



U.S. Department of Transportation

THE ADMINISTRATOR



Saint Lawrence Seaway Development Corporation

August 10, 2006

Nancy J. Nelson
Environment, Science & Technology Officer
Office of Canadian Affairs
U.S. Department of State
Washington, DC 20520

International Joint Commission

ACTION: BM
INFORMATION: LB, SC, FB, RT, CMRS
FILE:

Dear Ms. Nelson:

The Saint Lawrence Seaway Development Corporation (SLSDC) appreciates the opportunity to provide its comments regarding the report entitled "Options for Managing Lake Ontario and St. Lawrence River Water Levels and Flows" (Report) prepared by the International Lake Ontario-St. Lawrence River Study Board (Study Board).

The SLSDC is a wholly owned government corporation, a modal administration within the Department of Transportation, created by statute to construct, operate and maintain that part of the St. Lawrence Seaway between the Port of Montreal and Lake Erie, within the territorial limits of the United States. Of significance in the current context, our mission is to provide commercial navigation with a safe, reliable and efficient waterway. It is imperative that the Seaway's water levels/depths are sufficient to accommodate the drafts of vessels transiting the Seaway and that flows/velocities are consistently in a safe range for navigation.

The St. Lawrence Seaway is an international waterway, which requires that the SLSDC must work closely on all operational matters with its Canadian counterpart, the St. Lawrence Seaway Management Corporation (SLSMC). Our review of the Report was completed in conjunction with the SLSMC and this letter contains views shared by them as well. Both Seaway Corporations recognize the magnitude and complexity of the task undertaken by the Study Board and appreciate the opportunity we were given to participate in the Study as members of the Commercial Navigation Technical Working Group (CNTWG).

While participating on the CNTWG, we expressed reservations with certain aspects of the Study and after carefully reviewing the Report, continue to have concerns that we would like to bring to the attention of the International Joint Commission (IJC). Most significantly, the Report states that all three plans would provide positive benefits to commercial navigation when compared to Plan 1958-D with deviations. The SLSDC, however, based on its analysis, believes that it would be difficult for any of the proposed plans to be better for commercial navigation than Plan 1958-D with deviations as historically implemented.

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The Report is on target in its recognition of the need to consider the impact of any changes on commercial navigation. In fact, the order of precedence of uses as required by Article VIII of the Boundary Waters Treaty of 1909 (Treaty), places the needs of navigation second only to domestic and sanitary purposes. As a result, it is our understanding that the IJC is obligated to adhere to the Treaty's order of precedence, unless the Treaty is to be amended. For this reason, the SLSDC believes that, in deciding whether to implement a new regulation plan, the litmus test should be whether or not a new plan will provide demonstrable improvements in comparison to the current regulation plan. If, overall, it cannot be shown that any of the proposed plans will provide such improvements, the SLSDC believes the current Plan 1958-D with deviations should continue to be utilized as it has in the past to regulate the outflows from Lake Ontario.

Although various interests have registered concerns that the current Plan 1958D with deviations needs to be changed, there is no agreement among these interests or even among the members of the Study Board as to which of the three proposed plans would be an improvement over the current plan. The fact that the current Plan 1958-D with deviations has been in operation since 1963 with very few negative impacts to commercial navigation on the Seaway is compelling evidence of its adequacy in addressing the intent of the Treaty. Thus, short of equally compelling evidence that one of the proposed plans will meet and improve upon fulfilling the requirements of the Treaty, the SLSDC believes that Plan 1958-D with deviations as historically implemented should be maintained.

Our specific comments are as follows:

In terms of commercial navigation, the SLSDC believes there are inconsistencies with the economic analysis as follows:

- A Commercial Navigation Transportation Cost Model (CN Model) was developed by a consultant for the CNTWG as part of the Study. The CN Model used vessel movements from 1995-1999 and included vessel operating costs for movements through the study area, which was from Becancour, Quebec, to Port Weller, Ontario, on Lake Ontario. These were not, however, the total origin-to-destination costs (i.e., a vessel departing Rotterdam for Montreal would travel approximately 3290 nautical miles while the CN Model only considered the portion of the trip from Becancour to Montréal, which is less than 70 nautical miles or 2 percent of the total trip). With only a portion of the actual total costs included, a comparison of the economic impacts between the various interests is invalid.
- The CNTWG was instructed not to consider revenues, but it is our understanding that revenues were considered/included for other interests. If this is the case, the comparison of the economic impacts between the various interests would not be valid.
- The loss of business resulting from potential modal shifts caused by plans maintaining low levels and/or high flows/velocities for a period of time was not included in the analysis.

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- The output from the CN Model was not directly integrated into the Shared Vision Model (SVM) as were outputs from models for other interests. Cost curves that approximated the economic impacts of low and high water levels and high velocities/gradients were developed to provide input to the SVM. Attempts to compare the outputs from the CN Model and the SVM were unsuccessful and therefore, the CNTWG did not provide their stamp of approval for the commercial navigation portion of the SVM to the Study Board, as requested. Further, to the best of our knowledge, the cost curves used in the SVM are not based on the final versions of the plans presented in the Report (i.e., A⁺, B⁺ and D⁺).
- The Report shows positive economic impacts for commercial navigation in the Seaway/River while showing negative impacts on Lake Ontario. Due to the fact that the majority of the vessels using the Seaway transit both the River and Lake Ontario and that low water at any point in the system, whether in the River or Lake, will cause delays to navigation, it is likely that the impacts would both be positive or both be negative.
- The CNTWG developed metrics, levels and gradients/velocities along the River and on Lake Ontario critical for commercial navigation, which when violated, negatively impact commercial navigation. The CN Model estimated the frequency, duration and severity of these violations. Attempts were made by the CNTWG to extract and compare results from the SVM with the metrics as part of the evaluation of new plans, however, time and resource constraints did not allow this to happen. This inability to compare the metrics with the results from the SVM, along with the inconsistencies in the economic analysis, made it impossible for the CNTWG to verify the correctness of the output from the SVM.

After conducting a review of the three proposed plans, the SLSDC offers the following specific comments:

- Over the last twenty (20) years, the Seaway has typically opened late in the third quarter-month or early in the fourth quarter-month of March and closed in the last quarter-month of December. Thus, the Seaway navigation season runs from the quarter-month 11 through quarter-month 48. Yet, this fact is not reflected in the Report or in the new plans. The proposed plans appear to assume that navigation only runs between quarter-months 13 and 48 (i.e., the navigation season is stopped between quarter-month 12 through quarter-month 48). As a result, the proposed plans do not try to maintain levels and flows required for commercial navigation for the entire Seaway navigation season.
- Due to the fact that the Seaway is a single system that provides one published allowable draft, metrics violations, whether they occur above or below the Moses-Saunders Dam, impact commercial navigation in the Seaway.

With any of the plans, including the current plan 1958-D, it is the SLSDC's opinion that a Control Board with the authority to deviate from a plan is necessary. Forecasting is, at best, an imperfect science that makes deviating from a regulation plan necessary. The historical record shows that short-term deviations can provide significant benefits to various interests while having minimal impact on the level of Lake Ontario and on other interests. While the Control

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Board has been criticized for the number of times they have deviated from Plan 1958-D, the number of complaints received and amount of damage incurred has been small in relation to the number of people and amount of property that have the potential for being impacted by regulation.

In conclusion, the SLSDC would be in favor of continuing with the utilization of Plan 1958-D, provided that a Control Board of a similar makeup exists with the authority to deviate as it has in the past. This course of action would likely have the least negative impacts on commercial navigation in the Seaway.

We are pleased to provide the SLSDC's comments on the Report and look forward to working with you to ensure that the St. Lawrence Seaway continues to be a safe, reliable, efficient and viable international waterway for commercial navigation. We would welcome the opportunity to meet with you to discuss further our concerns or to provide additional written comments.

Sincerely yours,



Craig H. Middlebrook
Acting Administrator
Saint Lawrence Seaway Development Corporation

cc: DOT Deputy Assistant Secretary for International and Aviation Affairs Susan McDermott