ECLEG SEP18'12 AM10:10

A RESOLUTION TO BE SUBMITTED BY
LEGISLATOR LORIGO & RATH

Re: Opposing the Clean Water Act Draft Guidance Proposed by the Environmental Protection Agency

WHEREAS, Erie County affirms its commitment to environmental stewardship and the protection of our natural resources, and recognizes the need to harmonize municipal programs and services with the legislative intent and objectives of the Clean Water Act (CWA); and

WHEREAS, the CWA was not intended to protect ditches and other channels through which water flows intermittently nor was it intended to capture seeps, wet areas, isolated man-made ponds and other structures not currently subject to the CWA; and

WHEREAS, the Environmental Protection and Agency (EPA) and the United States Corps of Engineers (Corps) have developed draft guidance on *Identifying Waters Protected by the Clean Water Act* (draft guidance) to clarify the EPA and Corps' understanding and definition of the CWA that will inform all of EPA's regulatory programs and policy actions; and

WHEREAS, this draft guidance creates uncertainty, confusion and would now capture a significant number of public works activities and transportation infrastructure that will now be subject to the CWA and its costly and time-consuming permitting and regulatory protocols; and

WHEREAS, the draft guidance greatly expands the number of projects subject to jurisdictional determination or CWA permitting which do not currently require such oversight at great expense to the taxpayers of Erie County with little, if any, environmental benefit while diverting scarce resources from other programs that do provide environmental protection and conservation benefits; and

WHEREAS, the financial impact of the draft guidance to Erie County will be significant, raising the cost of roadside ditch projects and ongoing maintenance to Erie County citizens due to the need for jurisdictional determinations by the Corps or CWA permitting; and

WHEREAS, Erie County believes that it is improper to so significantly change the scope of the Clean Water Act without legislative authorization by the U.S. Congress or through the formal rulemaking process to allow public and stakeholder comments on this critically important and complex issue.

NOW, THEREFORE, BE IT

RESOLVED, the Erie County Legislature urges the EPA and the Corps to withdraw the draft CWA guidance immediately and work collaboratively with states and local governments to enforce the current scope of the CWA while respecting the authority of state and local governments in ensuring the protection of our water resources; and be it further

RESOLVED, that the Erie County Legislature supports federal legislation consistent with the above recommendations and urges its Congressional and State representatives to intercede with EPA and request that EPA report to them on their response and adaptations regarding the aforementioned concerns; and be it further

RESOLVED, that copies of this resolution be forwarded to the local delegation of the United States Congress, the local delegation of the New York State Legislature, Governor Andrew Cuomo and Commissioner of Environment and Planning Maria Whyte.

Fiscal Impact: None.