

Final Rulemaking to the Bluff Recession Setback Regulations



Bluff Recession and structure damage, Millcreek Township (1989)

Background on Act and Regulations



Active Bluff Recession in the form of a large rotational slump in North East Township (2007)

- Bluff Recession is the most significant Lake Erie coastal hazard
- Bluff Recession process is continuous
- Rate of change determined by many factors

Lake levels, shoreline erosion, storm wave impacts, land use changes, etc...

Petition submitted to the EQB



Residence undercut by wave damage and bluff recession in the Woodmere Sub-division, North East Township (1987) Structure removed via NFIP claim (Upton/Jones)

- From Millcreek Township (2001)
- Requested clarification of the extent and locations of Bluff Recession Hazard Areas (**BRHAs**)
- New BRHA study of the entire Erie County Lake Erie Shoreline

In 2004 DEP Completed a Study of BRHAs as a Result of the 2001 Petition

- Initial 2003 Study by Wetland and Coastal Resources Inc (WCR) produced base data
- Aerial photographs from 1930's through 2000
- Measured how far the bluff receded over the past 60+ years
- Photogrametric analysis determined rates of bluff recession at 100' transects
- Oblique photography (1999, 2004)
- Control point measurements from 1970's through 2003

Based on the 2004 Study the Proposed Rulemaking to the EQB on June 17, 2008 contained the following changes:



Coastal Resources Management staff investigates recent bluff recession in Girard Township, (1999)

- City of Erie added to list of municipalities having a BRHA
- Clarification that municipalities can adopt more restrictive setbacks
- Minimum setback distance reduced from 50' to 25'
- Deeds and Plats to include notification of Bluff Hazards

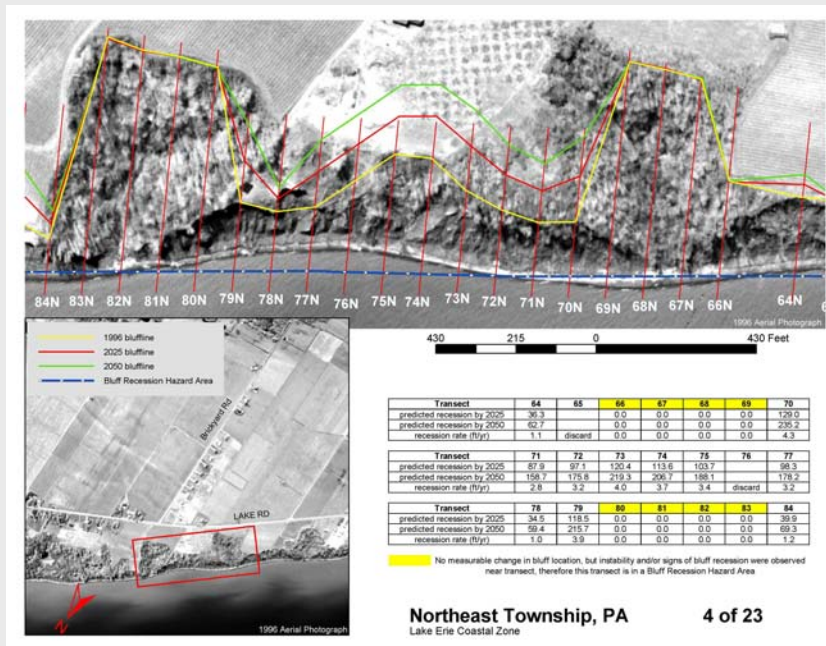
Chapter 85 – Recent Activities



- Published in PA Bulletin in August 2008
- Public Hearing on September 23, 2008
- 12 sets of comments received at Public Hearing

Coastal Resources Management staff evaluates the affects of wave damage on bluff stability, Springfield Township (2002)

Comments

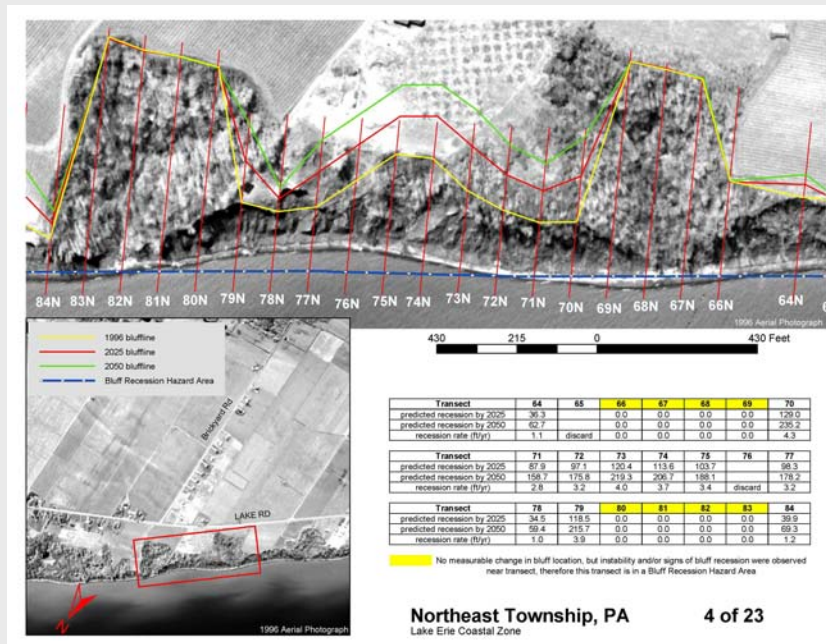


- **Vegetation Management Requirements**
- **Specific Location of Bluff Recession Hazard Areas (BRHAs)**
- **Methodology for Tentatively Designating BRHAs**
- **Support for Rulemaking**
- **Minimum Setback Distance**
- **Setback Distances**
- **Deed Notices**
- **City of Erie Bayfront**
- **Timeframe for Future Updates**

Comments (cont.)

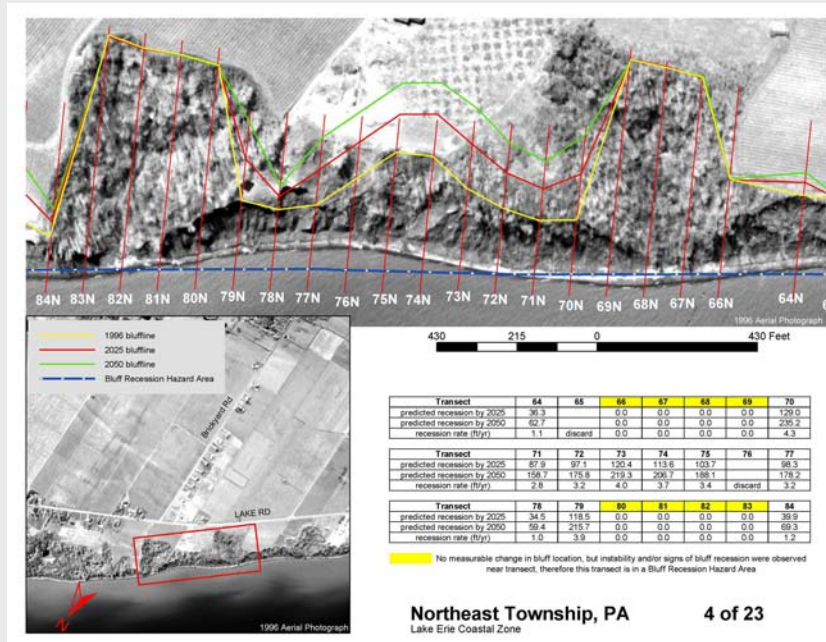
- Specific Location of Bluff Recession Hazard Areas (BRHAs)
 - New Language to 85.12 to Address This:
(c) IN ACCORDANCE WITH SECTION 4(c) OF THE ACT, 32 P.S. 5204(c), THE GEOGRAPHIC AREAS IDENTIFIED AS "TENTATIVELY IDENTIFIED BLUFF RECESSION HAZARD AREAS" IN SECTIONS I AND II OF THE DEPARTMENT'S "STUDY TO TENTATIVELY DESIGNATE BLUFF RECESSION HAZARD AREAS", DATED NOVEMBER 2004, ARE DESIGNATED AS BLUFF RECESSION HAZARD AREAS. THE DEPARTMENT SHALL MAKE THE NOVEMBER 2004 STUDY AVAILABLE TO THE PUBLIC.
 - Language added to 85.26

Comments (cont.)



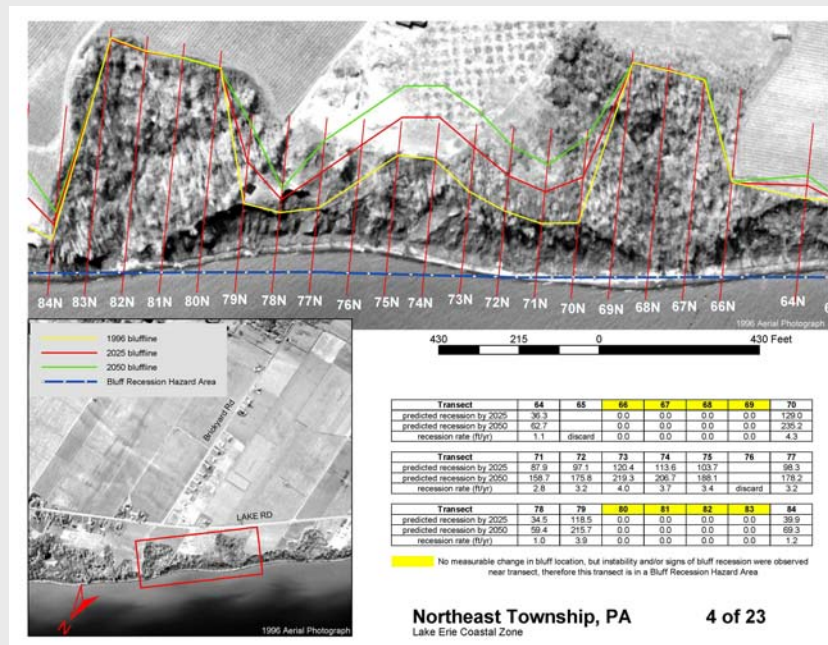
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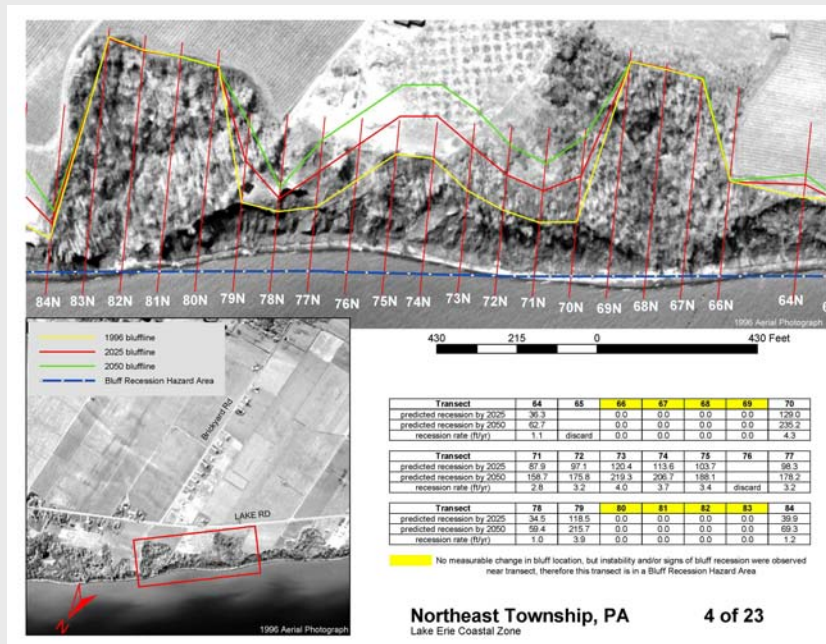
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Summary of Changes

- Add Section 85.12(c)
 - Sections I & II of DEP study identify BRHAs
 - DEP will make study available to the public
- Modify Section 85.26(c) to clarify bluff setback distances and named municipalities
- Delete Section 85.37 (7) (i) and (ii) requiring deed and plat notification of bluff hazards

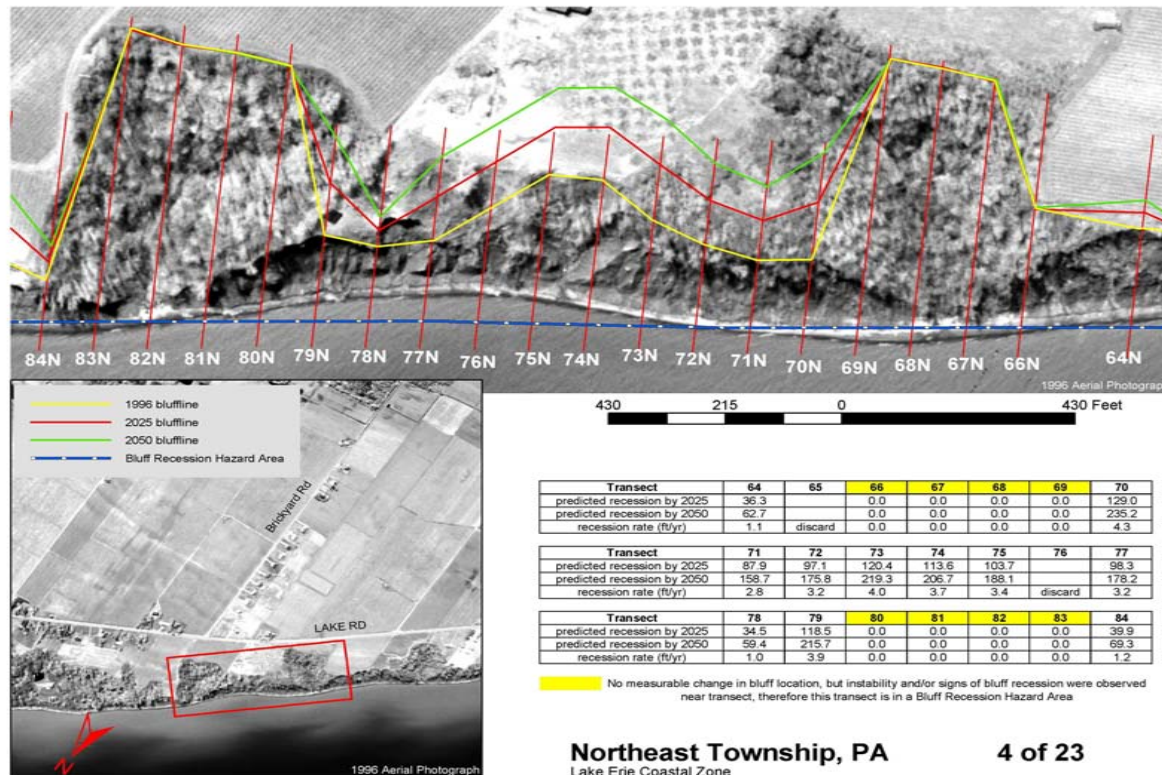
EQB Final Rulemaking

- Request for Consideration to Adopt Regulations as Final

Extra Photographs and slides



Photogrammetric Analysis



Aerial Photography

- Oblique and low altitude Color Infrared aerial photography were also used during the evaluation of BRHAs

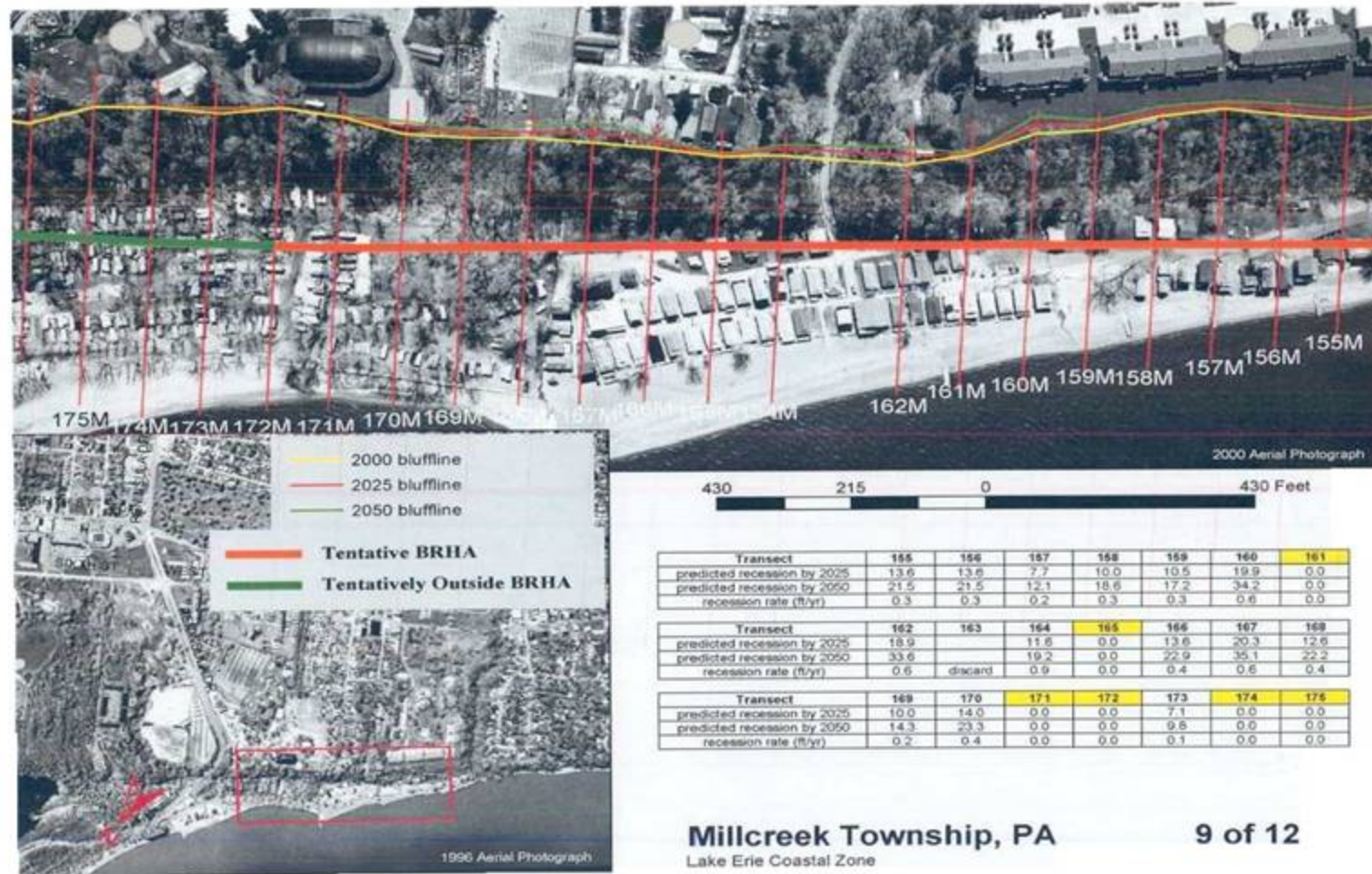


Control Points



- Staff taking control point measurements

Waldameer Park



Study Conclusions

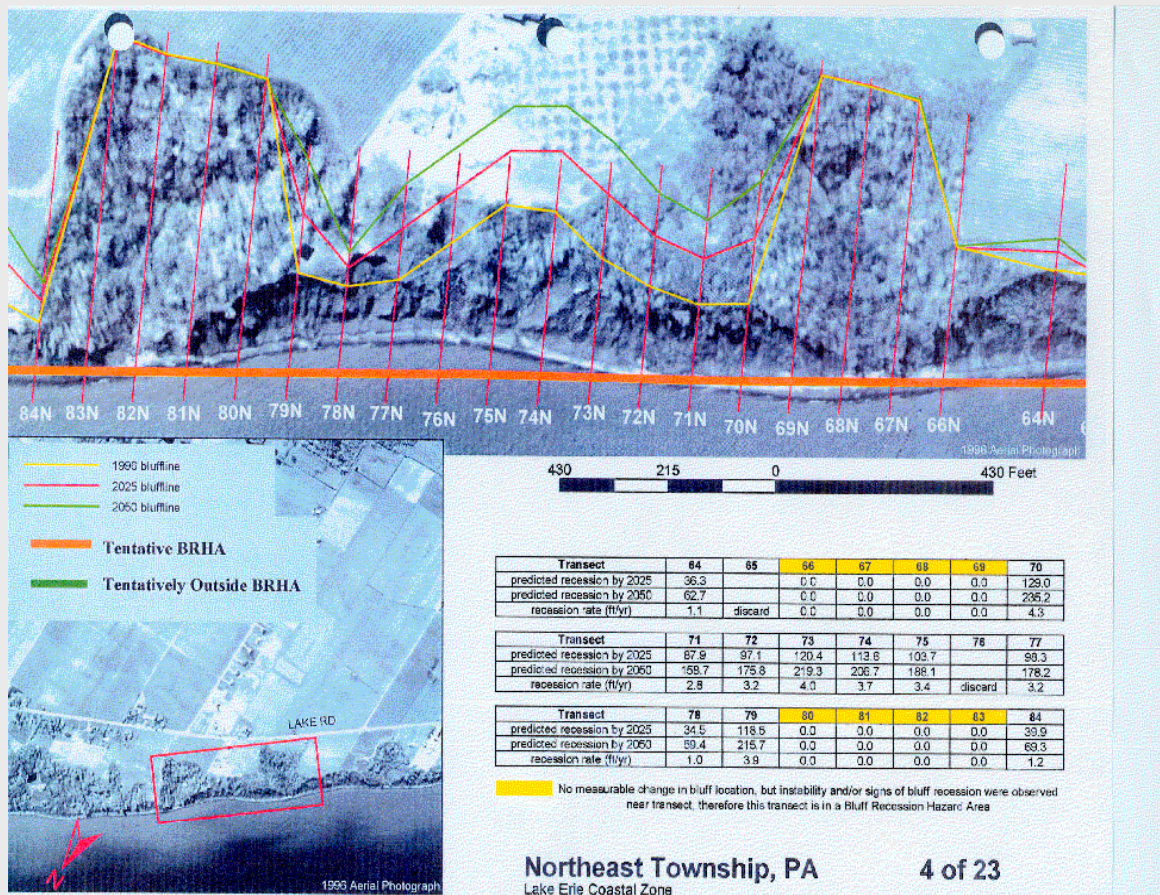


- Recommendation:
All Nine
municipalities
along Lake Erie
BRHAs

Harborcreek Township, Shades Beach Park (2007)

Study Conclusions (cont.)

- Clearly defined extent and locations of BRHAs



Comments on Study



Coastal residence in the BRHA, Fairview Township (2007)

- Copies of study were provided to each municipality
- City of Erie only municipality that submitted comments
- Study posted to DEP web site

Proposed Changes to Chapter 85



Harborcreek Township, Cove Road (1988)

- All Nine Erie County municipalities along Lake Erie (Including the City of Erie)
- Reduction of minimum bluff setback distance from 50' to 25'
- Administrative changes

New Section of 85.26 (d)

- Move Language from Section 85.37 (7) to New Section 85.26 (d) Stating that there is no Guarantee against Bluff Recession Effects
- Municipalities May Adopt More Restrictive Ordinances

New Section 85.26 (e)

- Greater Setbacks Under another Law or Ordinance Shall Apply

Clarify Section 85.37 (7)

- Municipalities shall alert Property Owners of Bluff Hazards and Minimum Setbacks

New Section 85.37 (7) (i)

- Include appropriate Notice of Bluff Hazard in Deed Transfers

New Section 85.37 (7) (ii)

- Include appropriate Notice of Bluff Hazards in Subdivision and Land Development Approvals

- DEP, CRM has presented this proposed rulemaking to the Water Resources Advisory Committee (approval) and the Coastal Zone Advisory Committee (concurrence)

Recommended Next Steps



- EQB adoption of proposed rulemaking
- Public Comment Period of 60 days

Active bluff recession affecting valuable agricultural lands (vineyards) in North East Township (2007)

Catalyst for the Initial Bluff Recession Study (1975)



Rapid Bluff Recession has already taken the primary structure and is undermining the remaining outbuilding, North East Township (1996)

- Since 1930's many structures and homes were built along the bluffs overlooking Lake Erie
- Mid-1970's fluctuating lake levels caused widespread bluff instability
- Catastrophic damage to coastal properties
- Changing weather and environmental factors

1975 Bluff Recession Study: Shoreline Erosion and Flooding –Erie County



Coastal Resources Management staff evaluates the affects of wave damage on bluff stability, Springfield Township (2002)

- Bluff Recession and Setback Act 1980
- In addition, the Bluff Recession Setback Regulations were adopted in 1980
- Even though the lakefront portion of the City of Erie was evaluated in the 1975 study, it was not covered by the 1980 Regulations

Bluff Recession and Setback Regulations (cont.)



Bluff Recession in a Designated Bluff Recession Hazard Area in North East Township (2007)

- EQB designates the BRHAs
- Municipalities with designated BRHAs have approved Bluff Setback Ordinances
- Setback Ordinances regulate new building and improvements in designated BRHAs

Chapter 85 – Recent Activities cont...

- April 23, 2009 WRAC
 - DEP justified not changing BRHA line in Study
 - DEP justified not adding additional flexibility to ordinance section
 - WRAC passed a motion to accept the proposed changes to Chapter 85 and to submit to EQB for final Rulemaking

Chapter 85 – Recent Activities cont...



Rapid Bluff Recession has already taken the primary structure and is undermining the remaining outbuilding, North East Township (1996)

- April 8, 2009
Water Resources
Advisory
Committee
(WRAC) tabled
action to next
meeting due to
requests and
outstanding issues
 - Changes to the
BRHA lines in
Study
 - Ordinance
flexibility