

changed somewhat – attention will be paid to releasing water to coincide with a request, when possible, and to using 3-gate releases more frequently, to reduce the need for the much more powerful (and more potentially dangerous and damaging) 5-gate releases, when possible. The gates will still be managed within the lake level management curve; but they will be managed in a way that allows for other benefits, as well.

Fourth, to address any lingering concerns that Special Event releases might add incremental risk, the KLOC and/or the Village will be added as an additionally insured party(ies) to liability insurance provided by the release requestor (Mr. Art Miller) through the American Canoe Association (ACA), a long-established and well-respected organization that governs organized kayaking and canoeing in this country and whose goal is to assure continued access to waters for recreational paddlers. This insurance provides up to \$1M in liability coverage per person (up to 5 persons) for every release that Mr. Miller requests. Note that this coverage protects against injury claims made by anyone (not just members of Mr. Miller’s canoeing/kayaking club) who was anywhere on the creek during that release. (For the rafting that took place on the Outlet in 1997 and 1998, additionally insured parties were added to the rafting company’s liability insurance. For numerous reasons, this method of additionally reducing liability is considered superior to other means such as signing waivers.)

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(\*) Property-owner obligations under NY’s General Obligations Law are quite limited: “An owner, lessee or occupant owes no duty to keep the premises safe for entry or use by others for...fishing...canoeing, boating, [or other listed recreational activities], or to give warning of any hazardous condition or use of or structure or activity on such premises to persons entering for such purposes,” as long as no “consideration” is charged for access, and with the caveat that the owner must not “willful[ly] or malicious[ly] fail to guard, or to warn against, a dangerous condition, use, structure or activity” [emph. added]. Case law is used to define ‘willful’ and ‘malicious’ – courts generally have held that the possessor’s duty is limited to warning of traps or dangerous defects not likely to be discovered.

Please note: This material is not intended to represent the opinions of either lawyers or insurance representatives. In most cases, statements suggesting legal positions or interpretations were based on material provided by Robert Granville, a partner in the firm of Phillips, Lytle, Hitchcock, Blaine, and Huber, LLP (Buffalo, NY) and specialist in recreation law; but this material should not be taken as necessarily accurately presenting his opinion or position. Other statements regarding legal obligations were taken directly or were paraphrased from the General Obligations Law itself; however, they should not be taken as being necessarily accurate, either. Comments regarding the scope and extent of the liability insurance through the ACA were provided by and verified with Mr. Art Miller, who, in turn, verified them with the American Canoe Association. If you have concerns, they should be raised with qualified, knowledgeable legal counsel and insurance representatives.

Lynda J. Rummel, Ph.D., President, Friends of the Outlet, Inc

**DRAFT-12/18/02**  
**Keuka Lake Outlet Compact**  
**Special Event Water Release and Reduced Flow**  
**Request Form**

Requested By (Group Name) \_\_\_\_\_

Purpose of Request: \_\_\_\_\_

Contact Name: \_\_\_\_\_

Address: \_\_\_\_\_

Phone: \_\_\_\_\_ Cell: \_\_\_\_\_ Email: \_\_\_\_\_

Fax: \_\_\_\_\_

Special Event/Reduce Flow Request Date: \_\_\_\_\_

(Note: Requests must be submitted two weeks in advance)

Time Duration of Request: From \_\_\_\_\_ AM/PM To: \_\_\_\_\_ AM/PM

Location(s) of Proposed Activity on the Outlet: (please describe)

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

All applicants must also submit with this form a certificate of insurance and hold harmless form, naming Village of Penn Yan and the Keuka Lake Outlet Compact as additional insured with a minimum coverage of \$1 million dollars.

Please submit this form 2 weeks in advance of requested event to: KLOC Gate Manager, 5 Maiden Lane, Penn Yan, NY 14527 or Fax form to: 315-536-5866 or email: [mubed@adelphia.net](mailto:mubed@adelphia.net). This request will be approved/denied based on the attached KLOC Special Event Water Release and Reduced Flow Policy.

Applicant Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Approved by KLOC Gate Manager: \_\_\_\_\_ Date: \_\_\_\_\_