

# **Floodplain Management & Wetland Protection Plan**

Governor's Office of Storm Recovery

Community Development Block Grant – Disaster Recovery  
NY Rising Buyout and Acquisition Program



Tioga County, New York

Effective Date: April 26, 2016

**Executive Order 11988 – Floodplain Management  
Executive Order 11990 – Protection of Wetlands**

**Governor’s Office of Storm Recovery**

**U.S. Department of Housing and Urban Development  
Community Development Block Grant – Disaster Recovery (CDBG-DR)  
NY Rising Buyout and Acquisition Program**

**Tioga County, New York**

**Effective Date: April 26, 2016**

This Floodplain Management and Wetland Protection Plan meets the requirements of 24 CFR Part 55.20 and Executive Order 11988 (Floodplain Management) and Executive Order 11990 (Protection of Wetlands) for the NY Rising Buyout and Acquisition Program (the “Program”) voluntary buyout and acquisitions of 1-2 unit homes in Tioga County, NY (the “Proposed Action”). This Floodplain Management and Wetland Protection Plan documents the eight-step decision making for the Project and pertains to activities within the Special Flood Hazard Area (SFHA) as defined by the Federal Emergency Management Agency (FEMA), or its successors, pursuant to the National Flood Insurance Program (NFIP), or a successor program, whether advisory, preliminary, or final, as well as within wetlands.

**Description of Proposed Program Activities**

The U.S. Department of Housing and Urban Development (HUD) is responsible for administration of the CDBG-DR program pursuant to the Disaster Relief Appropriations Act of 2013. The CDBG-DR program is designed to address the needs of New York State (NYS) communities devastated by Superstorm Sandy. To date, this funding has been disbursed in three allocations. On Tuesday, March 5, 2013, HUD published Federal Register Notice 78 Fed. Reg. 14329, which established the requirements and processes for the first \$1.71 billion in federal CDBG-DR aid appropriated by the United States Congress and allocated to NYS for disaster relief. On November 18, 2013, HUD issued a second allocation of \$2.097 billion to NYS under Federal Register Notice 78 Fed. Reg. 69104. On October 16, 2014, HUD issued the third and final allocation of \$600 million to NYS under Federal Register Notice 79 Fed. Reg. 62194.

The Governor’s Office of Storm Recovery (GOSR) is conducting an evaluation as required by Executive Order 11988 and Executive Order 11990 in accordance with HUD regulations under 24 CFR 55.20 Subpart C - Procedures for Making Determinations on Floodplain Management and Protection of Wetlands, to determine the potential effects that Project activity in the floodplain and in wetland areas would have on the human environment.

Funding for the Proposed Action will be provided in accordance with the State of New York Action Plan For Community Development Block Grant Program – Disaster Recovery (Action Plan). The Action Plan provides for, among other things, home buyout and acquisition assistance to owners of 1-2 unit family homes (Action Plan Activities). “Buyouts” involve the purchase of properties located within a floodplain. Structures and improvements will be removed, and the parcel will be allowed to return to its natural state in perpetuity. “Acquisitions” also involve purchase of properties; however, the specific details of reuse will be determined based on site

specific conditions. Reuse will be in accordance with local zoning and land use plans. No specific enhanced buyout areas have been identified, but buyouts are being analyzed in the event that buyout areas are determined at a later date. This action is of fundamental importance in assisting landowners with damaged property. These are the activities that are the subject of this document, and have been combined together for purposes of an aggregated review in accordance with 24 CFR Part 55.24.

All Applicants for financial assistance will be evaluated for eligibility, in accordance with HUD guidelines. The Program will follow federal policies which ensure that no person may be excluded, denied benefits, or subjected to discrimination on the basis race, color, national origin, religion, sex, familial status, and/or physical or mental handicap under any program funded in whole or in part by federal CDBG-DR funds.

### **Executive Order 11988 and 11990 & 24 CFR Part 55**

Under 24 CFR Part 55.20, an eight-step decision making process must be completed for proposed actions taking place in a floodplain or wetland. 24 CFR Part 55.20 implements Executive Order 11988—Floodplain Management and Executive Order 11990—Protection of Wetlands.

EO 11988 requires federal agencies (or a state agency implementing a federal funding program) to reduce the loss of life and property caused by floods, minimize impacts of floods on human safety, health, and welfare, and preserve the natural and beneficial functions of floodplains. EO 11990 requires federal agencies (or a state agency implementing a federal funding program) to minimize the destruction, loss or degradation of wetlands, and to preserve and enhance the natural and beneficial values of wetlands. Under these orders, federal agencies should first look at avoiding all actions in or adversely affecting floodplains or wetlands unless no practicable alternatives exist. If no practicable alternatives exist, then federal agencies must evaluate the potential effects of the proposed action.

In addition, federal agencies are required to demonstrate that consideration of all practicable alternatives has resulted in the reduction or elimination of the long- and short-term adverse impacts associated with occupancy and modifications of the floodplain or wetlands. This eight-step process includes assessing all practicable alternatives and incorporating public review.

Projects located within a SFHA are subject to Executive Order 11988. Information on where SFHAs are located is available on Flood Insurance Rate Maps (FIRMs) published by FEMA. FEMA uses engineering studies to determine the delineation of these areas or zones subject to flooding. The relevant data source for the SFHA is the latest issued FEMA data or guidance, which includes advisory data, such as Advisory Base Flood Elevations (ABFEs) or preliminary and final FIRMs.

The SFHA is the area that would be inundated by a 100-year flood: an area that has a one percent or greater chance of experiencing a flood in any single year. SFHAs are shown on FIRMs as shaded areas labeled with the letter “A” or “V”.

- “V” zones are coastal flood hazard zones subject to wave run-up in addition to storm surge.
- “A” zones include all other SFHAs.

- “VE” zones, “AE” zones, “V” zones, or “A” zones followed by a number are areas with specific flood elevations, known as Base Flood Elevations (BFE).
- A zone with the letter “A” or “V” by itself is an appropriately studied flood hazard area without a specific flood elevation.
- Within an “AE” zone or a numbered “A” zone, there may be an area known as the “regulatory floodway,” which is the channel of a river and adjacent land areas which must be reserved to discharge a 100-year flood without causing a rise in flood elevations.

The floodplain (FEMA Zones “A”, “AE”, “AH”, “V”, & “VE”) covers large areas of Tioga County. An approximate total of \_\_\_ acres of floodplain, including surface waters are mapped within the Tioga County boundary (source: Base GIS review of FEMA BFE data).

Projects located within, or otherwise modifying wetlands, are subject to EO 11990. As defined in 24 CFR 55.2 (b)(11), wetlands include those areas that are inundated by surface or ground water with a frequency sufficient to support, and under normal circumstances does or would support, a prevalence of vegetative or aquatic life that requires saturated or seasonally saturated soil conditions for growth and reproduction.

**24 CFR Part 55.1 (c)**

Under 24 CFR Part 55.1(c), except with respect to actions listed in Part 55.12(c), no HUD financial assistance (including mortgage insurance) may be approved after May 23, 1994 with respect to:

- (1) Any action, other than a functionally dependent use, located in a floodway;
- (2) Any critical action located in a coastal high hazard area (V zone) (a “critical action” is an action such as storage of volatile materials, irreplaceable record storage, or construction of a hospital or nursing home); or
- (3) Any non-critical action located in a coastal high hazard area, unless the action is designed for location in a coastal high hazard area or is a functionally dependent use and complies with the construction standards outlined in HUD Regulations 24 CFR Part 55 (c)(3).

**24 CFR Parts 55.11 & 55.20**

According to 24 CFR Parts 55.11 (including Table 1) and 55.20, non-critical actions are allowed in A or V zones only if the actions are reviewed in accordance with the floodplain management eight-step decision making process outlined in 24 CFR Part 55.20. An eight-step process was conducted for the activities of the NY Rising Buyout and Acquisition Program in Tioga County, as detailed below.

**GOSR Approach**

In applying Executive Order 11988, Executive Order 11990, and 24 CFR Part 55, GOSR's approach is to avoid, to the extent possible, the long- and short-term adverse impacts associated with the occupancy and modification of floodplains and wetlands as a result of the proposed

actions. No funding will be committed in a floodway and no “critical actions” will receive funding.

Before funding is allocated to a particular site, the site will be reviewed for compliance with Executive Order 11988 and Executive Order 11990 using the following process, which will be documented and kept on file:

- The source of information will be documented on the Site-Specific Checklist.
- Action Plan Activities located within the SFHA, as identified by FEMA maps, or a wetland, have been reviewed in this document, a large scale 8-Step Process prepared in accordance with 24 CFR Part 55.20.
- GOSR or its authorized agent will review the property locations to identify any within a FEMA delineated floodway. Any properties located within a FEMA-delineated floodway are not eligible for the Program.
- If the parcel is located within a SFHA and has been substantially damaged or requires substantial improvement (the cost of restoring the structure to its before-damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred), GOSR or its authorized agent will identify the base flood elevation at the site and determine applicable measures (as described, below) to mitigate impacts to the floodplain and to the residence.

#### **24 CFR Part 55.20 Eight-Step Process**

##### **Step One: Determine whether the proposed action is located in a 100-year floodplain (or a 500-year floodplain for a Critical Action) or results in new construction in a wetland.**

The NY Rising Buyout and Acquisition Program was created in response to severe coastal flooding and storm damage caused by Superstorm Sandy, Hurricane Irene, and Tropical Storm Lee. The NY Rising Buyout and Acquisition Program will address the State’s need for safe, adequate, and affordable housing to the affected population within the legal framework of the Program.

At this time, the exact locations of Program properties that will participate are not specified. The geographic scope for the Proposed Action described herein is the jurisdictional area of Tioga County, covering approximately 334,560 acres, of which, approximately 22,408 acres are located within floodplains and 8,549 acres are located in wetlands.

Funding would be provided in accordance with NYS’s Action Plan for homeowners within Tioga County who meet the Program requirements. The Proposed Action will fund activities necessary for purchase, demolition, and other mitigation activities within the disturbed area of the previously developed parcel.

##### **Step Two: Notify the public at the earliest possible time of a proposal to consider an action in a floodplain (or in the 500-year floodplain for a Critical Action) or wetland, and involve the affected and interested public in the decision making process.**

Because the Program activities are located in the floodplain and wetlands, GOSR must publish an early notice that allows the public an opportunity to provide input into the decision to provide funding for the Program activities in this area. Once the early public notice and comment period is complete, the GOSR will assess, consider, and respond to the comments received individually and collectively for the project file, then proceed to Step Three.

A 15-day "Notice for Early Public Review of a Proposed Activity in a 100-Year Floodplain" was published in the Morning Times on March 31, 2016. The 15-day period expired on April 15, 2016. The notice targeted local residents, including those in the floodplain. The notice was also sent to the following state and federal agencies on March 31, 2016: U.S. Department of the Interior (DOI), U.S. Environmental Protection Agency (EPA), U.S. Department of Homeland Security Federal Emergency Management Agency (FEMA), U.S. Fish and Wildlife Service (FWS); National Park Service (NPS); National Oceanic and Atmospheric Administration (NOAA); NOAA National Marine Fisheries Service (NMFS); U.S. Army Corps of Engineers (USACE); NYS Department Environmental Conservation; the NYS Office of Parks, Recreation and Historic Preservation; NYS Department of Transportation; and the NYS Office of Emergency Management. The notice was also sent to Tioga County and the towns and villages within Tioga County (see EXHIBIT 2 for the notice).

GOSR received one (1) public comment on this notice. See EXHIBIT 4 for the list of comments received by and the response to those comments.

**Step Three: Identify and evaluate practicable alternatives to locating the proposed action in a floodplain (or the 500-year floodplain for a Critical Action) or wetland.**

Under the Proposed Action, the NY Rising Buyout and Acquisition Program would purchase substantially damaged 1-2 unit homes from willing sellers, demolish structures on all Buyout and potentially some Acquisition properties, and temporarily secure Acquisition sites against future damage. The Program would benefit homeowners whose primary residences sustained substantial damage from Superstorm Sandy, Hurricane Irene, and/or Tropical Storm Lee. The residence must be located in Tioga County.

The alternatives to the Proposed Action that would be considered are as follows:

*Repair and Reconstruction:* NYS would issue funding to assist homeowners with elevation and reconstruction of damaged properties and reimburse homeowners for repairs already completed. This alternative would identify all homes within the floodplain that were damaged by Superstorm Sandy and Hurricane Irene. Each property owner would then be provided funds to repair the damage to their property. This Program would require that any grant recipients elevate their property to updated elevation standards.

*No Action:* This alternative would offer no assistance to homeowners in the affected area. As such, homeowners would be allowed to rebuild according to modern standards, demolish damaged properties, or leave their homes in their present condition. Many homeowners would be unable to recover from the devastation of Superstorm Sandy, Hurricane Irene, and/or Tropical Storm Lee. Further reconstruction would be parcel by parcel and result in wide variation in the safety and building standards of the affected parcels.

*Buyouts (Proposed Action):* NYS would purchase and demolish damaged properties to allow the floodplain to restore to its natural state. This process would use grant funds to purchase

properties from willing sellers affected by Superstorm Sandy, Hurricane Irene, and/or Tropical Storm Lee. Once purchased, improvements on the property, such as single and multi-family homes, would be removed. The vacant land would then revert to its natural state.

*Acquisitions (Proposed Action):* NYS would purchase damaged properties for the purpose of rehabilitation, reconstruction, and/or demolition and future redevelopment. This process would use grant funds to acquire parcels from willing sellers affected by Superstorm Sandy, Hurricane Irene, and/or Tropical Storm Lee. The specific details of reuse of acquired properties are unknown at this time, and would be determined on a site-specific basis. Depending on the condition of the parcel, homes on the property may either be reconstructed or demolished and assessed for future redevelopment in a manner consistent with local comprehensive plans and zoning regulations.

**Step Four: Identify the potential direct and indirect impacts associated with the occupancy or modification of the floodplain (or 500-year floodplain for a Critical Action) or wetland.**

GOSR has evaluated the alternatives to taking the Proposed Action in the floodplain, and has determined that the proposed activities must take place in the floodplain.

While there is the potential for a cumulative impact from the generation of debris from the demolition and reconstruction of a great number of homes through the Proposed Action in conjunction with the other NY Rising Programs, most of the impact would be mitigated. Direct and indirect impacts on the floodplain from short-term mitigation, site security, and demolition activities under the NY Rising Buyout and Acquisition Program would be minimal as these Program sites are already developed with residential buildings.

The Program would facilitate the removal of debris and wreckage from applicant properties, and would protect public safety through the relocation of residents out of the most flood-prone areas. Under the Buyout portion of the Program, once the property is purchased, any structures that remain on-site would be demolished and the area would be returned as close as practical to natural conditions and allowed to remain open space in perpetuity. This would allow the land to naturally provide a buffer and to mitigate future flooding.

The Acquisition portion of the Program would allow for potential redevelopment of the property in the future. The effect of the Acquisition activities would be the promotion of community revitalization by preventing undeveloped parcels from being scattered throughout otherwise developed areas. While there are some inherent risks to developing in a floodplain or area which experiences severe weather that cannot be completely avoided, any future redevelopment of acquired parcels would be replaced with safe modern construction to minimize the impacts associated with the occupancy of the floodplain

**Step Five: Where practicable, design or modify the proposed action to minimize the potential adverse impacts within the floodplain (including the 500-year floodplain for a Critical Action) and wetlands and to restore and preserve their natural and beneficial values.**

Regarding the Buyout portion of the Program, restoring floodplains and wetland areas in Tioga County to their natural state would minimize threats to life and property, as well as restore and preserve natural and beneficial floodplain and wetland values. By preventing construction and

reconstruction of homes in this area, this Program would reduce the population within the floodplain, exposing fewer people to the effects of natural disasters. Further, since the land would be free of costly improvements, future storm damage would be minimized. By removing manmade buildings and infrastructure in this area, the floodplain would be returned to its natural state. All backfill soil would have low clay content to facilitate stormwater infiltration and be free of contaminants and deleterious materials to facilitate the return of the Buyout properties to a natural condition. As such, this Program would not merely limit damage to the floodplain, but actually restore and improve upon the natural and beneficial floodplain values.

Acquisition of damaged properties would similarly protect life, property, and the natural and beneficial floodplain values. Rehabilitation, reconstruction or removal would improve health and safety by limiting public exposure to dangerous and dilapidated structures. It would also remove improvements that are not presently constructed to the highest elevation, preventing excessive future damage to these parcels. All repairs and reconstruction would be conducted in accordance with local land use plans and would be built using current construction standards to improve resistance to future flood damage.

Strict requirements for the disposal of debris are in place to prevent, to the extent possible, any negative impacts to the floodplain. The handling and disposal of demolition and construction debris, control of storm water runoff, and noise impacts resulting from the NY Rising Buyout and Acquisition Program would be in accordance with all local, state, and federal regulation as part of the acceptance of assistance funding.

The Program would also implement and maintain erosion and sedimentation control measures to prevent deposition of sediment and eroded soil in on-site and off-site wetlands and waters. Soil compaction would be controlled by minimizing Program activities in vegetated areas, including lawns. BMPs, such as silt fence and erosion prevention, may be implemented if required by permits or agency discretion. Work in areas of soils with high wind erosion potential may have to occur only during calm weather conditions or include additional watering and other dust suppression mitigation methods. Thorough planning, engineering review, and design through the local permitting process would minimize soil erosion and damage to the floodplain that could result from Program activities on sites with marginal soil properties.

**Step Six: Reevaluate the proposed action to determine: (1) Whether it is still practicable in light of its exposure to flood hazards in the floodplain or wetlands, the extent to which it will aggravate the current hazards to other floodplains or wetlands, and its potential to disrupt floodplain or wetland values; and (2) Whether alternatives preliminarily rejected at Step Three are practicable in light of the information gained in Steps Four and Five.**

GOSR has reevaluated the Proposed Action and determined that the NY Rising Buyout and Acquisition Program is still practicable in light of its exposure to flood hazards in the floodplain. As the properties are already developed with one to two (1-2) unit dwellings, the Program would not aggravate current hazards to the floodplain, nor would the Program disrupt floodplain values.

GOSR also reconsidered the alternatives discussed in Step Three and determined the best practicable alternative is the Proposed Action. The alternative actions considered are as follows: Repair and Reconstruction and No Action. These alternatives do not meet the goals of the NY Rising Buyout and Acquisition Program. The Proposed Action is specifically designed to relocate residents out of areas most vulnerable to flooding, assist homeowners who are unable or unwilling to repair their substantially damaged homes, and increase communities' resiliency to

future flooding by restoring the storm attenuation characteristics of the floodplain and providing an option for future resilient repair or redevelopment for individual parcels in developed neighborhoods.

**Step Seven: If the reevaluation results in a determination that there is no practicable alternative to locating the proposal in the floodplain (or the 500-year floodplain for a Critical Action) or wetland, publish a final notice.**

It is GOSR's determination that there is no better alternative than to provide funding for the Proposed Action in the floodplain. This is due to the need to: 1) restore the area to its natural condition to maintain the value of our floodplains; 2) limit excessive spending to rebuild properties in flood prone areas; 3) prevent future high-value damage to land improvements by preventing the construction of such improvements in flood-prone areas; 4) minimize detrimental impacts on human health; 5) promote the redevelopment of damaged inland parcels consistent with current land use; and 6) remove damaged improvements to allow for future construction that meets with modern elevation and construction standards.

A 7-day "Notice for Final Public Review of a Proposed Activity in a 100-Year Floodplain" was published in the Morning Times on April 18, 2016. The 7-day period expired on April 25, 2016. The notice targeted local residents, including those in the floodplain. The notice was also sent to the following state and federal agencies on April 18, 2016: U.S. Department of the Interior (DOI), U.S. Environmental Protection Agency (EPA), U.S. Department of Homeland Security Federal Emergency Management Agency (FEMA), U.S. Fish and Wildlife Service (FWS); National Park Service (NPS); National Oceanic and Atmospheric Administration (NOAA); NOAA National Marine Fisheries Service (NMFS); U.S. Army Corps of Engineers (USACE); NYS Department Environmental Conservation; the NYS Office of Parks, Recreation and Historic Preservation; NYS Department of Transportation; and the NYS Office of Emergency Management. The notice was also sent to Tioga County and the towns and villages within Tioga County (see EXHIBIT 3 for the notice).

GOSR received 0 public comments on this notice. See EXHIBIT 4 for the list of comments received and the response to those comments.

### **Step Eight: Implement the Action**

Step eight is implementation of the proposed action. GOSR will ensure that all mitigation measures prescribed in the steps above will be adhered to. Furthermore, GOSR will conduct a NEPA review in accordance with 24 CFR Part 58 and a NY State Environmental Quality Review Act (SEQR) review in accordance with 6 NYCRR Part 617.

### **EXHIBIT 1.A – Tioga County Floodplain and Prospective Applicant Map**

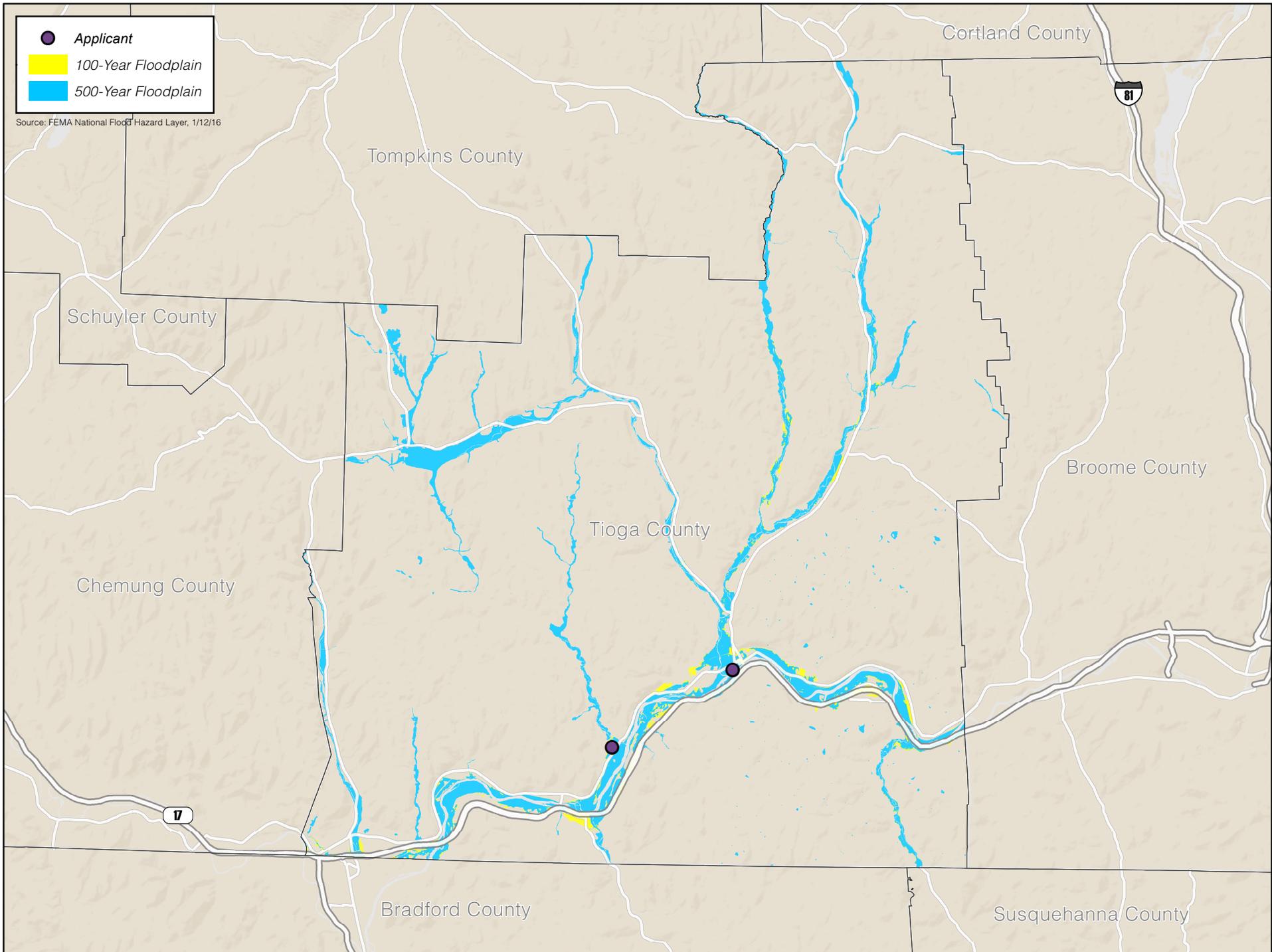
### **EXHIBIT 1.B – Tioga County Wetland and Prospective Applicant Map**

### **EXHIBIT 2 – Copy of Notice Transmitting Notice of Early Public Review and Proof of Publication**

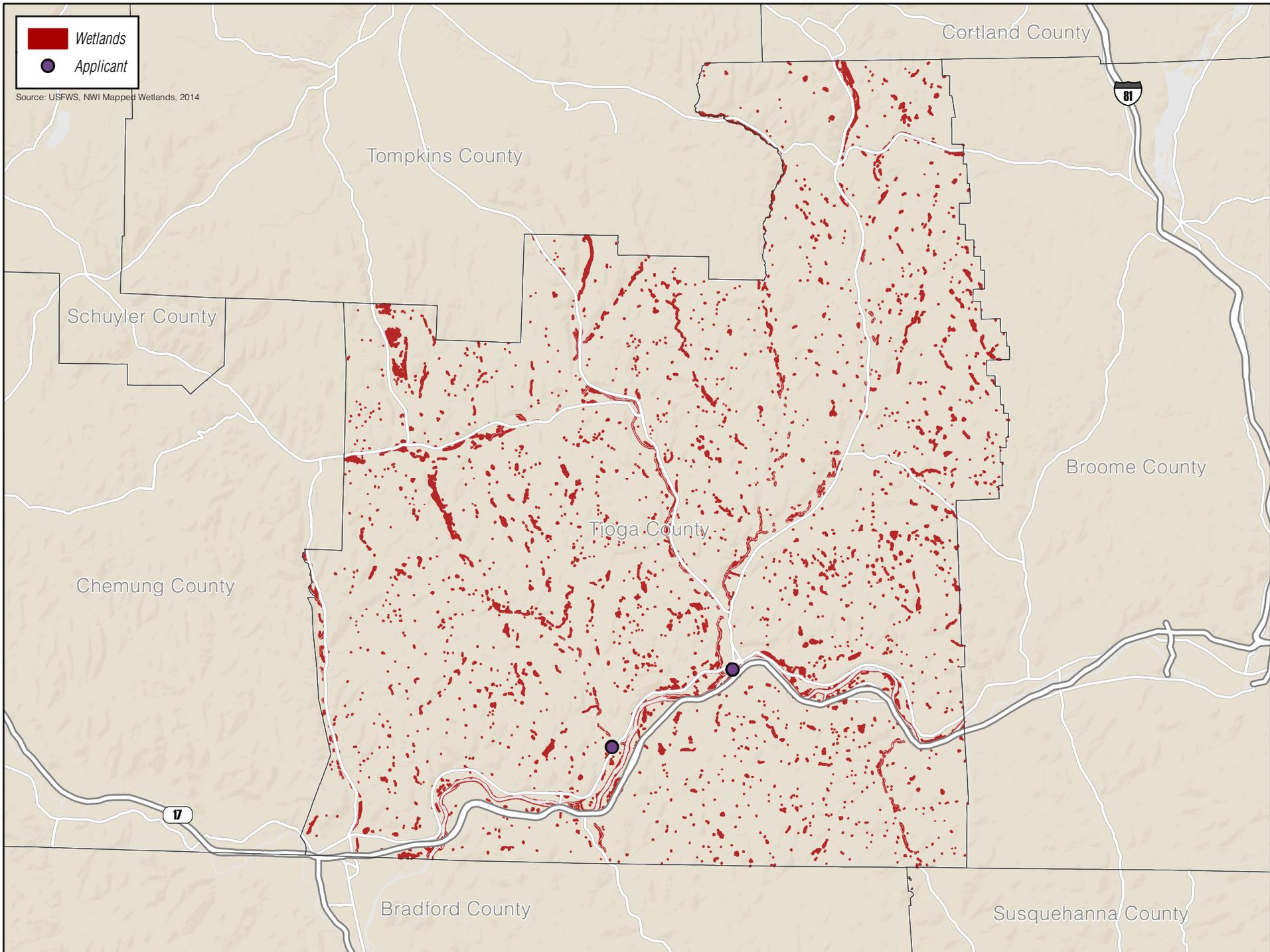
### **EXHIBIT 3 – Copy of Notice Transmitting Notice of Final Public Review and Proof of Publication**

### **EXHIBIT 4 – Public Comments Received and Response**

**EXHIBIT 1.A – Tioga County Floodplain and Prospective Applicant Map**



**EXHIBIT 1.B – Tioga County Wetland and Prospective Applicant Map**



**EXHIBIT 2 – Copy of Notice Transmitting Notice of Early Public Review and Proof of Publication**

**EARLY NOTICE AND PUBLIC EXPLANATION OF  
A PROPOSED ACTIVITY IN A 500- and 100-YEAR FLOODPLAIN and WETLAND  
  
NY RISING BUYOUT AND ACQUISITION PROGRAM  
TIOGA COUNTY, NEW YORK**

Thomas King, Assistant General Counsel and Certifying Officer  
Governor's Office of Storm Recovery  
99 Washington Avenue, Suite 1224  
Albany, NY 12260

**NOTIFICATION OF ACTIVITY IN A FLOODPLAIN**

To: All interested Agencies, Groups, and Individuals

This is to give notice that the Governor's Office of Storm Recovery (GOSR) 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 under 24 CFR 55.20 Subpart C - Procedures for Making Determinations on Floodplain Management and Protection of Wetlands, to determine the potential effects that its activity in the floodplain would have on the human environment.

The NY Rising Buyout and Acquisition Program (the "Program") involves the voluntary buyout and acquisitions of 1-2 unit homes in Tioga County, NY (the "Proposed Action"). Funding for the Proposed Action will be provided in accordance with the State of New York Action Plan for Community Development Block Grant Program – Disaster Recovery (Action Plan). The Action Plan provides for, among other things, home buyout and acquisition assistance to owners of 1-2 unit family homes. "Buyouts" involve the purchase of properties located within a floodplain. Structures and improvements will be removed, and the parcel will be allowed to return to its natural state in perpetuity. "Acquisitions" also involve purchase of properties; however, the specific details of reuse will be determined based on site specific conditions. Reuse will be in accordance with local zoning and land use plans. No specific enhanced buyout areas have been identified, but buyouts are being analyzed in the event that buyout areas are determined at a later date. This action is of fundamental importance in assisting landowners with damaged property. These are the activities that are the subject of this document, and have been combined together for purposes of an aggregated review in accordance with 24 CFR Part 55.24.

All Applicants for financial assistance will be evaluated for eligibility, in accordance with HUD guidelines. The Program will follow federal policies which ensure that no person may be excluded, denied benefits, or subjected to discrimination on the basis race, color, national origin, religion, sex, familial status, and/or physical or mental handicap under any program funded in whole or in part by federal CDBG-DR funds.

At this time, the exact locations of Program properties that will participate are not specified. The geographic scope for the Proposed Action described herein is the jurisdictional area of Tioga County, covering approximately 334,560 acres, of which, approximately 22,408 acres are located within floodplains and 8,549 acres are located in wetlands.

A floodplains map based on the FEMA Base Flood Elevation Maps and a wetlands map based on the National Wetland Inventory and NYSDEC data, have been prepared for this project and are available for review at <http://www.stormrecovery.ny.gov/environmental-docs>

There are three primary purposes for this notice. First, people who may be affected by activities in floodplains or wetlands and those who have an interest in the protection of the natural environment should be given 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 about floodplains and wetlands facilitates and enhances 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 or wetlands, it must inform those who may be put at greater or continued risk.

### **PUBLIC COMMENTS**

Any individual, group, or agency may submit written comments on the proposed action or a request for further information to Thomas King, Assistant General Counsel and Certifying Officer, Governor's Office of Storm Recovery, 99 Washington Avenue, Suite 1224, Albany, NY 12260, 9:00 AM- 5:00 PM; email: [NYSCDBG\\_DR\\_ER@nyshcr.org](mailto:NYSCDBG_DR_ER@nyshcr.org); phone: (518) 473-0015. All comments received by April 15, 2016 will be considered.

Thomas King, Assistant General Counsel and Certifying Officer

**March 31, 2016**

# MORNING TIMES

201 N. LEHIGH AVE., SAYRE, PA 18840

PHONE (570) 888-9643 FAX (570) 888-6463

## AFFIDAVIT OF PUBLICATION

Commonwealth of Pennsylvania, }  
County of Bradford, } SS.

MORNING TIMES

March 31, 2016

Personally appeared before the undersigned, a Notary Public, etc., which and for said County and State, Ashley Moore, the Advertising Manager of the "Morning Times", a daily newspaper published at Sayre, County of Bradford, State of Pennsylvania, who being duly sworn, states on oath that the notice of which the annexed is a copy

was published in said newspaper for ..... time(s),  
in the issues bearing date(s) of 3/31/16

Affiant is not interested in the subject matter of the aforesaid notice or advertisement, and all allegations in the foregoing statement as to time, place and character of the publication are true.

Ashley Moore  
Advertising Manager

Sworn to and subscribed before me this 19  
day of April 20 16

Frances L. Ellis  
Notary Public

My Commission Expires

NOTARIAL SEAL  
FRANCES L. ELLIS, Notary Public  
Sayre Boro, Bradford County  
My Commission Expires August 14, 2018

EARLY NOTICE AND  
PUBLIC EXPLANATION  
OF  
A PROPOSED ACTIVITY  
IN A 500- and 100-YEAR  
FLOODPLAIN and  
WETLAND

NY RISING BUYOUT AND  
ACQUISITION PROGRAM  
TIOGA COUNTY, NEW  
YORK

Thomas King, Assistant  
General Counsel and  
Certifying Officer  
Governor's Office of Storm  
Recovery  
99 Washington Avenue,  
Suite 1224  
Albany, NY 12260

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Thomas King, Assistant  
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March 31, 2016

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A floodplains map based on the FEMA Base Flood Elevation Maps and a wetlands map based on the National Wetland Inventory and NYSDEC data, have been prepared for this project and are available for review at <http://www.stormrecovery.ny.gov/environmental-docs>

There are three primary purposes for this notice. First, people who may be affected by activities in floodplains or wetlands and those who have an interest in the protection of the natural environment should be given an opportunity to express their concerns and provide information about these areas. Second, ade-

**EXHIBIT 3 – Copy of Notice Transmitting Notice of Final Public Review and Proof of Publication**

**FINAL NOTICE AND PUBLIC EXPLANATION OF  
A PROPOSED ACTIVITY IN A 500- and 100-YEAR FLOODPLAIN and WETLAND  
  
NY RISING BUYOUT AND ACQUISITION PROGRAM  
TIOGA COUNTY, NEW YORK**

Thomas King, Assistant General Counsel and Certifying Officer  
Governor's Office of Storm Recovery  
99 Washington Avenue, Suite 1224  
Albany, NY 12260

**NOTIFICATION OF ACTIVITY IN A FLOODPLAIN**

To: All interested Agencies, Groups, and Individuals

This is to give notice that the Governor's Office of Storm Recovery (GOSR) 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 under 24 CFR 55.20 Subpart C - Procedures for Making Determinations on Floodplain Management and Protection of Wetlands, to determine the potential effects that its activity in the floodplain would have on the human environment.

The NY Rising Buyout and Acquisition Program (the "Program") involves the voluntary buyout and acquisitions of 1-2 unit homes in Tioga County, NY (the "Proposed Action"). Funding for the Proposed Action will be provided in accordance with the State of New York Action Plan for Community Development Block Grant Program – Disaster Recovery (Action Plan). The Action Plan provides for, among other things, home buyout and acquisition assistance to owners of 1-2 unit family homes. "Buyouts" involve the purchase of properties located within a floodplain. Structures and improvements will be removed, and the parcel will be allowed to return to its natural state in perpetuity. "Acquisitions" also involve purchase of properties; however, the specific details of reuse will be determined based on site specific conditions. Reuse will be in accordance with local zoning and land use plans. No specific enhanced buyout areas have been identified, but buyouts are being analyzed in the event that buyout areas are determined at a later date. This action is of fundamental importance in assisting landowners with damaged property. These are the activities that are the subject of this document, and have been combined together for purposes of an aggregated review in accordance with 24 CFR Part 55.24.

All Applicants for financial assistance will be evaluated for eligibility, in accordance with HUD guidelines. The Program will follow federal policies which ensure that no person may be excluded, denied benefits, or subjected to discrimination on the basis race, color, national origin, religion, sex, familial status, and/or physical or mental handicap under any program funded in whole or in part by federal CDBG-DR funds.

At this time, the exact locations of Program properties that will participate are not specified. The geographic scope for the Proposed Action described herein is the jurisdictional area of Tioga County, covering approximately 334,560 acres, of which, approximately 22,408 acres are located within floodplains and 8,549 acres are located in wetlands.

A draft Floodplain Management Plan (8-step process) documenting compliance with Executive Order 11988 and Executive Order 11990, as well as a floodplains map based on the FEMA Base Flood Elevation Maps and a wetlands map based on the National Wetland Inventory and NYSDEC data, have been prepared for this project and are available for review at <http://www.stormrecovery.ny.gov/environmental-docs>.

There are three primary purposes for this notice. First, people who may be affected by activities in floodplains or wetlands and those who have an interest in the protection of the natural environment should be given 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 about floodplains and wetlands facilitates and enhances 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 or wetlands, it must inform those who may be put at greater or continued risk.

### **PUBLIC COMMENTS**

Any individual, group, or agency may submit written comments on the proposed action or a request for further information to Thomas King, Assistant General Counsel and Certifying Officer, Governor's Office of Storm Recovery, 99 Washington Avenue, Suite 1224, Albany, NY 12260, 9:00 AM- 5:00 PM; email: NYSCDBG\_DR\_ER@nyshcr.org; phone: (518) 473-0015. All comments received by April 25, 2016 will be considered.

Thomas King, Assistant General Counsel and Certifying Officer

**April 18, 2016**

# MORNING TIMES

HIGH AVE., SAYRE, PA 18840

PHONE (570) 888-9643 FAX (570) 888-6463

## AFFIDAVIT OF PUBLICATION

Commonwealth of Pennsylvania, }  
County of Bradford, } SS.

MORNING TIMES

April 18, 2016

I personally appeared before the undersigned, a Notary Public, high and lawful for said County and State, Ashley Moore, the Advertising Manager of the "Morning Times", a daily newspaper published at Sayre, County of Bradford, State of Pennsylvania, who duly sworn, states on oath that the notice of which the above is a copy

published in said newspaper for ..... time(s),  
issues bearing date(s) of 4/18/16.....

I am not interested in the subject matter of the aforesaid notice or advertisement, and all allegations in the foregoing notice are as to time, place and character of the publication are true.

Ashley Moore  
Advertising Manager

I, the undersigned, do hereby certify that the above is a true and correct copy of the original as presented to me and subscribed before me this .....

Francis L. Ellis  
Notary Public

My Commission Expires .....

NOTARIAL SEAL  
FRANCES L. ELLIS, Notary Public  
Sayre Boro, Bradford County  
My Commission Expires August 14, 2018

### LEGAL NOTICE

FINAL NOTICE AND PUBLIC EXPLANATION OF A PROPOSED ACTIVITY IN A 500- AND 100-YEAR FLOODPLAIN AND WETLAND

NY RISING BUYOUT AND ACQUISITION PROGRAM  
TIOGA COUNTY, NEW YORK

Thomas King, Assistant General Counsel and Certifying Officer  
Governor's Office of Storm

Recovery  
99 Washington Avenue,  
Suite 1224  
Albany, NY 12260

### NOTIFICATION OF ACTIVITY IN A FLOODPLAIN

To: All interested Agencies, Groups, and Individuals

This is to give notice that the Governor's Office of Storm Recovery (GOSR) 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 under 24 CFR 55.20 Subpart C - Procedures for Making Determinations on Floodplain Management and Protection of Wetlands, to determine the potential effects that its activity in the floodplain would have on the human environment.

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as a matter of fairness, when the Federal government determines it will participate in actions taking place in floodplains or wetlands, it must inform those who may be put at greater or continued risk.

### PUBLIC COMMENTS

Any individual, group, or agency may submit written comments on the proposed action or a request for further information to Thomas King, Assistant General Counsel and Certifying Officer, Governor's Office of Storm Recovery, 99 Washington Avenue, Suite 1224, Albany, NY 12260, 9:00 AM - 5:00 PM; email: NYSCDBG\_DR\_ER@nysh-cr.org; phone: (518) 473-0015. All comments received by April 25, 2016 will be considered.

Thomas King, Assistant General Counsel and Certifying Officer

April 18, 2016

**EXHIBIT 4 – Public Comments Received and Response**

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**From:** Kevin [mailto:[Nichols-Supervisor@stny.rr.com](mailto:Nichols-Supervisor@stny.rr.com)]

**Sent:** Wednesday, April 06, 2016 2:56 PM

**To:** [nyshcr.sm.nyscdbg.dr.er](mailto:nyshcr.sm.nyscdbg.dr.er@nyshcr.org)  
<[nyscdbg\\_dr\\_er@nyshcr.org](mailto:nyscdbg_dr_er@nyshcr.org)>

**Subject:** Early Notice & Public Explanation of a Proposed Activity in a 500- and 100-Year Floodplain and Wetland

*ATTENTION: This email came from an external source. Do not open attachments or click on links from unknown senders or unexpected emails.*

Dear Mr. Thomas King,

I received your letter of March 31, 2016, and am requesting further information on the proposed action.

I would also like to comment on the wetlands map based on the National Wetland Inventory and NYSDEC data. Namely, the definition of a wetland must use parameters that are far too broad, because there is no way that Tioga County contains 8,549 acres of wetlands. A true wetland should be just that – land that is wet all year, regardless of rainfall amounts in any given period or the time of year. Poorly drained ground, natural swales that retain water in times of torrential rains, or even tracts that are wet a majority of the year should not be considered wetlands. If no permanent wetland vegetation nor life species are present at a given location then declaring the area to be a wetland represents an overreach by government and a usurpation of landowners' property rights.

Sincerely,

Kevin K. Engelbert  
Town of Nichols Supervisor  
PO Box 359, 54 East River Road  
Nichols, NY 13812  
 [\(607\) 699-3110 ext. 15](tel:(607)699-3110)  
[nichols-supervisor@stny.rr.com](mailto:nichols-supervisor@stny.rr.com)

## **EXHIBIT 4**

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### **PUBLIC COMMENT**

A comment was received that questioned the wetlands map based on the National Wetland Inventory and NYSDEC data. The commenter stated that the “definition of a wetland must use parameters that are far too broad, because there is no way that Tioga County contains 8,549 acres of wetlands. A true wetland should be just that – land that is wet all year, regardless of rainfall amounts in any given period or the time of year. Poorly drained ground, natural swales that retain water in times of torrential rains, or even tracts that are wet a majority of the year should not be considered wetlands.”

### **GOSR RESPONSE**

Tioga County is approximately 334,560 acres, of which approximately 22,408 acres are located within floodplains and 8,549 acres are located in wetlands. This wetland figure represents all bodies of water and wetlands mapped by the National Wetlands Inventory (NWI) and the New York State Department of Environmental Conservation (NYSDEC). Where NWI and NYSDEC mapped wetlands or waterbodies overlap, the area was counted once. Each agency has its own methodology for mapping wetlands, the analysis in the Floodplain Management Plan used the currently adopted maps produced by each agency, and did not include an independent evaluation of specific wetlands or waterbodies, or the characteristics that led to it being mapped as a wetland. As part of this project, GOSR is not mapping new wetlands. Rather, it is using available resources to estimate the wetland coverage of Tioga County.