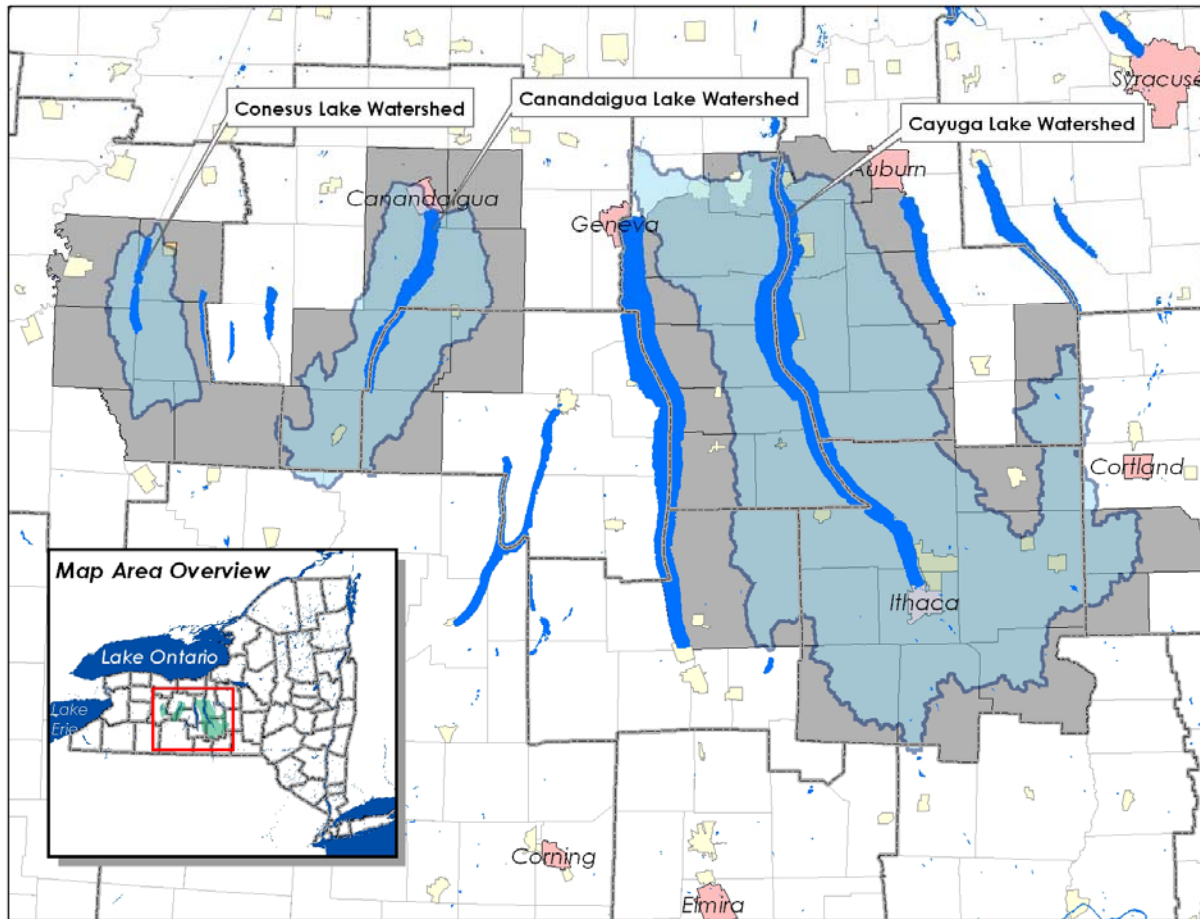




II. Assessment Overview¹

Project Case Study Area



The assessment of local laws in the Canandaigua, Cayuga, and Conesus Lake watersheds was initiated in the early 2004 by G/FLRPC as Phase I of the project. A general land use regulation inventory was completed focusing on three primary building blocks of land use control in New York State: the comprehensive plan, zoning, and subdivision regulation. The 56 municipalities vary widely in many factors and the presence of these basic components of land use control could not be assumed. Results of this inventory can be found in Appendix A.

Subsequently, a much more detailed assessment was conducted using a 'best management practices' (BMP) assessment tool. This form was developed by the New York State Department of State for use with the Long Island South Shore Assessment and Lake George Watershed Assessment. The form was modified by G/FLRPC for use in the Finger Lakes, since the geography and socio-economic factors of most Finger Lakes municipalities are very different from both Long Island and the Lake George area.

¹ Due to their length, assessment forms have been summarized for review and analysis and have not been included unabridged in this report. Assessments for each municipality have been submitted in hard-copy format to the NYS Dept. of State and can be viewed online at the project website (www.gflrpc.org).



The entire assessment process was conducted in order to gain a thorough understanding of existing local laws, ordinances, and practices, many of which impact land use and ultimately water resources in the Finger Lakes. The BMP assessment form, a copy of which is in Appendix D, lists 151 individual best management practices which are divided into six primary categories:

1. Development

- o Existing Development
- o New Development and Substantial Redevelopment

2. Forestry and Agriculture

- o Forestry
- o Agriculture

3. Waterways and Wetlands

- o Modified Waterways
- o Wetlands and Riparian Area Management and Restoration

4. Marinas

- o Existing Marinas
- o New Marinas
- o All Marinas

5. Roads and Bridges

- o Existing Roads and Bridges
- o New Roads and Bridges
- o All Roads and Bridges (existing and new)

6. Onsite Wastewater Treatment Systems (OWTS)

- o (There are no sub-categories for OWTS)

The existing local laws of the 56 municipalities were reviewed against these 151 best management practices. Utilizing G/FLRPC's library of local land use ordinances and the existing land use control assessments in the three watershed management plans, G/FL staff began the process of local law assessment in the spring of 2004. Tables and charts summarizing the results of this assessment can be found throughout the body of this report.

Assessment Approach

There are numerous challenges associated with an assessment of this nature. A large number of municipalities, the diversity of the socio-economic and land use characteristics across these municipalities, coupled with the detail of the assessment form (151 individual best management practices) made the review an arduous but important undertaking.

As stated above, the process began with the creation of an inventory of local laws and other pertinent land use documents for each case study municipality. The inventory was conducted by focusing on three primary building blocks of land use control in New York State: the comprehensive plan, zoning, and subdivision regulation. When available, other relevant local codes and regulations were also reviewed, garnering variable results. Examples include local sediment and erosion control laws, junk laws and animal control ordinances (which might include stipulations relevant to the proper use and disposal of waste materials). All available laws and other official documents on record as of the summer of 2004 were included in the



analysis.

The majority of municipalities in the three case study watersheds are rural, with small populations and tax bases. Thus, they do not have the means, or often the need, to support a full-time staff that could be consulted for projects of this type, nor have they experienced the growth and development that would instigate the need for comprehensive land use controls.

Furthermore, existing staff such as clerks and highway superintendents often do not have the additional time to devote to a lengthy assessment, while others –such as code enforcement officers and planning board chairs –have limited hours or are unpaid volunteers. These factors further compelled G/FLRPC to perform most of the work of the preliminary assessment in-house. Tapping into the local knowledge base regarding on-the-ground practices, however, is recognized as a crucial step in performing an accurate and reliable assessment.

Compilation and Ranking of Best Management Practices

Laws vs. Practices

Local laws and regulations are methodically reviewed in an effort to detect legal mandates for the use of BMPs while undertaking various construction or operational activities within the jurisdiction. As BMPs are found, they are gleaned from the document and entered into the assessment form with the proper citation.

Using the legislative process is viewed as a reliable means of instituting the use of a BMP within a jurisdiction. By subjecting the variables of a BMP's use and application to public scrutiny and seeing that the implications of its use are fully deliberated by the relevant officials, a municipality can help to ensure that it will serve its intended purpose in a uniform manner throughout the jurisdiction. However, the legislative process by no means guarantees that a BMP will be properly implemented in the field. Local officials may not necessarily enforce regulations that are on the books for a variety of reasons, such as outward pressure, failure to recognize the need for the law, failure to understand the law, or simply unawareness altogether.

In many cases, environmental BMPs are practiced voluntarily in the field by conscientious public officials, private contractors and citizens. “Good housekeeping” practices were therefore searched for and assessed by contacting local highway and public works departments directly. In some instances, field research was conducted in order to investigate whether BMPs were in place at specific locations, such as marinas and waterfront recreation areas.

Independent Organizations and Special Jurisdictions

In many instances, local jurisdictions rely on independent or public agencies to perform certain tasks across a large area, such as a watershed, county or region.

All of the counties within the case study area have Soil and Water Conservation District (SWCD) offices which perform a wide array of duties relative to land and water conservation. These activities typically include source water protection, drainage assessment and improvement,



water quality monitoring, erosion prevention and environmental restoration, as well as the development of various education and outreach programs. Cornell Cooperative Extension county offices perform similar functions, often in conjunction with SWCDs, private land owners and local governments. Local and regional watershed groups – recognizing the need for specific actions to take place in their respective areas of concern – have also been increasing their organizational capacity, complexity and resource base in recent years. In a number of instances, these groups have become very effective and efficient at addressing local water quality needs and concerns. Furthermore, county, state and regional agencies – such as county health departments and the NYS Office of Parks, Recreation and Historic Preservation – are responsible for administering a variety of functions across a wide area or within their respective jurisdictions.

When available, BMPs that are undertaken and implemented by agencies other than local jurisdictions have been captured in the assessment and listed as appropriate.

Ranking

The method for ranking a BMP's degree of implementation is as follows:

2 – Full Implementation: If a law, it must fully address the associated BMP without question or variance. As the law is written, it should bear a clear and reasonable resemblance to the BMP as it is written in the assessment form. The defined jurisdiction of the law should be considered thoroughly. For example, BMPs mandated within mobile home parks can not, by definition, be applied throughout a municipality and should not be given a ranking of '2' if the BMP is intended to be applied across an entire jurisdiction. For practices, the identified practice must clearly relate to the BMP. Personal conversation with relevant local officials or actual observance in the field must be made to determine whether the BMP is being fully implemented.

1 – Partial Implementation: If a law, the BMP may be considered to be “partially implemented” if it is not entirely clear in the language of the law if the action or mandate will thoroughly address the area of concern as described in the BMP assessment form. Or, the law may be written to address only a specific area or zone, such as a mobile home park or environmental protection overlay district. If a practice, the BMP may be considered to be partially implemented if it is a general practice applied across a regional or local jurisdiction without strict scrutiny or oversight. In some cases, this applies to activities undertaken by independent organizations, such as a watershed group or academic institution.

0 – Not at all: No evidence has been found that the BMP listed in the assessment form is being implemented to any degree within the municipality or jurisdiction.

N/A Not applicable: It would not be possible for the municipality to implement the BMP and/or the BMP as it is described in the assessment form is not covered under the routine operational authority of the municipality or department in question. For example, agricultural operations are not typically found in urban settings; therefore a “n/a” can be found throughout the Forestry and Agriculture section for all cities and most villages in the case study area.