

# Inter-County Association of Western New York

% Steuben County Legislature, 3 East Pulteney Square, Bath, New York 14810

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*Representing the Counties of Allegany, Cattaraugus, Cayuga, Chautauqua, Chemung, Erie, Genesee, Livingston, Monroe, Niagara, Ontario, Orleans, Schuyler, Seneca, Steuben, Tompkins, Wayne, Wyoming, and Yates*

## RESOLUTION NO. 010-25

### MEMORIALIZING NEW YORK STATE AND THE FEDERAL GOVERNMENT TO EVALUATE AND CERTIFY FLOOD CONTROL LEVEES IN NEW YORK STATE.

**WHEREAS**, New York State Department of Environmental Conservation (NYSDEC) has established regional Flood Protection Projects within the State; and

**WHEREAS**, the Inter-County Association of Western New York, representing 2.9 million citizens in the State of New York, is comprised of 19 counties that fall within three of NYS DEC's regional Flood Protection Projects; and

**WHEREAS**, the NYS DEC Region 7 Flood Protection Project includes Cayuga and Tompkins counties which have 2 levees only within Cayuga and Tompkins counties and 3 areas where there are no levees or floodwalls located in Cayuga County; and

**WHEREAS**, the NYS DEC Region 8 Flood Protection Project encompasses the counties of Orleans, Monroe, Wayne, Genesee, Ontario, Livingston, Yates, Steuben, Schuyler, Chemung and Seneca counties. Within this region there are 7 levees and floodwalls located within Yates, Steuben, Schuyler and Chemung counties, 4 levees only located in Steuben County, 1 floodwall located at the North end of Seneca Lake and 7 areas where there are no levees or floodwalls located in Livingston, Genesee, Ontario, Seneca and Schuyler counties; and

**WHEREAS**, the NYS DEC Region 9 Flood Protection Project encompasses the counties of Niagara, Erie, Wyoming, Chautauqua, Cattaraugus and Allegany counties. Within this region there are 5 levees and floodwalls located in Cattaraugus and Erie counties, 2 levees only located in Allegany County and 20 areas where there are no levees or floodwalls located through the entire region; and

**WHEREAS**, levee and floodwall systems provide flood protection for numerous cities, towns and villages within these Flood Protection Projects; and

**WHEREAS**, levee-protected areas contain business, infrastructure, and institutional development as well as homes of residents that contribute to the State's economy and quality of life; and

**WHEREAS**, many of these levee systems enable the protected areas to be mapped as low or moderate flood hazard zones (Zone B, C or X) on the effective Flood Insurance Rate Maps (FIRMs) developed by the Federal Emergency Management Agency (FEMA) for the National Flood Insurance Program (NFIP); and

**WHEREAS**, counties benefit from the professional design, maintenance, operation, and inspection of levees by state and federal agencies, while also recognizing that these structures are aging and may have unknown deficiencies; and

**WHEREAS**, FEMA has conducted Discovery meetings and Local Levee Partnership Team meetings in anticipation of a Risk Mapping, Assessment, and Planning (Risk MAP) project that would update Flood Insurance Rate Maps for counties, including an updated evaluation of the protection provided by flood control levees; and

**WHEREAS**, FEMA flood hazard mapping standards for designating flood risk zones in areas landward of levees (as shown on FIRMs) hinge on whether the levee is accredited by FEMA as reducing the risks associated with the 1-percent-annual-chance flood, based on criteria specified in Title 44, Chapter 1, Section 65.10 of the Code of Federal Regulations (44 CFR 65.10); and

**WHEREAS**, 44 CFR 65.10 lists the certified information about a levee's design, operation plan, and maintenance plan that should be provided to FEMA at the time of a flood risk restudy and prepared by either a licensed Professional Engineer or a federal agency with responsibility for levee design; and

**WHEREAS**, the FEMA Levee Analysis and Mapping Procedures for Non-Accredited Levees specify that, in the absence of certified levee information, Natural Valley (without levee) mapping procedures will be used to designate a high-risk flood zone (Zone AE) in areas protected by the levee; and

**WHEREAS**, FEMA is preparing Draft Levee Plans for several counties, which may include a determination that existing documentation for levees is inadequate for accreditation and includes draft maps delineating the protected areas that might be depicted as Flood Zone AE using Natural Valley mapping techniques; and

**WHEREAS**, areas mapped as Flood Zone AE on a FIRM are subject to floodplain development standards that require elevation or floodproofing of new and substantially improved buildings, and are also subject to mandatory flood insurance requirements for buildings with federally-backed mortgages; and

**WHEREAS**, levee-protected communities in these counties lack both the technical expertise and the financial resources needed to provide FEMA with the certified levee information specified in 44 CFR 65.10; and

**WHEREAS**, New York State was the local sponsor for levees built by the federal government and has assumed responsibility for maintaining and operating many of these levee systems, but has not agreed to develop the certified levee information required for accreditation by FEMA; and

**WHEREAS**, Section 3014(b) of the Water Resources Reform and Development Act of 2014, provides authority for the US Army Corps of Engineers (USACE) to conduct levee system evaluations to provide levee accreditation recommendations for purposes of mapping for the National Flood Insurance Program (NFIP); and

**WHEREAS**, the USACE memorandum, "Implementation Guidance for Section 3014 of the Water Resources Reform and Development Act of 2014, as amended by Section 142 of the Water Resources Development Act of 2020" (November 16, 2021), specifies that requirements for a levee system evaluation include: submittal of a written request by either the levee sponsor or the community, execution of a Memorandum of Understanding, and a 50% cost share for evaluation of a levee system that is not federal maintained; and

**WHEREAS**, USACE staff have indicated that, if a levee evaluation request meets program requirements, the scope of work, budget, and schedule for this evaluation will be prepared after a written request is received, before which they can only estimate that the average cost is about \$550,000 for each levee system; and

**WHEREAS**, a levee evaluation by the USACE may not include all of the information needed for FEMA accreditation, such as information about operation and maintenance, emergency planning, and interior drainage.

**NOW THEREFORE, BE IT**

**RESOLVED**, the Inter-County Association of Western New York appreciates the significant state and federal contributions to the safety of our communities, which includes historic and ongoing state and federal responsibilities for the design, construction, operation, maintenance, and inspect of flood control levees; and be it further

**RESOLVED**, the Inter-County Association of Western New York encourages each municipality with a flood control levee that is likely to meet the criteria needed for FEMA to account for the levee protection on updated Flood Insurance Rate Maps, to submit a letter to the USACE requesting levee evaluation assistance, with the understanding that this will enable the USACE to provide a cost estimate and does not obligate the municipality to enter into a Memorandum of Understanding; and be it further

**RESOLVED**, the Inter-County Association of Western New York requests that the USACE (1) provide timely responses to any written requests for levee evaluation, including the proposed scope of work and budget for qualifying projects, (2) secure the federal funding required to evaluate flood control levees in Allegany, Cattaraugus, Cayuga, Chemung, Erie, Schuyler, Steuben, Tompkins and Yates counties, (3) perform levee evaluations in coordination with state and local partners, (4) provide appropriate recommendations to FEMA regarding accreditation of each levee system evaluated, and (5) for any levees that do not meet the requirements for accreditation, provide technical support, assistance and funding to facilitate remediation of identified deficiencies; and be it further

**RESOLVED**, the Inter-County Association of Western New York requests assistance from New York State to (1) conduct any levee and channel maintenance needed to provide flood protection consistent with the levee design criteria for levees maintained by the NYS Department of Environmental Conservation (DEC), (2) provide technical support, coordination, and project oversight for the evaluation and/or certification of flood control levees in Allegany, Cattaraugus, Cayuga, Chemung, Erie, Schuyler, Steuben, Tompkins and Yates counties, (3) execute Memoranda of Understanding with the USACE if this is the preferred process for levee evaluation or facilitate certification by a Professional Engineer, (4) provide funding to satisfy the cost share requirements for levee evaluations conducted by the USACE or for levee certification by Professional Engineers, (5) conduct an interior drainage study for each levee system in Allegany, Cattaraugus, Cayuga, Chemung, Erie, Schuyler, Steuben, Tompkins and Yates counties, including analyses, operating procedures, and maintenance procedures, as required to meet FEMA's accreditation criteria, and remediate any identified deficiencies in interior drainage capacity, (6) in coordination with the USACE, update the Operation and Maintenance Manual for each levee system in the counties to meet FEMA's accreditation criteria, (7) in coordination with the USACE, each counties Office of Emergency Services, and municipalities, update the DEC Region 7, Region 8 and Region 9 Flood Emergency Plans to meet FEMA's accreditation criteria for emergency operation of the levees, and (8) if any deficiencies are identified during the levee evaluation or certification process, work to remediate each levee so that it provides reliable flood protection for the community; and be it further

**RESOLVED**, the Inter-County Association of Western New York requests that FEMA delay updated mapping of flood zones in any area protected by a levee for which an evaluation or certification project is in process, so that the current flood zones are retained until the levee certification and accreditation review processes are completed; and be it further

**RESOLVED**, a certified copy of this resolution shall be forwarded to Honorable Kathy Hochul, New York State Governor; all members of the NYS Senate; all members of the NYS Assembly; the New York State Association of Counties; Honorable Charles E. Schumer, United States Senate, 322 Hart Senate Office Building, Washington, D.C. 20510-3202; Honorable Kirsten Gillibrand, United States Senate, Kenneth B. Keating Office Building, 100 State Street, Room 4195, Rochester, NY 14614; Honorable Nick Langworthy, United States House of Representatives, 422 Cannon House Office Building, Washington, D.C. 20515; Honorable Josh Riley, United States House of Representatives, 128 Cannon House Office Building, Washington, D.C. 20515; Honorable Claudia Tenney, United States House of Representatives, 2230 Rayburn House Office Building, Washington, D.C. 20515; Honorable John W. Manion, United States House of Representatives, 1516 Longworth House Office Building, Washington, D.C. 20515; Honorable Timothy M. Kennedy, United States House of Representatives, 423 Cannon House Office Building, Washington, D.C. 20515; Honorable Joe Morelle, United States House of Representatives, 570 Cannon House Office Building, Washington, D.C. 20515; Colonel Francis B. Pera, District Commander, U.S. Army Engineer District – Baltimore, 2 Hopkin Plaza, Baltimore, MD 21201; Carol Lamb-LaFay, Director, Division of Water, NYS Department of Environmental Conservation, 625 Broadway, Albany, NY 12233; and Michael Foley, Risk Analysis Branch Chief, Federal Emergency Management Agency, Region II, 26 Federal Plaza, Suite 1307, New York, NY 10278.

STATE OF NEW YORK)

ss.:

COUNTY OF STEUBEN)

I hereby certify that the foregoing is a true and correct transcript of a resolution duly adopted by the Inter-County Association of Western New York while in session in Genesee County on the 21<sup>st</sup> day of March 2025.

Dated: June 17, 2025  
Bath, New York



Amanda L. Chapman, Secretary  
Inter-County Association of Western New York