
237 Corlear Dr. &  
239 Corlear Dr.  
Willsboro, NY 12996

LEGEND

**Wetlands**

- Wetlands
  - Estuarine and Marine Deepwater
  - Estuarine and Marine Wetland
  - Freshwater Emergent Wetland
  - Freshwater Forested/Shrub Wetland
  - Freshwater Pond
  - Lake
  - Other
  - Riverine

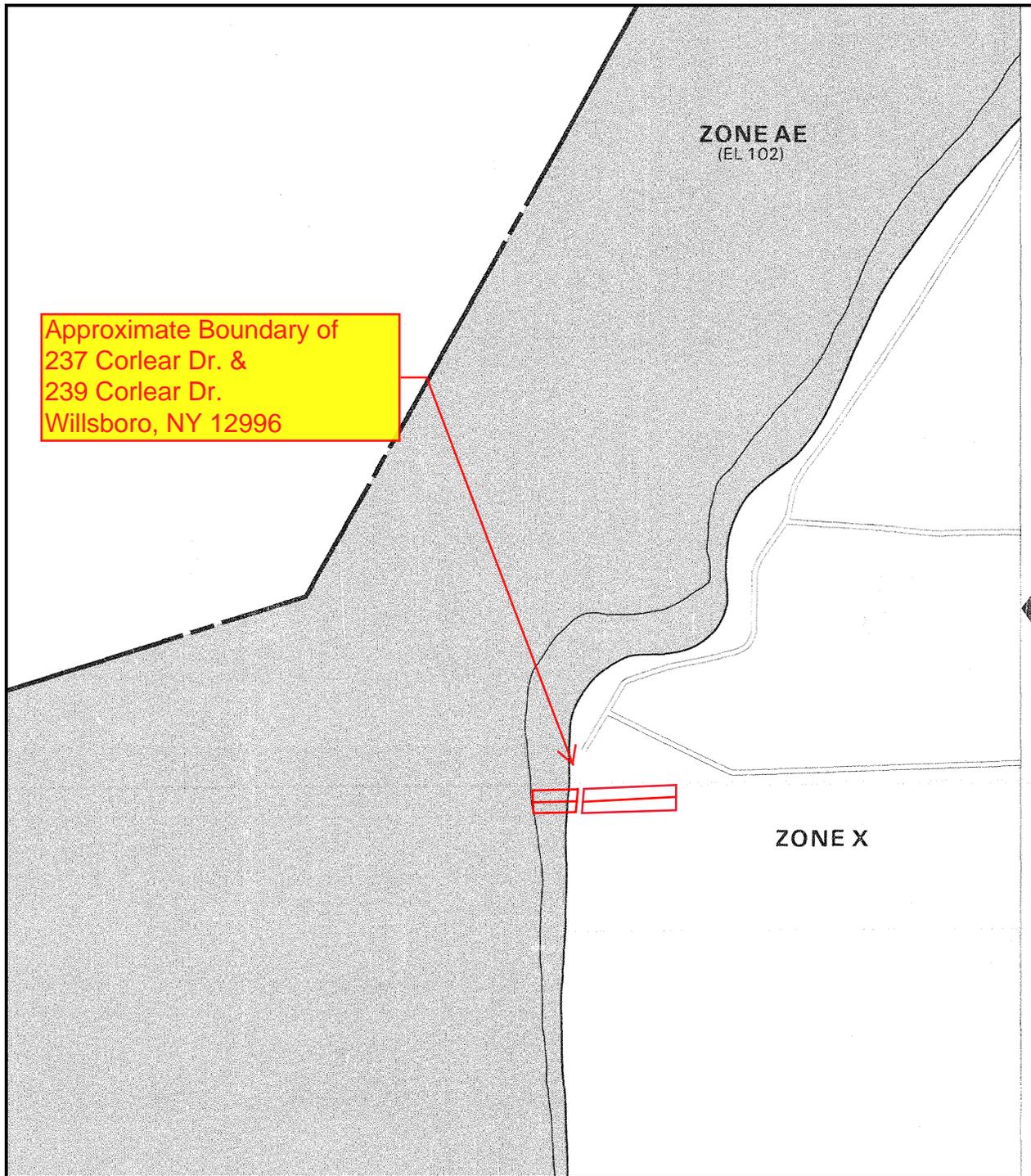
Wetland

**Classification:** PFO1E ([decode](#))  
**Wetland Type:** Freshwater Forested/Shrub Wetland  
**Acres:** 1.24  
**Image Date(s):** xx/10  
**Project Metadata:** [click here](#)  
[Zoom to wetland](#)

1:9,028  
44.422 | -73.396

## **Appendix II**

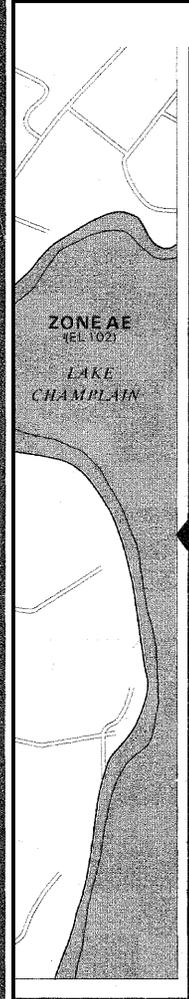
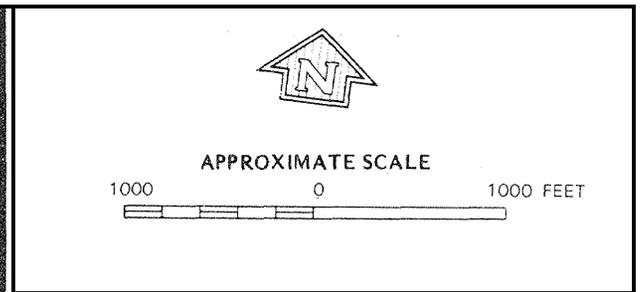
### **FEMA Firmette Map**



Approximate Boundary of  
237 Corlear Dr. &  
239 Corlear Dr.  
Willsboro, NY 12996

ZONE AE  
(EL 102)

ZONE X



**NATIONAL FLOOD INSURANCE PROGRAM**

**FIRM**  
**FLOOD INSURANCE RATE MAP**

TOWN OF  
**WILLSBORO, NEW YORK**  
ESSEX COUNTY

PANEL 10 OF 25  
(SEE MAP INDEX FOR PANELS NOT PRINTED)

PANEL LOCATION

**COMMUNITY-PANEL NUMBER**  
360267 0010 B

**EFFECTIVE DATE:**  
MARCH 18, 1987

Federal Emergency Management Agency

This is an official copy of a portion of the above referenced flood map. It was extracted using F-MIT On-Line. This map does not reflect changes or amendments which may have been made subsequent to the date on the title block. For the latest product information about National Flood Insurance Program flood maps check the FEMA Flood Map Store at [www.msc.fema.gov](http://www.msc.fema.gov)

## **Appendix III**

### **Notice of Early Public Review Floodplain Management Executive Order 11988**



**ANDREW M. CUOMO**  
Governor

**LISA BOVA-HIATT**  
Executive Director

**EARLY NOTICE OF A PROPOSED ACTIVITY IN A 100-YEAR FLOODPLAIN**

**INDIAN BAY MARINA, INC. (031-ED-32257-2013)  
237 CORLEAR DRIVE, TOWN OF WILLSBORO,  
ESSEX COUNTY, NEW YORK 12996  
JULY 13, 2017**

To: All interested Agencies, Groups, and Individuals

This is to give notice that the Governor's Office of Storm Recovery (GOSR), an office of the New York State Housing Trust Fund Corporation (HTFC), has received a request to use Community Development Block Grant – Disaster Recovery (CDBG-DR) funding from the NY Rising Small Business Recovery Program to implement repairs & mitigation the Indian Bay Marina, Inc., case #031-ED-32257-2013, (hereinafter, the "Proposed Activity") and is conducting an evaluation as required by Executive Order 11988 and Executive Order 11990 in accordance with U.S. Department of Housing and Urban Renewal (HUD) regulations (24 CFR Part 55). There are three primary purposes for this notice. First, to provide the public an opportunity to express their concerns and share information about the Proposed Activity, including alternative locations outside of the floodplain. Second, adequate public notice is an important public education tool. The dissemination of information about floodplains facilitates and enhances governmental efforts to reduce the risks associated with the occupancy and modification of these special areas. Third, as a matter of fairness, when the government determines it will participate in actions taking place in floodplain, it must inform those who may be put at greater or continued risk. Funding for the Proposed Activity will be provided by the HUD CDBG-DR program for storm recovery activities in New York State.

The Proposed Activity is needed to address storm damage generated by Hurricane Irene, which involved flooding and wind damage throughout the property. The wave action and scouring destroyed the timber bulkhead south of the travel lift, and the travel lift pit became filled with silt and storm debris. North of the travel lift was a concrete boat launch which was damaged beyond repair, and has been subsequently demolished. In addition, the gravel parking lot washed out from the heavy flooding.

The Proposed Activity entails CDBG-DR funding would provide funding for completed construction-related activities including insulation replacement in the restaurant building and the replacement of floating docks and a bulkhead. Additional funding would be provided for future repairs and mitigation work to the marina store including interior repairs and window, doors, roofing and siding replacement. Also, the travel lift pit area existing steel barrier in the northern wall will be replaced and excess sediment accumulated inside the travel lift pit will be removed to maintain the center depth of eight feet. Additionally, the previously existing boat ramp will be replaced.

The Proposed Activity will result in temporary impacts to approximately one acre of 100-Year Floodplain and approximately 0.02 acres of National Wetland Inventory (NWI) and New York State Department of Environmental Conservation (NYSDEC) mapped wetlands. The Proposed Activity will result in temporary, and no new permanent impacts, to 100-Year Floodplain from work associated with the construction of the replacement bulkhead, dock, and travel lift areas. While the Project Activities will be conducted partly in the wetlands, the funded activities do not constitute new construction in wetlands since they restore the

business facilities to the pre-storm conditions.

Floodplain maps based on the FEMA Flood Insurance Rate Maps and wetlands maps based on the NWI and NYSDEC data have been prepared and are available for review with additional information at <http://www.stormrecovery.ny.gov/environmental-docs>.

Any individual, group, or agency may submit written comments on the Proposed Activity or request further information by contacting Lori A. Shirley, Certifying Officer, Governor's Office of Storm Recovery, 38-40 State Street, Hampton Plaza, Albany, NY 12207; email: NYSCDBG\_DR\_ER@nyshcr.org. Standard office hours are 9:00 AM to 5:00 PM Monday through Friday. For more information, call (518) 474-0755. All comments received by **July 28, 2017** will be considered.

## **Appendix IV**

### **Notice of Early Public Review Affidavit Floodplain Management Executive Order 11988**

\*\*\* Proof of Publication \*\*\*

WARREN COUNTY AFFIDAVIT

STATE OF NEW YORK:

County of Warren, ss:

Donna Morehouse \_\_\_\_\_ being duly sworn,

says that (s)he is an authorized designee for Lee Enterprises, publishers of THE POST-STAR, a daily newspaper published in Glens Falls, Warren County, State of New York, and that the printed notice attached hereto was cut from the said POST-STAR, and that the said notice was published therein, namely

Tectonic - 100 year Flood Plain  
July 13, 2017

TECTONIC

PO BOX 37, 70 PLEASANT HILL ROAD  
MOUNTAINVILLE, NY 10953

ORDER NUMBER 24126

Signed this 13 day of July, 2017

Donna Morehouse

Sworn to before me this 13 day of July, 2017

[Signature]

**BRIAN J. CORCORAN**  
Notary Public - State of New York  
No. 01CO6133976  
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**EARLY NOTICE OF A  
PROPOSED ACTIVITY IN A  
100-YEAR FLOODPLAIN  
INDIAN BAY MARINA, INC.  
(031-ED-32257-2013)  
237 CORLEAR DRIVE, TOWN OF  
WILLSBORO,  
ESSEX COUNTY, NEW YORK  
12996**

**JULY 13, 2017**

To: All interested Agencies,  
Groups, and Individuals

This is to give notice that the Governor's Office of Storm Recovery (GOSR), an office of the New York State Housing Trust Fund Corporation (HTFC), has received a request to use Community Development Block Grant - Disaster Recovery (CDBG-DR) funding from the NY Rising Small Business Recovery Program to implement repairs & mitigation the Indian Bay Marina, Inc., case #031-ED-32257-2013, (hereinafter, the "Proposed Activity") and is conducting an evaluation as required by Executive Order 11988 and Executive Order 11990 in accordance with U.S. Department of Housing and Urban Renewal (HUD) regulations (24 CFR Part 55). There are three primary purposes for this notice. First, to provide the public an opportunity to express their concerns and share information about the Proposed Activity, including alternative locations outside of the floodplain. Second, adequate public notice is an important public education tool. The dissemination of information about floodplains facilitates and enhances governmental efforts to reduce the risks associated with the occupancy and modification of these special areas. Third, as a matter of fairness, when the government determines it will participate in actions taking place in floodplain, it must inform those who may be put at greater or continued risk. Funding for the Proposed Activity will be provided by the HUD CDBG-DR program for storm recovery activities in New York State.

The Proposed Activity is needed to address storm damage generated by Hurricane Irene, which involved flooding and wind damage throughout the property. The wave action and scouring destroyed the timber bulkhead south of the travel lift, and the travel lift pit became filled with silt and storm debris. North of the travel lift was a concrete boat launch which was damaged beyond repair, and has been subsequently demolished. In addition, the gravel parking lot washed out from the heavy flooding.

The Proposed Activity entails CDBG-DR funding would provide funding for completed construction-related activities including insulation replacement in the restaurant building and the replacement of floating docks and a bulkhead. Additional funding would be provided for future repairs and mitigation work to the marina store including interior repairs and window, doors, roofing and siding replacement. Also, the travel lift pit area existing steel barrier in the northern wall will be replaced and excess sediment accumulated inside the travel lift pit will be removed to maintain the center depth of eight feet. Additionally, the previously existing boat ramp will be replaced.

The Proposed Activity will result in temporary impacts to approximately one acre of 100-Year Floodplain and approximately 0.02 acres of National Wetland Inventory (NWI) and New York State Department of Environmental Conservation (NYS-DEC) mapped wetlands. The Proposed Activity will result in temporary, and no new permanent impacts, to 100-Year Floodplain from work

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to 100-year floodplain from work associated with the construction of the replacement bulkhead, dock, and travel lift areas. While the Project Activities will be conducted partly in the wetlands, the funded activities do not constitute new construction in wetlands since they restore the business facilities to the pre-storm conditions.

Floodplain maps based on the FEMA Flood Insurance Rate Maps and wetlands maps based on the NWI and NYSDEC data have been prepared and are available for review with additional information at <http://www.stormrecovery.ny.gov/environmental-docs>.

Any individual, group, or agency may submit written comments on the Proposed Activity or request further information by contacting Lori A. Shirley, Certifying Officer, Governor's Office of Storm Recovery, 38-40 State Street, Hampton Plaza, Albany, NY 12207; email: NYSCDBG\_DR\_ER@nyshcr.org. Standard office hours are 9:00 AM to 5:00 PM Monday through Friday. For more information, call (518) 474-0755. All comments received by July 28, 2017 will be considered.  
**PUB: JULY 13, 2017**

## **Appendix V**

### **Final Notice Floodplain Management Executive Order 11988**

**Note:** The Floodplain Management Document Final Notice was included in the “Combined Public Explanation of a Proposed Activity in a 100-Year Floodplain and Notice of Intent to Request Release of Funds (*NOI-RROF*)” publication. This combined notice was published on November 20, 2017, attached herein.



## Governor's Office of Storm Recovery

ANDREW M. CUOMO  
Governor

LISA BOVA-HIATT  
Executive Director

### COMBINED PUBLIC EXPLANATION OF A PROPOSED ACTIVITY IN A 100-YEAR FLOODPLAIN AND NOTICE OF INTENT TO REQUEST RELEASE OF FUNDS (*NOI-RROF*) Indian Bay Marina, Inc. (031-ED-32257-2013) November 20, 2017

**Name of Responsible Entity and Recipient:** New York State Homes and Community Renewal (HCR), 38-40 State Street, Hampton Plaza, Albany, NY 12207, in cooperation with the New York State Housing Trust Fund Corporation (HTFC), of the same address. Contact: Lori A. Shirley (518) 474-0755. The Governor's Office of Storm Recovery (GOSR), an office of HCR's HTFC, is responsible for the direct administration of the United States Department of Housing and Urban Development (HUD) Community Development Block Grant – Disaster Recovery (CDBG-DR) program in New York State.

Pursuant to 24 CFR part 58 and 24 CFR part 55, this combined Final Notice and Public Explanation of a Proposed Activity in a Floodplain and Notice of Intent to Request Release of Funds (NOIRROF) satisfies two separate procedural requirements for project activities proposed to be undertaken by HCR.

**Project Description:** GOSR proposes to provide CDBG-DR funding to Indian Bay Marina, Inc. (031-ED-32257-2013), which is located at 237 and 239 Corlear Drive, Town of Willsboro, Essex County, New York 12996 (the "Proposed Project"). HUD CDBG-DR funding totaling \$165,238.41 is proposed for completed construction-related activities including insulation replacement in the restaurant building and the replacement of floating docks and a bulkhead. Funding would also be provided for future repairs and mitigation work to the marina store including interior repairs and window, doors, roofing and siding replacement. Also, replacement of existing steel barrier in the travel lift pit area and removal of excess sediment accumulated inside the travel lift pit to maintain the center depth of eight feet. Additionally, the existing boat ramp will be replaced.

#### **PUBLIC EXPLANATION OF A PROPOSED ACTIVITY IN A 100-YEAR FLOODPLAIN**

This work is located in 100-year floodplain (SHFA Zone AE). There was no new construction within the approximately 0.95 acre of floodplain on the Subject Property. Since the action exceeds the substantial damage threshold of 50% in 24 CFR §55.2(b)(10), Executive Order 11988 requires that the project not be supported if there are practicable alternatives to development in floodplain.

There are three primary purposes for this notice. First, people who may be affected by activities in floodplains and those who have an interest in the protection of the natural environment have an opportunity to express their concerns and provide information about these areas. Second, adequate public notice is an important public education tool. The dissemination of information and request for public comment about floodplains can facilitate and enhance federal efforts to reduce the risks associated with the occupancy and modification of these special areas. Third, as a matter of fairness, when the federal government determines it will participate in actions taking place in floodplains, it must inform those who may be put at greater or continued risk.

**Public Review:** Public viewing of the Floodplain Management Documents are available online at <http://www.stormrecovery.ny.gov/environmental-docs> and are also available in person Monday – Friday, 9:00 AM – 5:00 PM at the following address: New York State Homes and Community Renewal (HCR), 38-40 State Street, Hampton Plaza, Albany, NY 12207. Contact: Lori A. Shirley (518) 474-0755.

## **REQUEST FOR RELEASE OF FUNDS AND CERTIFICATION**

On or about November 28, 2017, the HCR certifying officer will submit a request and certification to HUD for the release of CDBG-DR funds appropriated under Public Law 113-2, as amended and as authorized by related laws and policies for the purpose of implementing the New York CDBG-DR Action Plan.

The Proposed Project is categorically excluded from the National Environmental Policy Act of 1969 (NEPA) by HUD regulations at 24 C.F.R. Part 58. An Environmental Review Record (ERR) that documents the environmental determinations for this project is on file and available for review and copying in person.

**Public Review:** Public viewing is available in person Monday – Friday, 9:00 AM – 5:00 PM at the following address: Governor’s Office of Storm Recovery, 99 Washington Avenue, Suite 1224, Albany, New York 12260. Contact: Lori A. Shirley (518) 474-0755.

Further information or a copy of the ERR may be requested by writing to the above address, emailing NYSCDBG\_DR\_ER@nyshcr.org or by calling (518) 474-0755. This combined notice is being sent to individuals and groups known to be interested in these activities, local news media, appropriate local, state and federal agencies, the regional office of the U.S. Environmental Protection Agency having jurisdiction, and to the HUD Field Office, and is being published in a newspaper of general circulation in the affected community.

**Public Comments on the Proposed Activity within 100-year Floodplain and/ or NOIRROF:** Any individual, group or agency may submit written comments on the Project. Comments should be submitted via email, in the proper format, on or before November 27, 2017 at NYSCDBG\_DR\_ER@nyshcr.org. Written comments may also be submitted at the following address, or by mail, in the proper format, to be received on or before November 27, 2017: Governor’s Office of Storm Recovery, 99 Washington Avenue, Suite 1224, Albany, New York 12260. Comments may be received by telephone by contacting Lori A. Shirley at (518) 474-0755. All comments must be received on or before 5pm on November 27, 2017 or they will not be considered. If modifications result from public comment, these will be made prior to proceeding with the expenditure of funds.

**Environmental Certification:** HCR certifies to HUD that Lori A. Shirley, in her capacity as Certifying Officer, consents to accept the jurisdiction of the U.S. federal courts if an action is brought to enforce responsibilities in relation to the environmental review process and that these responsibilities have been satisfied. HUD’s approval of the certification satisfies its responsibilities under NEPA and related laws and authorities, and allows GOSR to use CDBG-DR program funds.

**Objection to Release of Funds:** HUD will accept objections to its release of funds and GOSR’s certification for a period of fifteen days following the anticipated submission date or its actual receipt of the request (whichever is later). Potential objectors may contact HUD or the GOSR Certifying Officer to verify the actual last day of the objection period.

The only permissible grounds for objections claiming a responsible entity’s non-compliance with 24 CFR Part 58 are: (a) Certification was not executed by HCR’s Certifying Officer; (b) the responsible entity has omitted a step or failed to make a decision or finding required by HUD regulations at 24 CFR Part 58; (c) the responsible entity has committed funds or incurred costs not authorized by 24 CFR Part 58 before release of funds and approval of environmental certification; or (d) another Federal agency acting pursuant to 40 CFR Part 1504 has submitted a written finding that the project is unsatisfactory from the standpoint of environmental quality.

Objections must be prepared and submitted in accordance with the required procedures (24 CFR Part 58) and shall be addressed to Tennille Smith Parker, Director, Disaster Recovery and Special Issues Division, Office of Block Grant Assistance, U.S. Department of Housing & Urban Development, 451 7<sup>th</sup> Street SW, Washington, DC 20410, Phone: (202) 402-4649.

Lori A. Shirley  
Certifying Officer  
November 20, 2017