

when in conformance with M-1 performance standards as set forth in the zoning). Residential dwellings and adult entertainment establishments are permitted in an M-1 district by Special Use permit. The M-1 district also allows any as-of-right and special permit uses that are permitted in a C-1 district.

- **NFBO Niagara Falls Boulevard Overlay District** - This overlay district is designed to better manage and accommodate increasing commercial growth along the Niagara Falls Blvd. corridor through the implementation of guidelines to regulate traffic, signage and development/redevelopment. It is intended to encourage the development of uses that are in harmony with the surrounding area, improve visual character, protect adjoining residential uses and enhance the character of the area as an important gateway.

The Town's subdivision regulations are fairly standard, with procedures for both minor subdivisions (4 or less lots, not involving public infrastructure improvements or extensions) and major subdivisions (more than 4 lots). A minor subdivision approval is a two step process with sketch plan and minor subdivision plat review. A major subdivision requires three steps: sketch plan, preliminary plan review, and final plat review.

Other codes in the Town of Wheatfield that affect land use in the Town include Chapter 82, which regulates drainage and drainage structures; Chapter 92 - Excavations; Chapter 101, which regulates flooding and flood damage prevention; Chapter 114 for Mobile Home Parks; Chapter 123, which regulates parks and recreation areas in the Town; Chapter 134 - Property Maintenance, which sets forth provisions for controlling litter, weeds and other debris abandoned or stored on public property; Chapter 146 - Sewers; Chapter 161 - Solid Waste - which controls the dumping, storage, collection and disposal of refuse in the Town; Chapter 163 - Storm Sewer System; Chapter 164 - Stormwater Management - which establishes minimum stormwater management requirements and controls; Chapter 165 - Streets and Sidewalks; Chapter 177 - Towers and Antennas, which regulates the installation of towers; Chapter 194 - Water; Chapter 196 - Weeds, which establishes provisions to control excessive growth of weeds, grass and other unhealthful plants that can constitute a nuisance; and Chapter 198 - Wind Energy Conversion Systems.

### F. Public and Underwater Land Ownership

There is only one property along the waterfront that is owned by the Town. This is a 4.8-acre brownfield property that the Town desires to utilize for future public parkland.

- **Public Trust Doctrine**  
New York, upon attaining Statehood, succeeded the King of England in ownership of all lands within the State not already granted away, including all rights and title to the

located within the Niagara Falls Blvd. overlay district (NFBO). The intent of the NFBO is to enhance the positive image of the Town of Wheatfield and to preserve greenspace, while at the same time improving commercial business activity along this important roadway. The NFBO overlay district sets forth additional regulations to promote, protect and improve aesthetics and safety along the Niagara Falls Blvd. corridor.

The zoning classifications in the LWRA include the following provisions.

- **R-2 Residential-2 District** - This district allows one and two-family dwellings, churches, schools, parks, playgrounds and fire stations. Special Permit uses allowed in an R-2 district include cemeteries, golf courses, clubs and fraternal organizations, parks and recreation buildings, nursing homes, excavation and mining (in compliance with Section 200-34.1 of the Zoning regulations) and mortuaries.
- **R-3 Residential-3 District** - The R-3 district allows uses that are permitted in an R-2 district (both by right and with a special use permit), and multi-family housing. Accessory uses allowed are those as permitted in an R-1 district.
- **C-1 Commercial District**- This general commercial district allows a host of business and commercial uses including, telephone exchanges, real estate and insurance offices, mortuaries, opticians and optometrists, indoor recreation (bowling, health spas, tennis courts, etc.), medical offices and clinics (with restrictions), nursing and convalescent homes, professional and executive offices, tourist homes, day-care centers, personal service shops, laundromats, dry cleaners, theaters, assembly halls, custom shops (lighting, plumbing, woodworking, etc.), machine and tool sales and service, job and newspaper printing, shopping centers and plazas, nurseries and greenhouses, golf driving ranges, facilities for the assembly of previously prepared materials (with restrictions), indoor gun ranges and mobile home parks.

Uses allowed by Special Use permit in the C-1 district include car washes, drive-in theaters, gasoline service stations, collision shops, commercial storage buildings, new and used motor vehicles sales and services, kennels, drug and alcohol-related hospitals or clinics, and small animal hospitals. The C-1 classification also allows all uses that are allowed by right and all special permit uses that are allowed in the R-3 Residential district.

- **M-1 Light Industrial District** - As-of-right uses in this district include warehouses, truck terminals, airports, contracting and construction services, theme parks that may include other uses that are permitted in the C-1 and M-1 districts, and other businesses, services, manufacturing or processing of materials, goods or products not otherwise prohibited by law when conducted in a completely enclosed building (and

entity. The beds of the Great Lakes and the River are susceptible to private ownership only for special purposes. The boundary line between State ownership of the lakebed or riverbed and ownership of the adjacent upland is the low water mark.

State-owned underwater lands are managed by the New York State Office of General Services (OGS). The OGS issues grants, leases, easements and other interests for these underwater lands. They also investigate encroachments on littoral rights (the right of an upland owner to access the navigable waters of the lakes or river) and make sure there is no interference with navigable channels. The OGS reviews NYSDEC and Army Corps of Engineers comments for proposed projects that affect State-owned bottom lands to ensure that the benefits of the public will not be deprived and that the environment will not be adversely impacted. The OGS strives to achieve satisfaction on the part of all parties involved prior to the issuance of an interest (grant, lease or easement).

The State Office of General Services is the agency responsible for issuing grants, leases and easements for the use of underwater lands, and for other interests for docks and associated marine-related structures that are placed on State-owned underwater lands. In the case of the Town of Wheatfield, the OGS is an authorizing agency for the use of underwater lands for docks proposed along the Niagara River. The construction of any commercial dock or any private, non-commercial dock that exceeds 4,000 square feet in area size (including the perimeter) would require the granting of an interest (a grant or easement) from the OGS. Non-commercial structures that are less than 4,000 square feet in size (as measured from the outermost perimeter and including the surface area of the water contained within), less than 15 feet in height and have a capacity of five or fewer boats, would not need an interest.

- **Underwater Land Grants and Leases**

Over the years, a number of underwater land grants have been issued by the State along the shoreline of the Niagara River in the Town of Wheatfield (see Map 5). These grants were issued for the express purpose of either *commerce* or *beneficial enjoyment*. Grants issued for commerce were given to shorefront businesses for more restricted activities and were usually written with conditions. If the conditions were not followed, the State could bring an action to declare the grant void and thereby recover ownership, per Section 78 of the Public Lands Law. Beneficial enjoyment grants were given to shorefront property owners without restriction and provided more complete title to the underwater lands. In either case, the grantee was given full ownership rights to the bottom lands. Grants for commerce were issued in the early to mid 1800's, and then the issuance of grants for beneficial enjoyment became more commonplace. Around 1890, the State began to restrict the grants issued for beneficial enjoyment, as well. Furthermore, in making grants of underwater lands, the State could also impose conditions on the use of these lands.

navigable waters and the soil under them (Public Lands Law, Section 4; People v. Trinity Church, 22 N.Y. 44, 1860; Langdon v. Mayor, 93 N.Y. 129, 1883). Broadly speaking, the State holds title to all underwater lands not otherwise conveyed away by patents or grants. The State holds title to these tidelands and submerged lands in its sovereign capacity in trust for the use and enjoyment of the public under the *Public Trust Doctrine* (People v. Steeplechase Park Co., 218 N.Y. 459, 1916; Appleby v. City of New York, 271 US364, 1926; Coxe v. State, 144 N.Y. 396, 1895). This legal doctrine emerged from the ancient concept that the sovereign had the right of way, an "incorporeal hereditament", to all navigable streams and waterways; the underlying theory being the protection of the public interest in fisheries and navigation.

State title to the public foreshore and submerged lands, and the power of disposition, is incident and part of its sovereignty, which cannot be surrendered, alienated or delegated, except for some public purpose or some reasonable use for the public benefit, and without impairing public rights in the remaining lands and water. Inherent in the nature of public trust lands is that they support diversified and important ecosystems without which many public rights, including fishing, swimming and the like, would be impossible to enjoy. The public interest demands the preservation and conservation of this vital natural resource against pollution, overuse, destruction and infringement by others, whether public or private.

It is in the public interest that State and other governmental ownership of public trust lands be maintained and, when possible, recovered from private ownership. Where full public ownership no longer exists, the application of the Public Trust Doctrine requires that any remaining rights of the public to use such lands should be preserved and protected for present and future enjoyment.

Occupation of public trust lands by riparian owners for purposes of gaining access to navigable waters should be undertaken in a reasonable manner that does not unnecessarily interfere with the public's right of passage upon, the use of the waters overlying such lands, and other public trust purposes. Considerations of public safety, resource protection and the need for access at a given location may be utilized as factors in determining the level and types of access to be provided. Public use of publicly-owned underwater lands and lands immediately adjacent to the shore shall be discouraged only where such use would be inappropriate for reasons of public safety, military security, or the protection of coastal resources.

- **Underwater Land Ownership**

Ownership of Lakes Erie and Ontario, within the territorial limits of New York State, and all submerged lands, including the subsurface lying under the lakes and the Niagara River, is held by the State of New York, unless ownership has been granted to any other person or



W H E A T F I E L D

65

66

67

68

RIVER ROAD

*Wheat  
field  
old school  
house*

School Lot

FREDERICK HUDD.  
Feb. 9. 1893

18 1/2 A.

1893

JACOB DOLD.  
Sept. 1. 1892

22 3/4 A.

1897

HELEN A. M. SABINE.  
Jan. 4. 1894

9 1/2 A.

1894

JACOB DOLD.  
Sept. 1. 1892

6 3/4 A.

1897

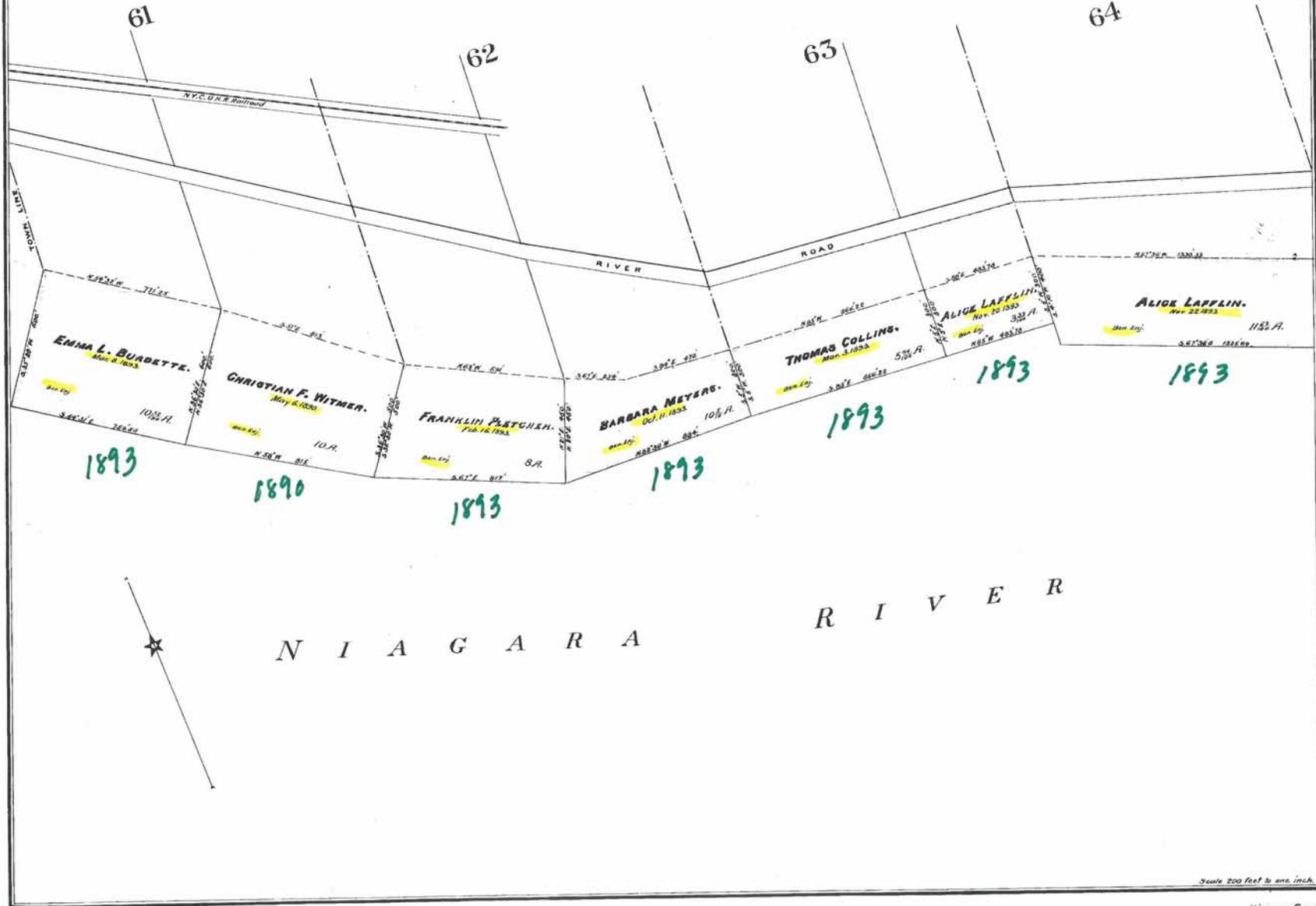
N I A G A R A R I V E R



Scale 200 feet to one inch.

Niagara County

W H E A T F I E L D



N I A G A R A R I V E R

Scale 200 feet to an inch.

W H E A T F I E L D

Wheatfield  
68

N.T.  
69

70

71

JACOB DOLD  
Sept. 1, 1897.

1897

JULIUS A. KUCH  
and  
HENRY E. WARNER.  
Feb. 16, 1893 (Cancelled)  
May 31, 1893.  
4 1/2 A.  
5.63' x 2.5' 3/4"

1893

MICHAEL MELLANY.  
Jan. 20, 1893.

1893

10 1/2 A.

Wm. TOMPKINS.  
Dec. 3, 1890

1890

16 1/2 A.

NICHOLAS  
BRANTON.  
Sept. 23, 1889  
Common  
3 1/2 A.

1889

Simsol and FELTON.  
July 18, 1877.  
18 A.

1877

N I A G A R A

R I V E R



A review of the water grant index maps for the Wheatfield waterfront area indicates that numerous underwater land grants were issued in the area, primarily during the mid to late 1800's and early 1900's. Approximately 12 grants were issued along the shoreline between 1890 and 1897; all for beneficial enjoyment. These underwater grant lands consisted of offshore area that was likely used for the installation of docks or other offshore structures. In general, the form of the current day waterfront is due in part to fill, bulkheading and other activity that occurred through the issuance of the underwater land grants.

The interest in underwater lands is attached to either the new upland property that is created through fill activity or to the coterminous upland property. As ownership of the land changes hands, the interest in the underwater land moves with the title to that land. For private property, because the interest in the underwater lands is attached to the title, there is no need for the State to reconvey the lands to the new landowner. Therefore, underwater land ownership has been transferred, over the years, to the present day owners of the upland properties.

### 2.5 Surface Water Uses, Navigation and Harbor Management

#### A. Vessel Use and Navigation

##### Sub-Area 1: Niagara River

Vessel use along the Wheatfield waterfront is limited to small pleasure craft, which are used for recreation and fishing. There are no commercial vessels docked in the area and no commercial fishing industry or support facilities. A large number of residents along the shoreline have docks that are supported through underwater land grants (as noted above). Many of these structures (approximately 50 percent) are removed in the winter.

There is a designated navigation channel that extends through the central portion of the Niagara River. Known as the Niagara River Channel, this navigation channel is dredged to a depth of 12 feet. These private docks are used primarily to launch small craft that would otherwise be docked at a marina outside the area.

Off-shore water depths in the Niagara River range between 5 feet or less along the shoreline to between 10 and 13 feet mid river. While in places the near-shore bottom is sandy, the river bottom is predominately mud and silt. According to National Oceanic and Atmospheric Administration navigation charts, there are underwater obstructions in the form of submerged pilings and cribs. There are pilings for abandoned floating docks located near the shoreline in areas up to 6 feet deep. The cribbing is deeper and includes the wastewater treatment plant outfall.

### Sub-Area 2: Erie Canal (Tonawanda Creek)

All activities on the Erie Canal are regulated by the New York State Canal Corporation. Certain Statewide boating regulations are in force along the Erie Canal, including speed limitations, requirements for the use of personal flotation devices and vessel waste treatment and disposal restrictions. The Erie Canal channel is 12 feet deep. Bridge clearance for the Niagara Falls Blvd. overpass varies between 15.5 and 20 feet. Every boat, vessel, raft or other floating apparatus that is navigated on the Canal must be in good operating condition. The vessel speed limit in the Canal is 10 miles per hour, unless otherwise posted. The New York State Police and the Niagara County Sheriff's Department are the agencies responsible for enforcing these regulations. In the event of a violation, Canal personnel will contact one of these agencies to launch a patrol boat in response to the call. There are no police boats temporarily or permanently docked in the Canal. According to Section 156.4(b), the use or occupation of lands owned by the Canal Corporation requires a revocable use permit. Residences and camps that wish to gain access to canal waters must pay a fee of \$50 per year. This type of permit is restricted to upland owners and includes only lands between the upland residence or campsite and the canal waters. The permitted area cannot exceed one acre in size and cannot contain any building improvements. The permit gives the property owner the right of exclusive access across the canal lands to canal waters. An additional annual charge of \$50 is charged for erecting and/or maintaining a dock, ramp, slip or float within the canal waters. Permit fees for the use of canal lands and facilities not in conjunction with a private residence or camp are based on the fair market value of the property and the use of the permitted area, including, but not limited to, the placement of docks, ramps, slips and floats.

### **B. Marinas, Docks and Bulkheads**

There are no marinas within the LWRA. There are three boat launch ramps available at parks located immediately outside of the LWRA, including Gratwick Park in the City of North Tonawanda and Griffin Park in the City of Niagara Falls, in Sub-Area 1; and West Canal Marina Park, in the Town of Pendleton, in Sub-Area 2. Within the LWRA, there are numerous private docking facilities found along the shoreline that enable residents to utilize the Niagara River for recreational boating and fishing. Some residents hunt waterfowl from private docks or the shoreline along the Niagara River during open season. The docks along the river extend far enough into the river to allow navigable access, yet do not infringe on the navigation channel.

Various forms of shoreline protection are in place along much of the Niagara River and the Erie Canal waterfront. At a minimum, most locations utilize stone rip rap or rubble to protect the shoreline from erosion. The restricted vessel speed limit in the Canal helps to control deterioration along the shoreline from wave action; therefore, there is not a significant extent of erosion control protection in this area. More intensive erosion

protection is found along the river. In Sub-Area #1, where a combination of forces (wind, wave action and current) impacts the shoreline, erosion protection consists of a mix of concrete walls and barriers, corrugated metal sheet piling, wooden bulkheading and stone rip rap. A limited number of locations along the shoreline in both sub-areas remain natural.

Sub-Area 1 -



Sub-Area 2



### 2.6 Natural Resources

#### A. Water Resources

There are no major lakes or ponds within the LWRA. There are no major creeks or streams that outlet to the Niagara River in Sub-Area 1. However, there is a small unnamed tributary that flows south in the vicinity of Williams Road, crossing River Road through a large culvert, to discharge to the Niagara River. This stream channel extends above ground, just west of York Road, for approximately 300 feet, before it is conveyed below ground to discharge through two separate outfall points to the river. Sawyer Creek, in Sub-Area 2, drains to Tonawanda Creek (Erie Canal) and forms the boundary between the City of North Tonawanda and the Town, constituting the LWRP boundary. Other surface waters in the LWRA include the Niagara River in Sub-Area 1 and the Canal in Sub-Area 2. According to the Upstate New York Groundwater Management Program report of the NYSDEC, no Primary or Principal Aquifers underlie the study area.

The Niagara River is part of the Niagara River - Lake Erie Drainage Basin. Tonawanda Creek is a major tributary watershed to the Niagara River, with 1,538 miles or 28 percent of the basin stream miles.

#### ▪ Water Quality

The primary water quality issues in the Niagara River - Lake Erie Drainage Basin are associated with identified Great Lakes Areas of Concern (AOCs), and associated Remedial Action Plans, including an action plan for the Niagara River to address serious impairment from pollutants that affects the beneficial use of the river. Beyond this, water quality issues in the drainage basin are quite diverse and include non-point source pollution problems, stream bank erosion, urban/industrial runoff, combined sewer outfall discharges, and agricultural activity.

Another primary impact to water quality in the Wheatfield LWRA is non-point source pollution. Non-point source pollution is pollution that reaches a surface water body through unconfined or indiscrete means. Examples include stormwater sheet or overland flow (i.e. - unchanneled flow from paved surfaces, buildings and construction sites) which carries animal wastes, road oil and other automotive by-products, pesticides and fertilizer; and groundwater infiltration that can carry contaminants from faulty cesspools or septic tanks or toxins from other sources of pollution. The best way to control the rate of non-point contaminant generation and transport in upland areas is through the use of "best management practices" such as reducing fertilizer and pesticide applications, proper disposal of pet wastes, automobile waste oils, etc. and other non-structural means. This approach is relatively inexpensive as compared to the costs of employing structural measures to mitigate point source pollution. Public Education is an important means of

implementing best management practices. Vessel waste discharges are another potential source of water pollution, particularly in areas where vessels dock in higher concentrations. Due to the lack of a marina in the LWRA, vessel waste discharges have not been identified as a significant problem.

### **Niagara River:**

The Niagara River is subject to a joint U.S. - Canadian Niagara River Toxics Management Plan to reduce toxic contributions to the basin. The river, from its mouth at Lake Ontario to Smokes Creek (near the southern end of Buffalo Harbor) has been designated an International Joint Commission Area of Concern. Past municipal and industrial discharges, waste disposal sites and urban/stormwater runoff have long been the key source of contaminants to the river.

The Niagara River Remedial Action Plan (RAP) was completed in September 1994 and a status report was prepared in 2000 to report on the progress of remedial actions. Specific priority activities and strategies in the RAP focus on stream water quality, inactive hazardous waste site remediation, contaminated river sediments, point source control, fish and wildlife habitat improvements, and enhanced environmental monitoring activities.

The upper or main stem portion of the Niagara River, which extends from Niagara Falls to Lake Erie, is a designated priority waterbody and is designated as an “impaired” segment of the river. Impaired waterbodies are deemed waters that frequently do not support appropriate uses. Uses that are considered impacted include water supply (possibly threatened), fish consumption (known to be impaired), aquatic life (suspected of being stressed) and habitat and hydrology (suspected of being impaired) due to priority and non-priority organic pollutants and water level/flow restrictions (restricted passage). The sources of known and suspected pollutants include habitat modifications, toxic/contaminated sediments, landfills and waste disposal, combined sewer outfalls, and urban runoff. Shoreline development, bulkheading, dredging and other stream modifications have also impacted habitat along the river. As indicated by a NYS Department of Health advisory, fish consumption has been impaired in this portion of the river. This advisory recommends restricted consumption of some species due to elevated PCB levels.

### **Tonawanda Creek (Erie Canal):**

Tonawanda Creek, from its mouth at the Niagara River to the Town of Pendleton is also a designated priority waterbody. Uses that are considered impacted include fish consumption, which is known to be impaired from priority organic substances, such as PCBs); and aquatic life and recreation, which are both suspected of suffering minor impacts due to nutrients levels and silt/sedimentation loadings. The sources of known and suspected pollutants include urban runoff, toxic and contaminated sediments, stream bank

erosion, storm sewer discharges and landfills and municipal waste disposal. As indicated in a NYS Department of Health advisory, fish consumption in the Erie Canal, from the City of Lockport to the Niagara River, is impaired due to because of PCB levels in sediments. Improved water quality in the Canal has been attributed to upgrades at the Town of Amherst wastewater treatment plant.

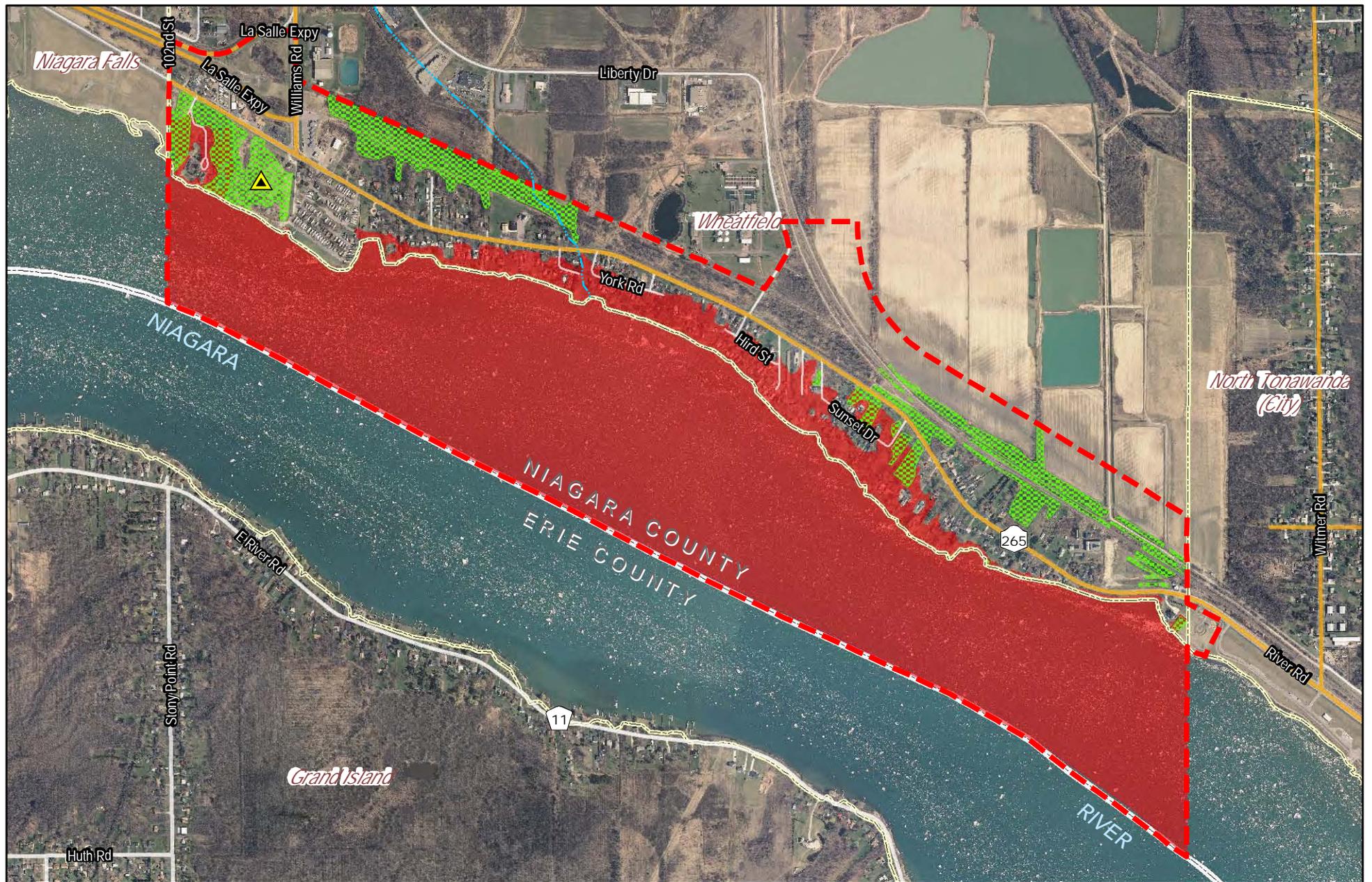
The New York State Department of Environmental Conservation (NYSDEC) assigns a water quality stream classification to surface waters in New York State, which identifies the best usage for that stream. Tonawanda Creek is classified as a Class C fresh surface waterbody. NYSDEC identifies the best usage for Class C streams as fishing and recreation. According to 6 NYCRR Part 701 Classifications - Waters and Groundwaters, Class C streams have conditions suitable for primary and secondary contact recreation (although other factors may limit their use for these purposes). These waters are suitable for game fish survival.

### **B. Wetlands and Habitats**

Wetlands (swamps, marshes and similar areas) are areas saturated by surface or ground water sufficient to support distinctive vegetation adapted for life in saturated soil conditions. Wetlands serve as natural habitat for many species of plants and animals and absorb the forces of flood and tidal erosion to prevent loss of upland soils. As shown on Maps 6A and 6B, there are no areas of State-designated freshwater wetlands in either sub-area, however, there are areas of federal jurisdictional wetlands, which are managed by the Army Corps of Engineers. The Corps regulates all activities that occur, or that are proposed, within or near regulated wetland areas. Wetlands in Sub-Area 1 are concentrated at the western end of the area, near the City of Niagara Falls boundary, and to the east, primarily in the vicinity of the railroad corridor. A narrow band of freshwater wetlands also extends along the shoreline of the river. Freshwater wetlands in Sub-Area 2 are found along Tonawanda Creek and the shoreline of Sawyer Creek. There are no wetlands in the upland area.

Based upon a February 2003 review of the Natural Heritage Program databases, the NYSDEC Division of Fish, Wildlife & Marine Resources has reported that there are no records of rare or state-listed animals or plants, significant natural communities, or other significant habitats occurring within the LWRA boundary.

The Town of Wheatfield waterfront areas do not contain any New York State designated coastal fish and wildlife habitats. There are also no areas that have been identified by the Town as containing natural resources of local concern.



Map #6A



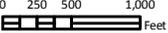
**TOWN OF WHEATFIELD**  
**LWRP: Environmental Conditions Sub Area I**

**LEGEND**

-  Sub Area I
-  County Boundary
-  Niagara County Municipal Boundary

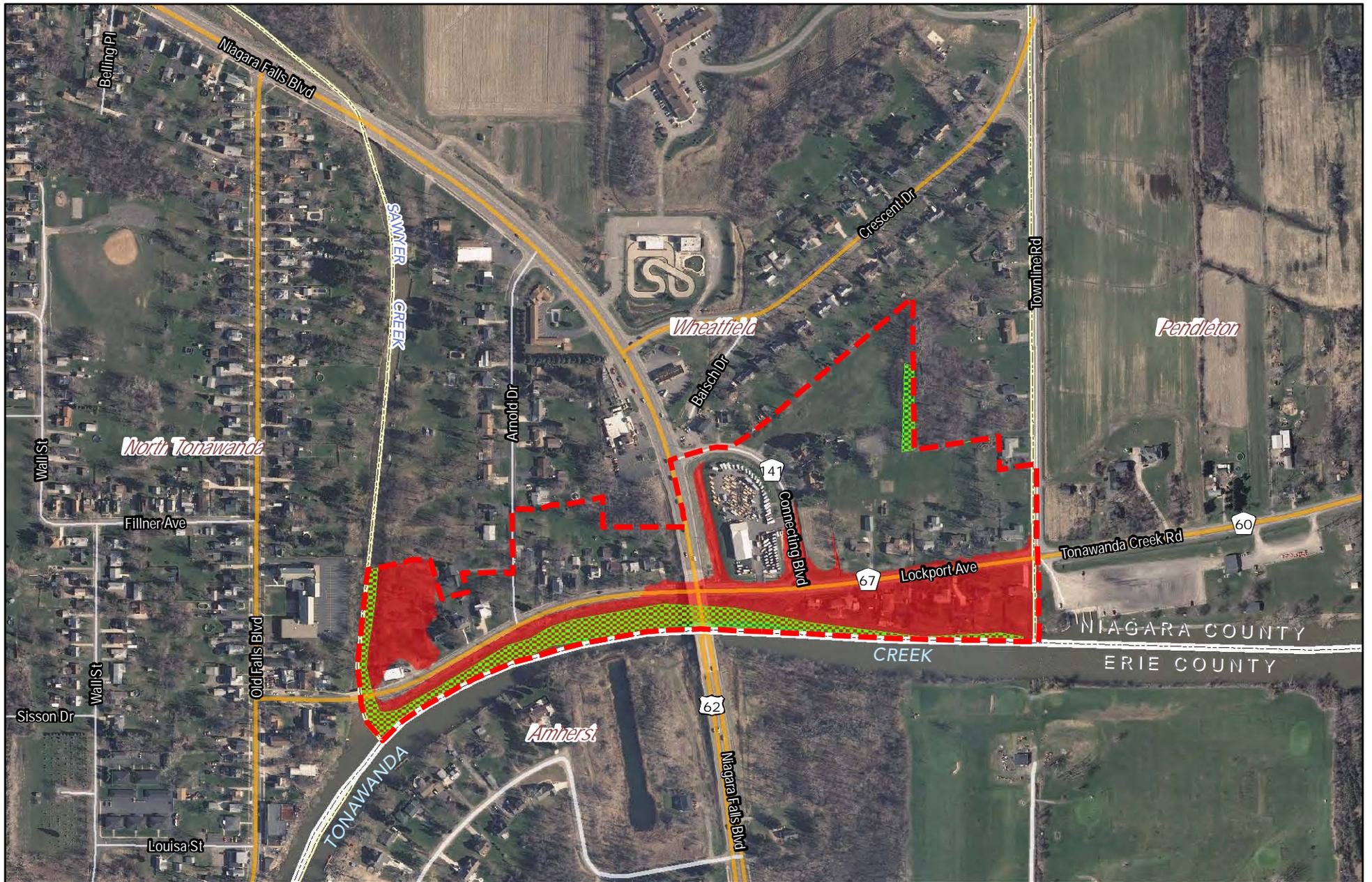
-  Major Roadway
-  Brownfields
-  NYSDEC Wetlands

-  Federal Wetlands
-  100 Year Floodzone
-  Stream/Creek


WENDEL COMPANIES  
 WD Project # 295609LWRP  
 Map Created: November, 2010

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Map #6B



**TOWN OF WHEATFIELD**  
**LWRP: Environmental**  
**Conditions Sub Area II**

LEGEND

-  Sub Area II
-  100 Year Floodzone
-  Federal Wetlands
-  County
-  Niagara County Municipal Boundary
-  Major Roadway
-  Brownfields
-  NYSDEC Wetlands



**WENDEL COMPANIES**  
 WD Project # 295609LWRP  
 Map Created: September, 2010

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### C. Topography and Soils

Niagara County borders the southern shoreline of Lake Ontario to the north, Tonawanda Creek (Erie Canal) to the south, Genesee and Orleans Counties to the east, and the Niagara River to the west. The Niagara Escarpment divides the County into two plains, the Ontario Plain to the north and the Huron Plain to the south. Drainage from the Huron Plain runs southward to Tonawanda Creek, which flows westward to the Niagara River. The escarpment is a steep northward slope, with perpendicular bluffs that are exposed in some places. As you move away from the escarpment, lands to the north and south become flat, with little topography as you move toward each shoreline.

#### ▪ Soils

All of Sub-Area #2 and the eastern one-third of Sub-Area #1 is comprised of Raynham (RaA) soils. The remaining two-thirds of Sub-Area #1 includes Lakemont (Lc), Cosad (Cs) and Canandaigua (Ca and Cb) soils. The Raynham and Cosad soils are known to be potentially hydric (may contain hydric inclusions), while Canandaigua and Lakemont soils are hydric. Canandaigua and Lakemont soils are deep and poorly to very poorly drained. They are level and occupy broad areas in the southern parts of Niagara County. Raynham and Cosad soils are found at slightly higher elevations and are typically associated with Canandaigua soils. These soils are also deep and poorly to somewhat poorly drained.

### D. Flooding and Erosion

The Federal Emergency Management Agency (FEMA) developed a series of Flood Insurance Rate Maps (FIRM) for the Town of Wheatfield. The LWRA is covered by two Community Panels Numbers: 360513-0007D for Sub-Area 1 and 360513-0009B for Sub-Area 2. The FIRM maps delineate the final flood hazard boundaries which provide the basis for the implementation of the regular program phase of the National Flood Insurance Program within the Town.

Within Sub-Area 1, the flood hazard area (100-year floodplains) extends along portions of the riverfront, potentially affecting homes that are situated directly along the shoreline (see Maps 6A and 6B). In Sub-Area 2, the 100-year flood plain encompasses the Tonawanda Creek corridor (Erie Canal), but does not extend beyond Lockport Avenue. Therefore, properties on the west side of Niagara Falls Blvd. are located outside of this area. East of Niagara Falls Blvd., properties situated seaward of Lockport Avenue are affected. There is a small section of upland that has been designated in the B-Zone (areas located between 100-year and 500-year floodplains).

In order for property owners to take advantage of the National Flood Insurance Program (NFIP), the Town Board has adopted federally approved floodplain management regulations to manage land use and development within the designated flood hazard areas (Chapter 101 of the Town

Code). Property owners within designated flood hazard areas are eligible to receive federal flood insurance and federally insured mortgage money is available to buyers. Areas of both sub-areas are located within the 100-year floodplain.

The flood zones are established based upon the degree to which an area is susceptible to flood damage. The general flood zones that exist within the Town of Wheatfield are:

- "A" and "AE" Zones - (also called the special flood hazard area) is that area of land that would primarily experience still water flooding, without significant wave activity, during the 100-year storm. In Zone A no Base Flood Elevations or depths are shown, while in Zone AE Base Flood Elevations have been derived and are shown on the maps;
- "B" Zones - areas situated between the 100-year and 500-year floodplains, or areas in the 100-year floodplain where the average flood depth is less than one foot.
- "C" Zone - areas of minimal flooding.

Development in the floodplain in the Town of Wheatfield is regulated under Chapter 101 - Flood Damage Prevention of the Code of the Town of Wheatfield. This law is designed to promote the public health, safety and general welfare, and to minimize public and private losses due to flood conditions in specific areas, as designated on the Flood Insurance Rate Maps. Within the regulatory floodplain, Floodplain Development Permits are required for certain construction activities within the Regulated Floodway and Special Flood Hazard Area (Zones A and AE). Pursuant to Chapter 101, any development action proposed within the Special Flood Hazard Area requires review and possibly a permit from the Code Enforcement Officer, who is the designated Local Administrator of the Flood Damage Prevention Law.

### **E. Environmental Hazards and Constraints**

There are no known inactive hazardous waste sites within the LWRA. The waterfront has no history of industrial or wide scale commercial use. The area has traditionally been used for recreational and residential development. There is one brownfield site that is owned by the Town, which lies vacant and undeveloped. This 4.8-acre site was found to contain minor contamination from metals and has been identified for remediation to enable the Town to redevelop portions of the site for passive recreation and public access (much of the area would remain in its natural, wooded state).

## **2.7 Historic, Cultural and Scenic Resources**

### **A. Historic Sites and Structures**

The Town of Wheatfield was formed in 1836 from the Town of Niagara. It is situated in the southwest part of Niagara County, surrounded by the Town of Lewiston and Town of Cambria to

the north, Town of Pendleton to the east, City of North Tonawanda and Niagara River to the south, and the City of Niagara Falls and Town of Niagara to the west.

Prior to the formation of the Town, the first settlements in the area were made on the Niagara River, on and near the site of the City of North Tonawanda. Even in that vicinity, progress was slow, except for improving farm lands, until after the completion of the Erie Canal. There were few settlers within the limits of the Town prior to the war of 1812.

The first town meeting was held on June 6, 1836, in the schoolhouse of District No. 7, on the north line of the Town. The soil in the Town was generally clay loam and somewhat difficult to cultivate, but heavy crops of wheat could be grown on the land, thus giving the Town its name - Wheatfield.

Within Wheatfield, starting in 1843, German immigrants established the communities of Bergholz, St. Johnsbury, Walmore, Martinsville, and Gratwick. The latter two communities are now part of North Tonawanda.

Later other communities were formed at railroad stops and along some well traveled highways. The River Road section of the Town, along the Niagara River, became a prosperous farm section in the 1920s that included the showplace "Wheatfield Farms". Along the river, there were vacation cottages, beaches, an amusement park, and nightclubs. Permanent housing has replaced many of the cottages and remnants of some bygone structures are still visible along River Road today.

### **B. Archaeological Resources**

The entire waterfront area has been disturbed by development over the years, and no sites of archaeological significance are known to exist in the area.

### **C. Scenic Resources**

There are no Scenic Areas of Statewide Significance within the Wheatfield LWRA as designated by the Secretary of State (SASS's are limited to 6 areas in the Hudson River Valley).

Although not formally designated, the scenic resources along the waterfront in the Town of Wheatfield are locally important. These scenic resources consist primarily of the dramatic vistas of the Niagara River and its shoreline. River Road (State Route 265) is a segment of the NYS Seaway Trail. Scenic views of the river should be protected and improved wherever possible through the Site Plan review process.

Within Sub-Area 1, views of the Niagara River are available from private residences along the shoreline. Many of the properties in the small residential enclaves in this area are narrow, with lot widths that do not Code requirements. In some instances, property owners have

combined parcels to enable the construction of a new and larger structure. Although this is not discouraged, there is concern that new home construction should be consistent with the size and scale of homes in the immediate area. Furthermore, new homes should not adversely impact existing views of the river. The same concern extends to private docks constructed along the Niagara River shoreline.

### 2.8 Public Infrastructure

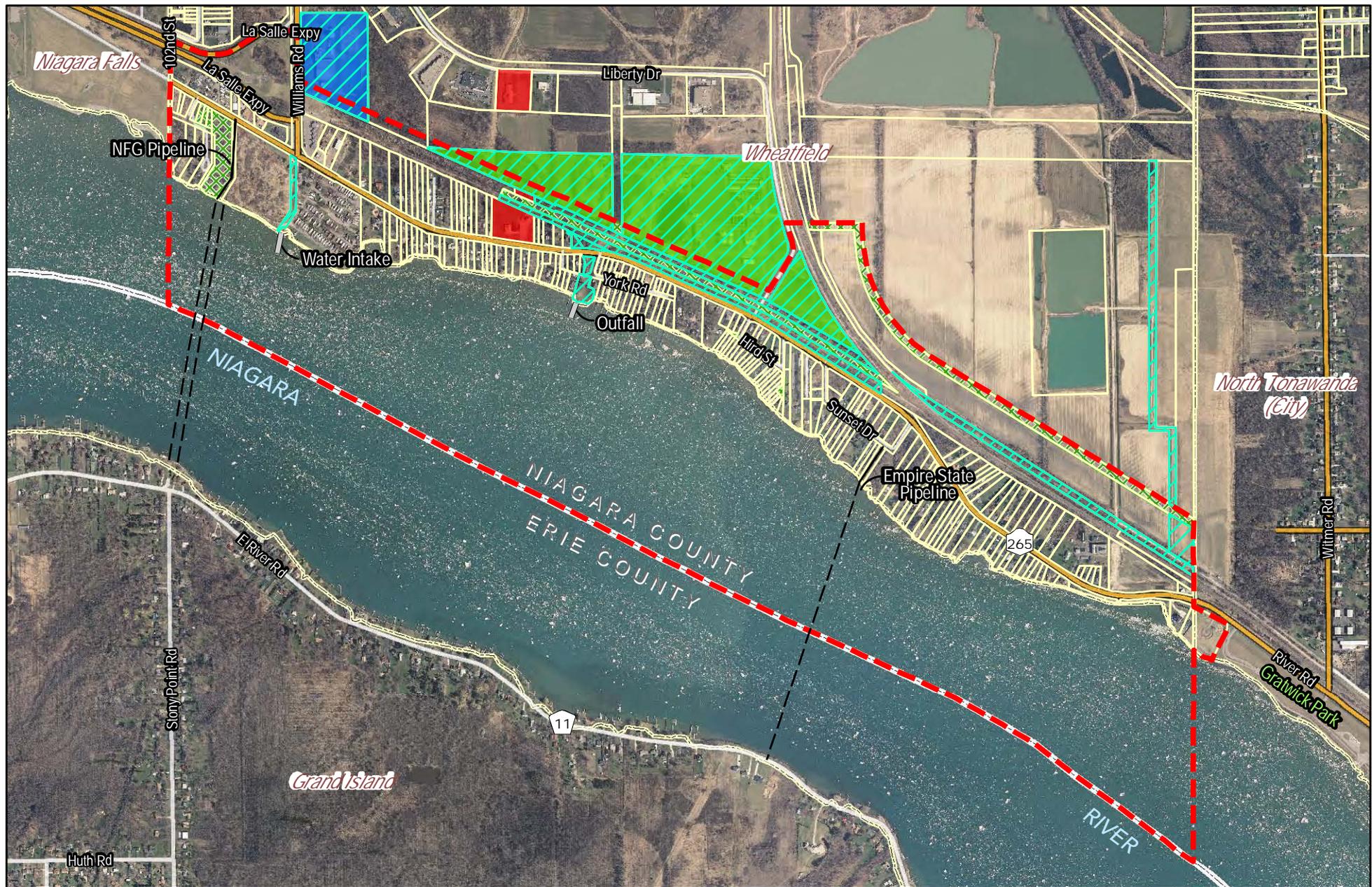
#### A. Water Supply

The entire Town of Wheatfield is served by public water provided from the Niagara County Water District. Sub-Areas 1 and 2 are both located in the County's western service district. The source of water is the Niagara River. The Niagara County Water Treatment Plant is located on Williams Road, just north of River Road, outside of the LWRA boundary (see Map 6A). Intake pipes for the treatment plant extend through a narrow parcel owned by the Water District, which is situated along the west side of the large trailer park facility, at the western end of Sub-Area 1.

#### B. Wastewater Management

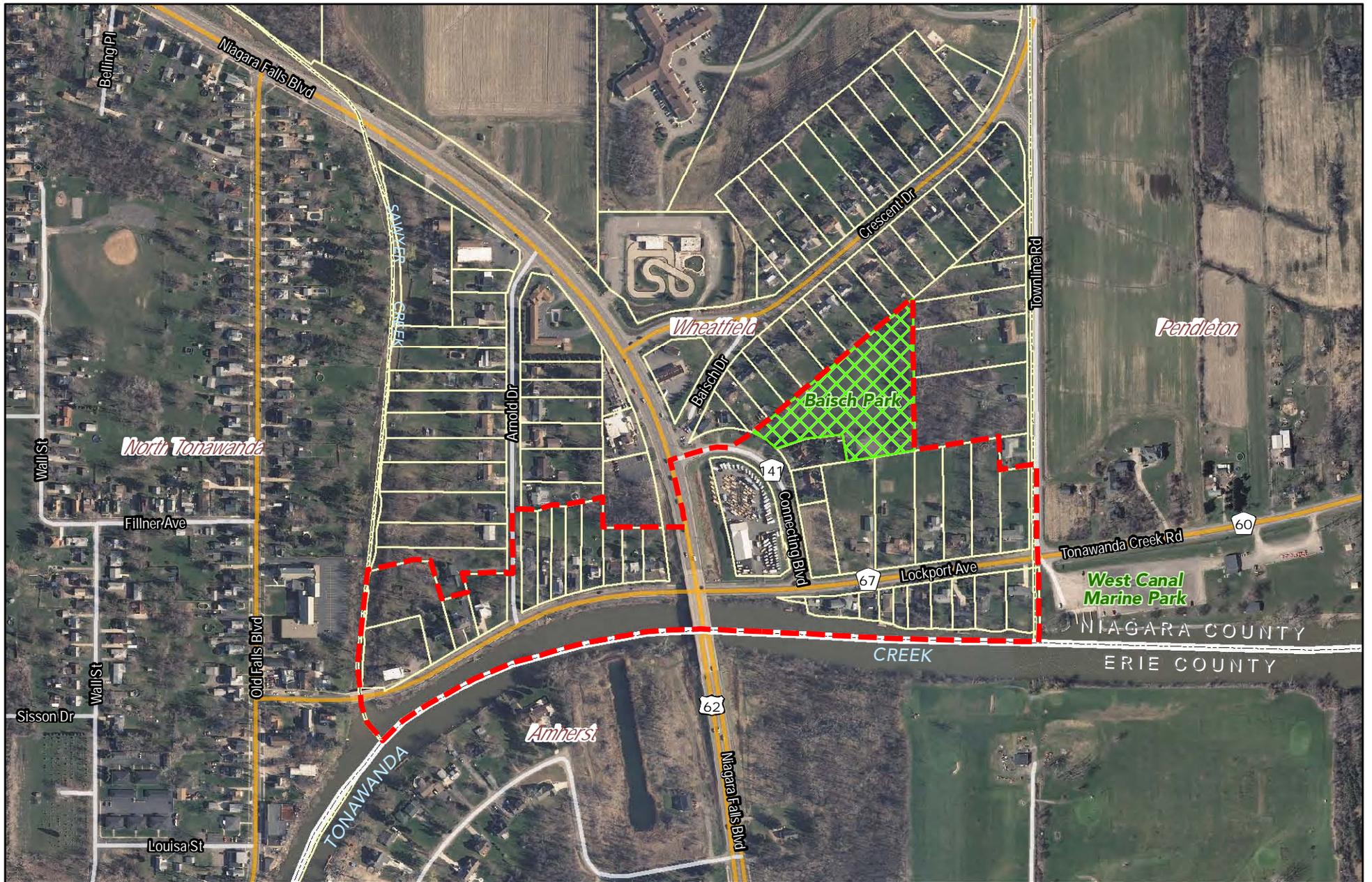
The Niagara County Sewer District provides wastewater collection and treatment service to the entire Town. The wastewater treatment plant is located on Liberty Drive, just outside the boundary for Sub-Area 1. The treatment plant discharges directly into the Niagara River via an outfall pipe that extends approximately 1,500 feet from the plant. The outfall is routed through property that is owned by the district and situated at the western end of the York Road residential enclave.

Niagara County operates an activated sludge treatment plant with tertiary filtration facilities. Built in 1978, the wastewater treatment plant was designed to accommodate an average daily flow rate of 14 million gallons per day (mgd). The plant currently treats approximately 50 percent of its design flow on an annual average, but experiences significant storm-related peak flows up to approximately 32 mgd. The Sewer District decided to initiate an upgrade of its existing gravity sand filters in 1998. The district replaced its existing mixed-media sand filters with deep bed, mono-media sand filters. Under this demonstration project, which was co-sponsored by NYSERDA, the district proceeded to install bypass piping to allow for the filtration of primary and combined sewer overflow/sanitary sewer overflow wastewater during wet weather storm events. This project was a success and provided an opportunity for a full-scale pilot study to address treatment issues, minimize capital investment, save energy and improve the environment. The project also received statewide recognition through a design excellence award.



Map #7A

 <p><b>TOWN OF WHEATFIELD</b> LWRP: Community Facilities Sub Area I</p>	<p>LEGEND</p> <ul style="list-style-type: none"> <li> Sub Area I</li> <li> County Boundary</li> <li> Niagara County Municipal Boundary</li> <li> Major Roadway</li> <li> Submerged Pipeline</li> <li> Fire Company</li> <li> Water Filtration Plant</li> <li> Waste Water Treatment Plant</li> <li> Town Land</li> <li> County Land</li> </ul>	<p>0 250 500 1,000 Feet</p>  <p>WENDEL COMPANIES WD Project # 295609LWRP Map Created: November, 2010</p>



Map #7B

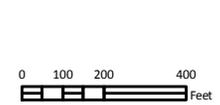


**TOWN OF WHEATFIELD**  
**LWRP: Community Facilities**  
**Sub Area II**

LEGEND

-  Sub Area II
-  County
-  Niagara County Municipal Boundary

-  Major Roadway
-  Town Land



**WENDEL COMPANIES**  
 WD Project # 295609LWRP  
 Map Created: November, 2010

Wendel Duchschere Architects & Engineers, P.C. shall assume no liability for 1. Any errors, omissions, or inaccuracies in the information provided regardless of how caused or; 2. Any decision or action taken or not taken by the reader in reliance upon any information or data furnished hereunder. Data Sources: NYS GIS Clearinghouse, 2008 1ft./2ft. Digital Orthoimagery

### **D. Stormwater Management**

Stormwater is conveyed in the Town of Wheatfield through a combination of closed pipes and open ditches. As drainage has been a major issue in the Town, the Wheatfield Highway Department and Drainage Committee have been systematically and aggressively addressing all major drainage channels in the Town. Existing creeks and ditches have been cleared of debris and new drainage systems have been constructed, where required. The Town received grant funding from NYSDEC to clean out Bergholz and Sawyer Creek to improve drainage in those areas. Because of these improvements and an annual program to maintain and clean ditches, storm water runoff and drainage problems have been improved. Efforts must be continued to keep roadside ditches and culverts open and free from growth and debris. Furthermore, drainage considerations must be included in all development proposals. At present, there are no areas of significant flooding or with significant drainage concerns in the LWRA.

In November 2009, the Town prepared a Stormwater Management Plan. The Town is a partner in the Western New York Stormwater Coalition and developed this plan to comply with the NYSDEC General Permit for Stormwater Discharges from Municipal Separate Storm Sewer Systems. This is a shared Plan that provides policy and management guidance for members of the coalition, as well as regulated municipalities and agencies. The Plan addresses public education and outreach, public participation, illicit discharge detection and elimination, control of runoff at construction sites, post-construction stormwater management and pollution prevention and best management practices. The Town will ensure that this plan is updated on an annual basis to take into consideration the latest technologies and other information to comply with the requirements of the General Permit.

### **E. Solid Waste Management**

The Town of Wheatfield Highway Department oversees the collection of municipal solid waste. The Town contracts with Modern Disposal for waste collection and disposal. The Town has an annual tire drop off day, which is usually held in the spring. The Town also requires that residents recycle as a part of the municipal waste collection arrangement with Modern. Accepted materials include paper (newsprint and office paper, junk mail, magazines/catalogs, cardboard, paperboard), metal cans and kitchen cookware, plastic (bags, containers, bottles), and clear glass.

The Niagara County landfill has a recycling center where Town residents can also dispose of certain waste materials, including electronics, appliances and certain household hazardous wastes.

### **F. Other Utilities**

Other utility services available in the waterfront area include electric, telephone and natural gas. Cable and satellite television service is also provided by private carriers.

### **G. Transportation Systems**

River Road (NYS Route 384 and 265) is a north-south route extending from the City of Buffalo in Erie County to the City of Niagara Falls in Niagara County (in Wheatfield it actually runs in an east-west direction). It is one of several routes directly connecting the two cities. The southern terminus of Route 384 is at NYS Route 5 in downtown Buffalo (Route 384 is known as Delaware Avenue in Erie County), and the northern terminus is at the Rainbow Bridge in downtown Niagara Falls. Route 265 is also known as Military Road, which branches off to the north, just west of Sub-Area 1.

There is one active railroad line that extends through eastern side of Sub-Area 1. This line is owned and operated by CSX. It supports approximately nine trains per day. It is also used by Amtrak for passenger service to Niagara Falls and Canada.

### **H. Emergency Services**

The Niagara County Sheriff's Department provides police patrols in the waterfront areas and responds to emergencies. Back up support is provided by New York State Police or the Cities of Tonawanda or Niagara Falls, as required.

Niagara River waters are patrolled and protected by the U.S. Coast Guard, NYSDEC Marine Enforcement Unit and City of Tonawanda Police Marine Division. The Coast Guard and the County inspect vessels, conduct searches, assist stranded boaters, investigate accidents, and answer navigation complaint issues, among other duties. They also provide boater safety and education. The U.S. Border Patrol also cruises the Niagara River and patrol the upland in the vicinity of the railroad corridor that runs through North Tonawanda and the eastern portion of Sub-Area 1 in pursuit of illegal aliens.

Fire protection along the waterfront is provided by local volunteer fire companies. The Frontier Volunteer Fire Company services Sub-Area 1. Sub-Area 2 receives service from the Adams Volunteer Fire Company. These fire companies provide fire protection and emergency medical services to their respective service areas.