

Great Sodus Bay Watershed Intermunicipal Committee

Lyons, New York .

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INT'L JOINT COMMISSION
(F) 2006 JUL 26 A 8:12

July 20, 2006

Dear Commissioner Schornack:

International Joint Commission

ACTION: BM

INFORMATION: LB, JC, FB, RT, CMRS

FILE:

I am writing on behalf of the Great Sodus Bay Watershed Intermunicipal Committee. The Committee is comprised of representatives from the Towns of Huron and Sodus as well as the Village of Sodus Point. The committee has been selected and charged by the local governments to implement the Sodus Bay Waterfront Initiative. Sodus Bay is the largest enclosed embayment on the south shore of Lake Ontario and is directly affected and defined by the conditions and level of the lake.

We are writing to express extreme disappointment at the recommendations recently made by the International Lake Ontario-St. Lawrence River Study Board regarding the management of water levels and flows for Lake Ontario and the St. Lawrence River. None of the recommended plans are acceptable as formulated and presented in the final report.

Our communities have supported the Study and encouraged our elected representatives to do likewise under the assumption that improvements would be provided for south shore property owners, businesses and communities. If this assistance was not possible, it was assumed that benefits to other interests would only be provided to the extent that the existing shoreline property owners, businesses and communities would be protected to at least the degree they are under the existing Orders of Approval. The Orders currently state that:

“Consistent with other requirements, the levels of Lake Ontario shall be regulated for the benefit of property owners on the shores of Lake Ontario in the United States and Canada so as to reduce the extremes of stage which have been experienced.

In addition, the current Orders of Approval provide for a target four-foot range of level on Lake Ontario, which has been relied upon for over forty years in the development and protection of the shoreline, in the design and protection of navigation channels and facilities, and in the design and operation of recreational boat docking, launching and mooring facilities. Considerable public and governmental expenditures have been made on infrastructure that is in place and has been designed in reliance upon the water level regime contained in the existing Orders of Approval.

The Study recommendations would remove these basic protections assured by the government through the existing Orders of Approval, disrupting the shoreline and shoreline communities, with no compensation and no mitigation. Implementation of the Study recommendations would, thus, violate the trust that government will live up to its agreements (orders) and assurances to citizens and communities.

Committee Members

Town of Huron

Sharon Maher
David Scudder
Marie Thomas

Town of Sodus

Thomas Denehy
Bret DeRoo, Chair

Village of Sodus Point

Ann Hayslip
Steve Smith
David Williamson

It is now clear from the Study results that no serious attempt was made to improve the situation for the Lake shore communities. It is also clear that the study was predicated on the provision of benefits to other interests solely at the expense of the south shore and downstream riparian communities.

All three of the recommended plans harm south shore property owners, businesses and communities (See Table 6, page 55). While the primary damage will be associated with erosion and flooding of shoreline residential properties, considerable further damage will occur to the recreational boating industry in our area due to high and low water extremes. This impact does not appear to have been adequately accounted for in the Study, which relied upon telephone survey information to assess damages to the recreational boating industry and did not account for the direct damages, need for dredging and loss of business that will result under extreme water level situations.

Comments from numerous public officials at the public hearings conducted during the summer of 2005 pointed out the substantial economic impact to communities due to a loss in property values along the shoreline and the subsequent loss of property tax revenues to the local government units. Public officials also highlighted the considerable public infrastructure, such as parks, that would be damaged or destroyed by the predicted extreme water levels. These impacts remain ignored, resulting in a serious bias in the economic results presented in the study.

The primary justification given for the creation of extreme high and low water levels is environmental restoration. However, the primary environmental issue identified in the Study was the lack of periods of low water. This is due to the actions of the St. Lawrence River Control Board, which never allows the lake level to drop into the lower portion of the four-foot target range set by the IJC. It is noted that this has already resulted in a raising of the average Lake Ontario water level since 1960 compared to what occurred prior to the construction of the St. Lawrence system and implementation of outflow control.

It is interesting to note that existing, approved operating Plan 1958D, without deviations, shows an environmental benefit that is over 100% better than the recommended "environmental plan", Plan B (See Table 8, page 60 and Table C-5, page 218). If the justification for change is environmental restoration, why not utilize Plan 1958D and merely avoid the deviations that harm the environment? Why was this option not even considered during the Study and not presented in the final report?

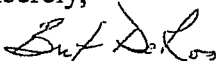
Under the guise of environmental restoration, the Study recommends extreme water levels, with increased high levels that are inconsistent with the natural water level regime that occurred prior to the construction of the Seaway and dam in the late 1950's. How can a water level regime that has never occurred on the Lake be considered "more natural"? It is clear that an artificial water level regime is being recommended in the Study report based solely on environmental response assumptions incorporated into the analysis.

It is noted in this regard that the independent review of the Study by the National Research Council has pointed out serious deficiencies in the underlying environmental science and studies used to justify and evaluate the benefits of the extreme water levels on Lake Ontario. **The Natural Research Council review has stated unequivocally that the science utilized is not appropriate and is not sufficient for evaluating and comparing water level management alternatives.** It would be irresponsible of the Commission to base actions, which it knows will cause substantial financial and potentially physical harm to citizens and communities, on results that are apparently unsupportable and unreliable.

The 1909 Boundary Waters Treaty states that decisions on orders by the International Joint Commission “shall require, as a condition of its approval thereof, that suitable and adequate provisions ... be made for the protection and indemnity of all interests ... which may be injured thereby.” It is clear that implementation of any of the three plans recommended in the Study will harm Lake Ontario shoreline property owners, businesses and communities with no provisions for protection and indemnification. We request that you **NOT** violate the Treaty in this way.

In summary, we urge you **NOT** to adopt any of the three operating plans recommended to you by the Study without further refinement and investigation. Implementing any of these operating plans without safeguards and mitigation to protect the shoreline residents and communities is irresponsible and is a betrayal of a basic assurance to these citizens made by the US and Canadian governments over forty years ago and relied upon since then. Refinement of the plans is necessary to avoid the substantial damages that will result and further investigation is necessary to either verify or correct the scientific basis upon which they are predicated.

Sincerely,



Bret DeRoo, Chair
Great Sodus Bay Watershed Intermunicipal Committee

Enclosures: Three (3) tables

Cc: Congressman James Walsh
Congressman John McHugh
Senator Michael Nozzolio
Assemblyman Robert Oaks
Huron Town Supervisor John Young
Sodus Town Supervisor Steven LeRoy
Village of Sodus Point Mayor Michael Sullivan
Chairman Wayne County Board of Supervisors James Hoffman
Wolcott Town Supervisor Kim Park
Ontario Town Supervisor Joseph Molino

Table 6: Economic Results by Interest and Region (based on stochastic supply sequence)

Average Annual Net Discounted Benefits	Plan A ⁺	Plan B ⁺	Plan D ⁺	Plan E
Total	\$6.44	\$4.63	\$4.48	-\$16.36
COASTAL	-\$0.10	-\$2.84	-\$0.10	-\$28.50
<i>Lake Ontario</i>	<i>\$0.46</i>	<i>-\$2.52</i>	<i>-\$0.23</i>	<i>-\$27.16</i>
Shore Protection Maintenance ²	\$0.57	-\$2.16	-\$0.17	-\$19.85
Erosion to Unprotected Developed Parcels ²	-\$0.23	-\$0.17	\$0.02	-\$0.58
Flooding	\$0.12	-\$0.20	-\$0.08	-\$6.72
<i>Upper St. Lawrence River</i>	<i>\$0.01</i>	<i>-\$0.01</i>	<i>-\$0.01</i>	<i>-\$0.75</i>
Flooding	\$0.01	-\$0.01	-\$0.01	-\$0.75
<i>Lower St. Lawrence River</i>	<i>-\$0.57</i>	<i>-\$0.31</i>	<i>\$0.14</i>	<i>-\$0.59</i>
Flooding	-\$0.51	-\$0.22	\$0.09	-\$0.49
Shore Protection Maintenance ³	-\$0.06	-\$0.09	\$0.05	-\$0.10
COMMERCIAL NAVIGATION	\$0.47	\$2.13	\$1.53	\$3.21
Lake Ontario	-\$0.03	-\$0.01	-\$0.01	-\$0.02
Seaway	\$0.57	\$2.16	\$1.56	\$3.21
Montreal down	-\$0.07	-\$0.02	-\$0.02	\$0.02
HYDROPOWER	\$2.26	\$6.09	\$1.64	\$12.39
NYPA-OPG (Energy\$ + Peaking\$)	\$2.18	\$3.87	\$0.48	\$8.57
Hydro Quebec (Energy \$)	\$0.08	\$2.22	\$1.16	\$3.82
RECREATIONAL BOATING	\$3.81	-\$0.74	\$1.42	-\$3.46
<i>Above Dam</i>	<i>\$1.20</i>	<i>-\$1.42</i>	<i>-\$0.36</i>	<i>-\$5.31</i>
Lake Ontario	\$0.70	-\$1.18	-\$0.44	-\$4.93
Alex Bay	\$0.47	-\$0.29	\$0.03	-\$0.36
Ogdensburg	\$0.01	\$0.00	\$0.01	-\$0.07
Lake St. Lawrence	\$0.01	\$0.05	\$0.05	\$0.05
<i>Below Dam</i>	<i>\$2.61</i>	<i>\$0.68</i>	<i>\$1.78</i>	<i>\$1.85</i>
Lac St. Louis	\$1.39	\$0.49	\$0.89	\$1.03
Montreal	\$0.93	\$0.19	\$0.68	\$0.64
Lac St. Pierre	\$0.29	\$0.00	\$0.21	\$0.18
M&I	\$0.00	\$0.00	\$0.00	\$0.00
SL One-time Infrastructure Costs	\$0.00	\$0.00	\$0.00	\$0.00
LSL Water Quality Investments	\$0.00	\$0.00	\$0.00	\$0.00

Notes to Table 6:

- Figures reflect the average annual impact relative to Plan 1958-DD and are reported in millions of U.S. dollars. Blue represents a positive net benefit relative to 1958-DD and red indicates a negative net benefit relative to 1958-DD.
- These are economic results based on the 50,000-year stochastic supply series, using a 4% discount rate over a 30-year period, for coastal erosion and shore protection maintenance.
- The St. Lawrence River Model component of the Shared Vision Model could not be adapted to run the full 50,000-year stochastic series. The results presented represent an average of the historical sequence plus the four 101-year trial segments from the stochastic (S1, S2, S3 and S4 series).

Table 8: Environmental Performance Indicator Results (Ratios) based on Historical Supplies

Environmental Performance Indicators	Plan A+	Plan B+	Plan D+	Plan E
Lake Ontario				
Wetland Meadow Marsh Community	1.02	1.44	1.17	1.56
Low Veg 18C - Spawning habitat supply	0.89	0.95	0.94	0.88
High Veg 24C - Spawning habitat supply	1.05	1.00	1.01	1.08
Low Veg 24C - Spawning habitat supply	1.00	1.02	1.00	1.11
Northern Pike - Young-of-year (YOY) recruitment	1.02	1.00	1.05	1.03
Largemouth Bass - YOY recruitment	0.94	0.98	0.97	0.96
Least Bittern (IXEX) - Reproductive index	0.88	1.04	0.95	1.13
Virginia Rail (RALI) - Reproductive index	0.96	1.11	0.99	1.15
Black Tern (CHNI) - Reproductive index	1.03	1.12	1.01	1.16
Yellow Rail (GONO) - Preferred breeding habitat	0.96	1.01	0.98	1.01
King Rail (RAEL) - Preferred breeding habitat	1.05	1.10	1.03	1.27
Upper River				
Low Veg 18C - Spawning habitat supply	1.01	1.01	1.01	1.04
High Veg 24C - Spawning habitat supply	1.03	1.01	1.02	1.02
Low Veg 24C - Spawning habitat supply	1.01	1.01	1.01	1.04
Northern Pike - YOY recruitment	1.05	1.03	1.01	1.06
Largemouth Bass - YOY recruitment	0.99	1.00	1.00	1.00
Northern Pike - YOY net productivity	4.02	2.08	1.17	4.08
Virginia Rail (RALI) - Reproductive index	1.16	1.27	1.31	1.33
Muskrat (ONZI) - House density in drowned river mouth wetlands	1.42	4.39	1.73	37.25
Lower River				
Golden Shiner - Suitable feeding habitat area	1.00	1.00	1.00	1.03
Wetlands Fish - Abundance Index	0.87	0.90	0.84	0.97
Migratory Wildfowl - Habitat area	1.03	1.03	0.97	1.00
Least Bittern - Reproductive index	1.03	1.06	1.00	1.06
Virginia Rail (RALI) - Reproductive index	0.94	0.97	1.06	1.00
Migratory Wildfowl - Productivity	1.06	1.00	1.00	1.03
Black Tern (CHNI) - Reproductive index	0.84	0.77	1.00	0.77
Northern Pike (ESLU) - Reproductive area	0.97	0.94	0.94	0.94
Frog sp. - Reproductive habitat surface area	0.87	0.87	1.03	0.94
Eastern Sand Darter (AMPE) - Reproductive area	1.10	1.03	1.13	1.06
Spiny Softshell Turtle (APSP) - Reproductive habitat surface area	1.03	1.06	1.03	1.03
Bridle Shiner (NOBI) - Reproductive habitat surface area	1.00	0.97	1.00	1.03
Muskrat (ONZI) - Surviving houses	1.04	0.88	0.96	0.80
Percentage "good" scores for each plan	9%	22%	16%	34%
Overall Environmental Index	1.06	1.35	1.10	4.04

Notes to Table 8:

- Figures reflect the impact relative to Plan 1958-DD expressed as ratios, where 1 represents no change from 58-DD, >1.00 an improvement relative to 58-DD, and <1.00 a deterioration relative to 58-DD.
- Run using the historical supply sequence because the Integrated Ecological Response Model component of the Shared Vision Model could not be adapted to run the full 50,000-year sequence.
- Aqua shading identifies species at risk.
- Yellow shading indicates essentially no change from 1958-DD (within 10% difference). Anything above 1.10 is marked in blue and anything below 0.90 is marked in red.

Environmental Results (Historical) for Interest and Reference Plans

Table C-5: Environmental performance indicator results (ratios) for interest-specific and reference plans based on the historical supply sequence

Environmental Performance Indicators	RecBoat	OntRip3	1998	1958-D
Lake Ontario				
Wetland Meadow Marsh Community	0.41	1.02	1.09	1.24
Low Veg 18C - spawning habitat supply	1.03	1.05	1.00	0.96
High Veg 24C - spawning habitat supply	1.08	1.00	1.00	1.03
Low Veg 24C - spawning habitat supply	0.93	0.95	1.00	1.01
Northern Pike - YOY recruitment	1.01	1.02	1.02	1.00
Largemouth Bass - YOY recruitment	0.99	1.07	0.99	0.98
Least Bittern (IXEX) - reproductive index	0.21	0.68	1.03	1.01
Virginia Rail (RALI) - reproductive index	0.44	0.75	1.03	1.04
Black Tern (CHNI) - reproductive index	0.48	0.80	1.03	1.04
Yellow Rail (GONO) - preferred breeding habitat	0.92	1.04	1.00	1.00
King Rail (RAEL) - preferred breeding habitat	0.82	0.92	1.02	1.09
Upper River				
Low Veg 18C - spawning habitat supply	1.00	0.96	1.01	1.00
High Veg 24C - spawning habitat supply	1.00	1.00	1.01	1.00
Low Veg 24C - spawning habitat supply	0.99	1.01	1.00	1.00
Northern Pike - YOY recruitment	1.07	1.00	1.00	1.01
Largemouth Bass - YOY recruitment	1.04	1.04	1.00	0.99
Northern Pike - YOY net productivity	5.28	0.58	1.21	1.93
Virginia Rail (RALI) - reproductive index	0.99	0.92	1.12	1.33
Muskrat (ONZI) - house density in drowned river mouth wetlands	0.00	0.23	1.01	17.83
Lower River				
Golden Shiner - suitable feeding habitat area	1.00	1.06	0.94	0.81
Wetlands fish - abundance index	1.10	0.94	0.94	0.97
Migratory wildfowl - habitat area	1.10	0.97	1.00	1.00
Least Bittern - reproductive index	1.03	1.03	0.97	1.03
Virginia Rail (RALI) - reproductive index	1.03	1.03	1.00	1.06
Migratory wildfowl - productivity	1.10	1.00	1.00	1.03
Black Tern (CHNI) - reproductive index	0.74	1.00	0.90	1.03
Northern Pike (ESLU) - reproductive area	0.87	0.94	1.00	0.94
Frog sp. - reproductive habitat surface area	0.77	1.00	0.94	1.06
Eastern Sand Darter (AMPE) - reproductive area	0.94	1.10	1.03	1.13
Spiny Softshell Turtle (APSP) - reproductive habitat surface area	0.94	1.03	1.00	1.10
Bridle Shiner (NOBI) - reproductive habitat surface area	0.90	0.97	0.97	1.13
Muskrat (ONZI) - Surviving houses	0.20	1.00	1.00	1.20
Percentage "good" scores for each plan	9%	6%	9%	22%
Overall Environmental Index	0.70	0.90	1.02	2.44
Notes to Table C-5:				
1. Figures represent the impact relative to Plan-1958-DD expressed as ratios, where 1 represents no change from 58-DD, > 1.00 an improvement relative to 58-DD, and < 1.00 a deterioration relative to 58-DD.				
2. Run using the historical supply sequence (1900-2000).				
3. Aqua shading identifies species at risk.				
4. Yellow shading indicates essentially no change from 1958-DD (within 10% difference). Anything above 1.10 is marked in blue and anything below 0.90 is marked in red.				