

Kendall-Yates-Carlton LWRP Monitoring Report November 2013

Community Background:

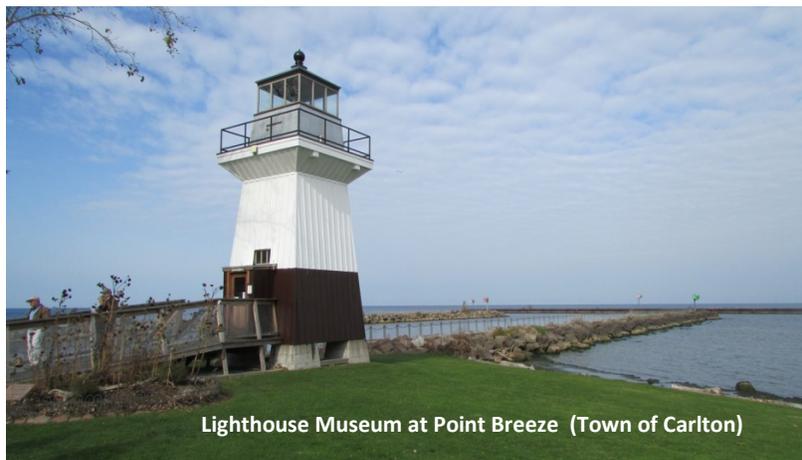
The Towns of Kendall, Yates, and Carlton are situated adjacent to each other along the southern shore of Lake Ontario in Orleans County, New York. The most recent Census Estimate (US Census Bureau) was for 2012, and it shows Kendall with a population of 2,694 people; Yates a population of 2,538 people (including the Village of Lyndonville, which it entirely encompasses); and Carlton a population of 2,975 people.

The Towns are located approximately six miles north of the Village of Albion, the county seat, and thirty miles west of the City of Rochester, the region's commercial and financial center. The Towns are part of the Rochester Metropolitan Area, but due to employment patterns (nearly 40% of employed County residents work outside the County) and the area's suitability for agriculture, the Towns are rural in character.

The Towns grew along the Rochester-Buffalo railroad line constructed during the late 1800s, which facilitated transportation of their agricultural products. Like other small lakefront communities, the Towns have not experienced the waterfront-based economic and population growth associated with commercial fishing or shipping in larger communities such as Rochester. The Towns' shared waterfront is instead a major asset by virtue of its recreational, scenic, and environmental resources.

The large majority of the Towns' developed waterfront is devoted to agricultural, recreational, and residential uses. Most of these residences are second homes or seasonal cottages, whose owners are drawn to the area's tranquil character and scenic views.

Recreational fishing in Lake Ontario, along the pier at Point Breeze, and in the hydroelectric dam's outflow at Oak Orchard River also draws many out-of-state tourists. (The World Fishing Network designated Point Breeze



Lighthouse Museum at Point Breeze (Town of Carlton)

the nation's "ultimate fishing town" in 2013.) The Towns and Orleans County have undertaken several projects in recent years to promote and enhance these waterfront uses, including constructing a lakeside park in the Town of Yates, building a replica historic lighthouse and museum in the Town of Carlton, and authorizing the development of a private seasonal-home community in the Town of Kendall.

Collaborations with Department of State:

The Towns completed a [joint LWRP](#) in 2001, which DOS and OCRM approved by 2005. The Towns have collaborated with Orleans County to take some steps to implement the LWRP, including securing three (3) Environmental Protection Fund Local Waterfront Revitalization Program (EPF LWRP) grants. (See attached chart: Grants Awarded - Title 11 Environmental Protection Fund Local Waterfront Revitalization Program, Towns of Kendall, Yates, and Carlton).

Through these EPF LWRP awards, the Town of Yates and Orleans County planned and constructed improvements to fishing access at Johnson Creek; and Orleans County, in partnership with the Town of Carlton and the New York Office of Parks, Recreation and Historic Preservation (OPRHP), constructed a 72-slip Marine Center in Oak Orchard River just south of its outlet into Lake Ontario. These projects have furthered the LWRP's aims of promoting and enhancing recreational uses of the Towns' waterfronts.

LWRP Monitoring Process:

DOS began the monitoring process with a telephone call to Wayne Hale, Director of Orleans County Planning and Development Department, asking the County and Towns to participate and briefly describing the monitoring protocol. DOS subsequently sent letters to the Supervisors of each Town of Kendall, Yates, and Carlton outlining the monitoring process along with a list of survey questions. The correspondence indicated that a conference call would take place between DOS representatives and key municipal officials to answer the survey questions; a follow-up site visit/meeting would be arranged to review the responses provided in the survey; and, following the site visit, DOS would prepare a written assessment of findings to identify areas of improvement, training, or need for LWRP amendments.

Representatives from DOS, Orleans County, and the Towns of Kendall and Yates attended the conference call. During the call, the Town and County representatives discussed the relevancy of its LWRP, its use, and the local consistency review process.

As a follow-up, DOS staff traveled to Orleans County to meet with Town and County representatives. This meeting focused on review of the LWRP's implementation, as well as ways DOS can assist in its ongoing updates to ensure relevance. The meeting provided DOS with an opportunity to tour the waterfront area including the former Salvation Army site (now the Cottages at Troutburg), Oak Orchard River and Lake Alice, and the Towns' lakefront parks.

DOS Findings:

Overview

The Towns adopted their LWRP in 2001 to guide development within the coastal zone in a way that protects and preserves natural resources and supports development that will best utilize the waterfront's potential. In particular, the LWRP focuses on ways to promote the waterfront area's recreational uses while preserving its natural resources and unique character.

The LWRP has not had a significant influence on subsequent private development in the Towns. Town representatives indicated that their land-use decision-making seldom involves consulting the LWRP. For example, the Town of Kendall reports that it conducted only one consistency review over the last several years, and the Town of Yates has performed none since at least 2006. The LWRP has instead (at least until recent years) been a useful tool in attracting EPF grants for specific development projects in the Towns (see attached chart). The LWRP would probably benefit from an update to ensure its relevance and usefulness.

LWRP Implementation and Coastal Zone Developments

The Towns have implemented the LWRP primarily through zoning. The Town of Kendall amended its zoning code in 2012 to allow for the creation of Waterfront Planned Development Districts, which provide greater land-use flexibility for waterfront-appropriate development. The Town of Yates also amended its zoning in 2003 to more closely reflect the LWRP’s proposals.

Most of the specific projects the LWRP proposed have not come to fruition. These include a new inland harbor and major mixed-use commercial/recreational development in the Town of Yates’ Morrison site, an expansion and improvement of public facilities at the Town of Kendall’s private Eagle Creek Marina, public swimming access at Lakeside Beach State Park, and the redevelopment of the Town of Carlton’s Bennett Acres farm to recreational uses. Nevertheless, the Towns and the County have advanced many of the LWRP’s policies through public projects.

The Cottages at Troutburg

The Town of Kendall took advantage of a productive opportunity at the Salvation Army Camp site that arose after adoption of the LWRP, and which it therefore did not contemplate (but also did not proscribe). The LWRP identified the Camp as a potential site for expanded public access to Lake Ontario.

Instead, private developers bought the site in 2011, who are presently converting it to a private seasonal home community, “The Cottages at Troutburg.” The project’s sponsors anticipate building approximately 400 cottages, the first of which are under construction. Other completed or ongoing work on-site includes installation of



Cottage under construction (Town of Kendall)

a new wastewater treatment facility, renovation of existing Salvation Army Camp buildings, and the reinforcement of shoreline bluffs. While this project will not provide increased public waterfront access, it will serve many of the LWRP’s other objectives aimed at promoting water-enhanced land uses and preserving shoreline.

Orleans County Marine Park

With assistance from the State OPRHP and a 2003 EPF LWRP Grant through the Town of Carlton, Orleans County completed development of the Orleans County Marine Park in 2010. The Park includes two areas, one at the mouth of the Oak Orchard River and one about half a mile upstream. The downstream area includes a new Lighthouse Museum, a transient boat dock, and public fishing access in the river mouth. The upstream area provides includes 72 rentable boat slips, several picnic tables with grills, a fish cleaning station, and restrooms with shower facilities. The Park also hosts such public events as live music and movie screenings during the summer months.

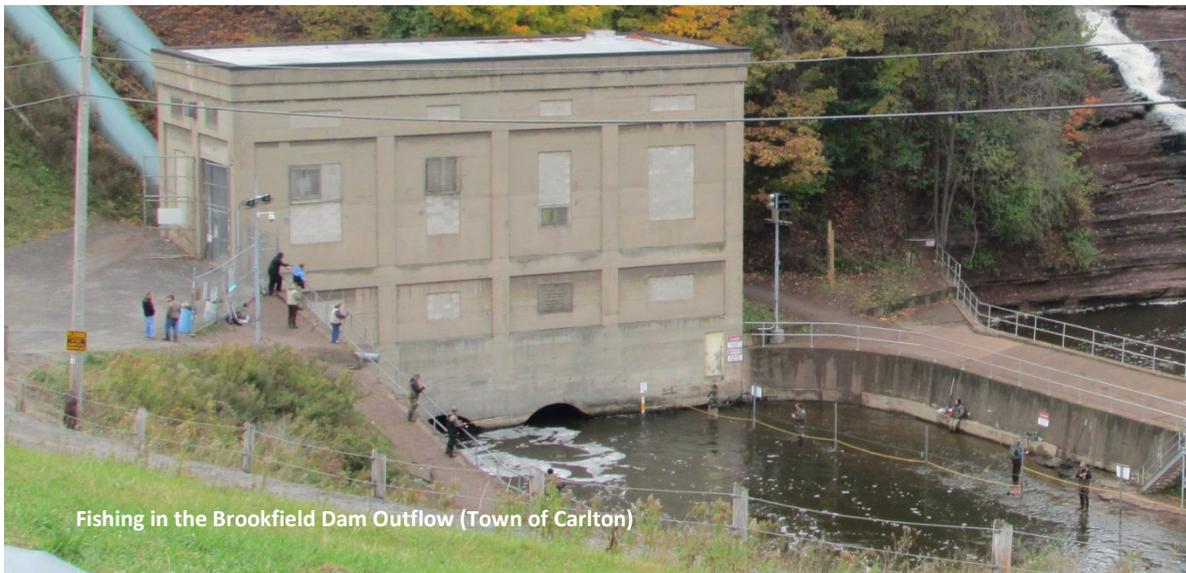
Yates Town Park at Morrison Site

In 2008, the Town of Yates opened a public park at its Morrison site. The park is situated on five acres bordering Lake Ontario and contains picnic tables, grills, a dedicated parking area, and a large open field. Several community and religious groups use the park on a regular basis. The property was purchased by the Town of Yates from Niagara Mohawk, and subsequently improved as a lakeshore recreational facility. Niagara Mohawk retains ownership of more than 90 acres, just south of the park.

Fishing at Brookfield Renewable Power, Inc. Hydroelectric Dam Outflow

Fishing in the outflow of the Brookfield Renewable Power, Inc. Hydroelectric Dam on the Oak Orchard River is popular with local anglers and tourists alike. Orleans County leases land just north of the dam, which it provides for public use. The County also provides a portable toilet in a nearby parking lot, which DEC maintains to provide parking access for anglers.

The most popular fishing location in the area, the outflow catchment area immediately downstream of the dam, is owned by Brookfield Renewable Power, Inc. Brookfield currently allows anglers to fish there on an informal basis; there is no written agreement providing public access.



Transportation Infrastructure

During the tour, County and Town officials noted a number of degraded and poorly-maintained roadways. These include: (1) The Marsh Creek Road Bridge, which the Orleans County Highway Department removed in early Fall 2013. The Bridge had connected two state routes near Point Breeze. Its removal increases the driving distance between the two by only about half a mile, but the new route is more difficult for vehicles with trailers (such as boats on their way to the Orleans County Marine Park) to negotiate. (2) The Lake Ontario State Parkway, which has deteriorated in recent years as DOT maintenance has decreased. The Parkway follows a portion of the Great Lakes Seaway Trail National Scenic Byway. (3) A section of Oak Orchard River Road, one lane of which the Orleans County Highway Department has closed due to riverbank erosion of the nearby Oak Orchard River.

Issues for an Amended LWRP to Address

The LWRP is still used as a reference document which informs but probably does not strongly influence private waterfront development and revitalization projects. The LWRP's primary use has been as a tool for raising funds to support public waterfront access projects, such as the Orleans County Marine Park and Yates Town Park. Town and County representatives expressed interest in updating the LWRP to reflect the Towns' evolving circumstances (though their vision remains largely unchanged).

The tour of the Towns illustrated several issues an amended LWRP might address. One significant issue that County and Town of Carlton representatives highlighted was access to the Oak Orchard River at Point Breeze. The River flows into Lake Ontario at Point Breeze, and is the sole route for boaters to access the boat slips at Orleans County Marine Park upriver. Pursuant to a DEC-mandated condition in its SPDES permit, the Town of Carlton has also had to provide fishing access at the River's mouth. Town officials report that the River's mouth is not sufficiently wide to simultaneously accommodate both boats and fishing, and confrontations between boaters and anglers are common. An amended LWRP could seek to avert future conflicts, perhaps serving as a mechanism for the Town to renegotiate its SPDES permit with DEC to allocate fishing access elsewhere.

Fishing at the Brookfield Dam outflow is also likely to become an issue unless the Town or County comes to a formal agreement with Brookfield to provide ongoing public access. Brookfield may revoke access at any time under the current informal arrangement. Such a revocation could be a serious blow to the Town's fishing tourism industry, especially given the funds already expended on the nearby parking area. An amended LWRP on its own could not effectuate a formal agreement with Brookfield, but it would demonstrate the Towns' intent and provide the Towns with consistency review authority to protect the agreement they might ultimately reach.

Similarly, an amended LWRP could draw attention to the deterioration of many of the roads within the Towns' coastal zone. Construction, maintenance, and closure of roads is a persistent source of tension between the Towns and the State; the LWRP could serve as a venue for the Towns to articulate their common vision for their transportation infrastructure, and as a mechanism to spur further discussions with State and County transportation agencies.

Erosion represents a significant, ongoing problem. The lakeshore edge of Yates Town Park (at the Morrison site) has eroded over six feet over the last five years, which is reflective of the erosion patterns

along much of the Towns' lakefront shoreline. Erosion along the banks of the Oak Orchard River has also forced a portion of Oak Orchard River Road to be closed. Factors that have exacerbated harmful erosion include inadequate funding for control measures, lack of coordination of control measures among private landowners, and siting of land uses (both public and private) in erosion-prone areas. An amended LWRP may be able to address these problems by setting uniform objectives and standards for erosion control measures.

Town and County representatives reported a desire for additional training and/or clarification regarding amending the LWRP. DOS staff will provide guidance materials and, if needed, further in-person or teleconference assistance to aid the Towns in developing an updated LWRP.

LWRP Document Accessibility

Copies of the Towns' LWRP are on file in the Clerks' Offices of the Town of Kendall (1873 Kendall Road), the Town of Yates (8 South Main Street, Lyndonville), and the Town of Carlton (14341 Waterport-Carlton Road, Albion), as well as in the Orleans County Planning Office (14016 Route 31 West, Albion), and are available during business hours. An electronic copy of the LWRP is available on the [DOS website](#).

Local Consistency Review

The Towns of Kendall and Yates adopted LWRP Consistency Laws in 1996; the Town of Carlton adopted a Consistency Law in 1998. Each Consistency Law is functionally identical, and describes the purposes, applicability, and procedures of consistency review. The Law requires all actions classified as Type I or unlisted under Part 617 of Title 6 of NYCRR must be undertaken in a manner consistent with the policies and purposes of the Towns' LWRP.

The Towns' respective local consistency review laws state that a Town agency, when proposing to undertake, approve or fund a Type I or Unlisted action in the waterfront area, shall prepare and submit to the Town Board or Zoning Board of Adjustment (as appropriate) a Waterfront Program Consistency Assessment Form for the proposed action. The Town Board or ZBA may solicit review assistance and advisory opinions from other Town agencies or the Boards of the other Towns participating in the LWRP. The Town Board/ZBA will make consistency determinations within 30 days of submission. No Type I or Unlisted action shall be undertaken, approved, or funded unless the Town Board/ZBA certifies its consistency with the policies and purposes of the LWRP. The Towns drafted and adopted their consistency laws concurrently with the development of the LWRP, which incorporates the laws by reference in Section V.

The Town Supervisors are aware of local consistency review law; however, because it is rarely used, few Town residents know it exists. Most years there are no proposed projects in the coastal zone which require consistency review. As part of the LWRP evaluation process, DOS staff discussed the local consistency review law and consistency review process with the Town Supervisors. If necessary, the Towns will consult with DOS consistency unit on proposed actions in the coastal area.

| Grants Awarded | | | |
|--|------------------------|---|---------------|
| Title 11 Environmental Protection Fund Local Waterfront Revitalization Program (EPF LWRP) | | | |
| Towns of Kendall, Yates, and Carlton | | | |
| Year | Amount of Grant | Project Description | Status |
| 2003 | \$50,000 | Carlton (T)/ Construction of Transient Docking Facility at Orleans County Marine Park - The Town, in partnership with Orleans County, constructed a 200-slip transient docking facility at Orleans County Marine Park in the hamlet of Point Breeze on Oak Orchard River and Lake Ontario. The project has relieved congestion at the boat launch site and provides linkages to land-based businesses. | Closed |
| 1996 | \$10,500 | Yates (T)/ Johnson Creek Access Improvements - The project involved construction of various public access improvements to enhance safety and fishing access opportunities on a portion of a 10 acre site along Johnson Creek within the Town of Yates and Village of Lyndonville. Improvements for the site included: construction of a stone parking area and a wooden fence to eliminate vehicle access near the shoreline; repavement of the existing driveway with stone; recycling of the existing pavement as base material; installation of a walkway from the parking area to the shoreline; installation of picnic tables on concrete pads; installation of benches; construction of a railing and signage along the shore for handicapped access; and installation of directional signage off-site on NYS Route 63. | Closed |
| 1995 | \$5,000 | Kendall, Yates, & Carlton (T)/ Johnson Creek Access Design - The project generated recommendations for providing fishing access on Johnson Creek, and to help expand the trout and salmon stream sportfishery in Orleans County. The project included making recommendations for easement purchases, designing a fish ladder, observation deck, and parking area at Lyndonville Dam, and estimating the cost of providing improved opportunities for float tube fishing, bank fishing, and canoe launching. | Closed |