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Herb Gray, Chairman
International Joint Commission
Canadian Section
234 Laurier Avenue West, 22nd Floor
Ottawa, ON K1P 6K6

Dear Commissioner Gray:

As Study Board members, we are writing to express our disappointment with the results of the Lake Ontario-St. Lawrence River Study and explain why we do not support the recommendations made and will not sign the final report.

As you are aware, the Study was initiated in 2000 to review the current Orders of Approval for the St. Lawrence project, and in particular the Criteria contained within the orders, to determine if they are relevant to today's conditions and if they reflect the interests of all that are affected by the system. In its Directive to the Study Board, the Commission stated that it "will be seeking to benefit both these [affected] interests and the system as a whole, consistent with the requirements of the Treaty".

Based upon our involvement with the Study over the past five years, the content of the Final Study Report, and the recommendations contained therein, we have reached the following three conclusions:

- (1) The Study was conducted and reported in a manner biased against residents and businesses located on the shoreline and embayments of Lake Ontario;
- (2) The Study lacks the scientific data, analysis and justification to reach the stated conclusions and recommendations;

(3) Even if the above two factors are discounted, the Study recommendations represent poor public policy, ignoring essential social and economic considerations that should be factored into decisions regarding the operation of the system.

In order to limit the length of this letter, we will merely give a bullet summary of some of the supporting reasons for these conclusions.

(1) Study was biased.

- All of the recommended operating plans will result in increased damages to the shoreline and riparian property owners. None provide for an improvement for this interest group.
- Damages due to erosion for property located along the lower St Lawrence River are based upon the loss of property and the value of the lost property. By contrast, damage due to erosion on the Lake Ontario shoreline is limited to the cost of building shore protection and no cost is associated with the loss of property itself. In fact, the loss of property due to erosion for undeveloped land is not even included in the economic results. Also not included is the cost associated with erosion damage to public infrastructure, such as roads, water and sewer lines, and the loss of publicly owned and maintained park land at the State, County and municipal level.
- The cost of shore protection, the only damage accounted for in the Study for shoreline erosion, is significantly underestimated. This includes both the basic construction cost assumed in the analysis and the lack of any engineering and/or regulatory costs associated with such construction. In addition, it is assumed that shore protection adequate to protect properties would be permitted by regulatory authorities having jurisdiction. There is no assurance provided of this and the Study does not account for costs to property owners if approvals for adequate protection are not granted by the regulatory agencies.
- The Study does not recommend retaining the upper and lower water level targets for Lake Ontario contained in the current Criteria and does not offer any such water level targets for the operating plans recommended. The existing water level targets have been relied upon for more than forty years in the design of shore protection and recreational boating facilities. In fact, even the regulatory limits utilized by the US Army Corps of Engineers and the NYS Department of Environmental Conservation are based upon this target water level range. The Study does not account for the substantial costs associated with the redesign and retrofit of the existing shore protection and recreational boating infrastructure.

(2) Study lacks adequate scientific justification.

- The environmental results are based almost solely upon assumptions regarding the diversity of wetland areas that occur along the shoreline and the habitats they provide. Other environmental considerations, including near shore fish habitat, shoreline sand dune habitats, and shoreline cliff/bank habitats, are essentially

ignored in the evaluation. Based upon an independent review of the Study by the National Research Council, even the wetland work is limited in applicability since it does not adequately weigh the impacts to wetland areas located directly behind barrier beaches, the dominate type of wetland along the Lake Ontario shoreline.

- The wetland benefits derived in the analysis are based upon an ideal water level regime that has never occurred within the period of record (1900-2005). It appears that the "ideal" wetland water level regime envisioned is based upon situations that would be expected in a riverine environment and not that which occurs naturally on the Great Lakes. This is evident by the continuing statements during the study that the regulation of Lake Ontario has resulted in a delay of the spring water level peak, which ideally occurs in April for wetland species and vegetation. However, the Great Lakes' levels are modulated by their large size and the peak levels naturally occur later in the year than rivers and streams. In fact, since regulation has been in place on Lake Ontario, the timing of the spring peak has changed little and the change has been toward an earlier peak, not a later peak as alleged.
- Review of the Study results by two environmental scientists actively involved in the Study have concluded that the extreme high water levels created by the recommended plans are not necessary and that the existing operating plan has produced a high water regime adequate for wetland functioning. It is the lack of low water levels under the current operation that is thought to create problems with the wetland habitats. Yet each of the recommended plans has no upper water level limit and each produces levels higher than the existing criteria limit intend on a frequent basis.
- The primary tool utilized to evaluate the environmental effects of alternative operating plans, the Integrated Ecological Response Model or IERM, is not an ecosystem model at all. It only compiles first order effects generated by other process models and does not incorporate important feedback effects of water level variation on species and habitat conditions. It is, therefore, an impact accounting model rather than an ecosystem model. As an example, the coastal process model (FEPS) alters the bathymetry of shoreline environments due to erosion processes, but those bathymetric changes are not fed into the IERM to vary wetland inundation, which is the primary driver to model vegetation occurrence and other environmental performance indicators associated with water level variation.
- In reviewing the scientific basis for the Study conclusions, a special panel of the National Research Council concluded that the scientific work done is neither sufficient nor adequate to support the kind of decision making attempted. This, in itself, should give the Commission pause in implementing proposals that would result in the substantial damages projected.

(3) Study recommendations represent poor public policy.

- The Study recommends radical changes in the way the Lake Ontario-St. Lawrence River water levels and flows are regulated. This includes the lack of any controls on extreme high or low water levels. While such changes may be justified in the

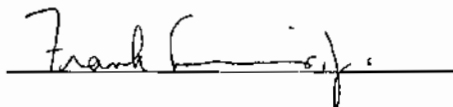
face of substantial, irrefutable evidence of need and benefit, such justification has not been provided by this Study.

- Despite assurances to the public throughout the Study process that any recommendation resulting in significant negative consequences would be accompanied by provision for mitigation and, perhaps, compensation, none are recommended by the Study.
- The existing criteria in the Orders of Approval reflect a comprehensive social and political compact reached in the 1950's. The portion of New York State along the upper St. Lawrence River receives economic benefits in the form of jobs, enhanced navigation and a subsidized electricity set-aside for industrial development from the NY Power Authority. The Lake Ontario shoreline and downstream Montreal communities receive protection from extreme water levels, both high and low. To have the Commission unilaterally set aside only one portion of this social contract, with no mitigation and no compensation, represents a betrayal of citizens by government.

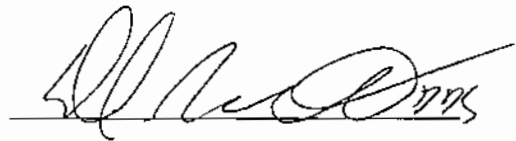
In summary, we do not believe that final Study Report presents a fair, balanced, scientifically supportable, or well-reasoned set of options to the Commission. Minority views of the work were ignored during the Study and are not adequately discussed in the Final Report.

Due to these serious shortcomings, we encourage the Commission to not act upon the majority recommendations contained in the Study Report.

Sincerely,



Frank Sciremammano, Jr, PhD, PE



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