



United States Department of the Interior



FISH AND WILDLIFE SERVICE

3817 Luker Road
Cortland, NY 13045

International Joint Commission

ACTION: *EMA*

INFORMATION: *LG, JC, FB, RT, CWCS*

FILE:

August 25, 2006

RECEIVED
AUG 28 2006
FISH AND WILDLIFE SERVICE
CORTLAND, NY

U.S. Section Secretary
International Joint Commission
1250 23rd Street NW, Suite 100
Washington, DC 20440

**RE: International Lake Ontario-St. Lawrence River Water Levels Study
Comments Regarding Final Three Candidate Plans**

Dear Sir:

The U.S. Fish and Wildlife Service (Service) has reviewed the March 2006 Final Report by the International Lake Ontario-St. Lawrence River Study Board (Study Board) entitled *Options for Managing Lake Ontario and St. Lawrence River Water Levels and Flows*. During the summer of 2005, we sent representatives to several public meetings to hear the Study Board's presentation and to listen to what local residents had to say about the various plans. The Service filed comments with the Public Affairs Specialist of the U.S. Army Corps of Engineers, Buffalo District, in July 2005. At that time, we endorsed Plan B, which has been modified and is now known as Plan B⁺.

Since last year, the Study Board has modified all three plans slightly to reduce impacts on various stakeholders. Overall, however, the three plans rank similarly to the original Plans A, B, and D. The Service now endorses Plan B⁺. Below we are reiterating our comments from last summer, as they are still applicable.

Background

The Service has been concerned for many years with the decline in habitat quality and productivity along Lake Ontario and the St. Lawrence River. In particular, wetlands of value to fish and wildlife resources have dramatically declined. Although there are a variety of factors contributing to these declines, water level regulation is a major factor. Healthy wetlands require periodic high and low water levels to maintain a diverse species assemblage. The current regulations compress the range of water levels, eliminating the highs and lows, leading to monotypic cattail communities and impacting species such as muskrats and northern pike. A plan that will expand the range of water levels could greatly improve habitat productivity.

The current regulation plan, 1958DD, does not consider the environment. Modifications to this plan are necessary to ensure that water level regulations adequately address environmental impacts. It is our understanding that any plan must be designed to avoid disproportionate

impacts to any stakeholder group (i.e., hydroelectric generation, commercial navigation, riparian landowners, recreational boaters, municipal water supplies, and the environment).

Of the original plans investigated, Plan E, the “natural flow plan,” performed the best for most environmental indicators. It particularly enhanced environmental indicators for Lake Ontario and the Upper St. Lawrence River. From an environmental standpoint, all of the original eight candidate plans fared similarly for the Lower St. Lawrence River. Surprisingly, Plan 1958D, the original plan before deviations were incorporated, results in positive effects for most environmental indicators, despite the fact that environmental criteria were not included in the plan. Two of the rejected plans, OntRip3 (the Lake Ontario riparian landowners plan) and RecBoat (the recreational boater’s plan) had disproportionate impacts to the environment.

Final Three Candidate Plans

Of the three remaining candidate plans, Plan D⁺ performs the poorest for the environmental indicators. This plan essentially represents the status quo with minor changes. If this plan is chosen, the International Joint Commission (IJC) will have failed to achieve their goal of developing a plan that will be “environmentally sustainable.” The important habitats along Lake Ontario and the St. Lawrence River will continue to be degraded and productivity and species diversity will continue to decline.

Plan A⁺ was designed to maximize the overall economic benefits. Since the study did not convert environmental benefits and impacts into an appropriate economic measurement, it is difficult to compare the environmental indicators against the economic indicators that other stakeholders use to measure each plan. Plan A⁺ shows some environmental improvement, particularly for a few species in the Upper St. Lawrence River. However, these improvements are very minimal and pale in comparison to what would exist with a natural water level regime.

Of the three remaining candidate plans, Plan B⁺ provides the most environmental improvement over Plan 1958DD. However, it still is less environmentally sound than the original 1958D, and falls well short of achieving the benefits found in Plan E. The Service recognizes the competing interests and understands the rationale for rejecting Plans E and 1958D. Plan B⁺ provides many benefits to the Lake Ontario and St. Lawrence River habitats that are lacking in Plans A⁺ and D⁺.

Although all three plans benefit hydropower production, Plan B⁺ provides the greatest benefits to the hydropower industry. All three plans have similar benefits for commercial navigation, and water uses are unaffected by any of the plans. The models indicate that Plan A⁺ is best for recreational boaters, while Plan D⁺ is good, and Plan B⁺ fares the worst for boaters. However, at the public meetings attended by our staff, the recreational boaters supported Plan B (now B⁺) because it was the only plan that extended the boating season beyond late August.

The most serious impacts from Plan B⁺ appear to be to shoreline interests, particularly along Lake Ontario and the Lower St. Lawrence River (primarily Montreal). These impacts come in the form of increased costs for maintenance of shoreline protection structures, increased flooding, and increased erosion. However, these impacts are a relatively small fraction of the value of the shoreline properties in these areas.

Despite the negative economic impacts to shoreline interests and recreational boaters, and the fact that the environmental benefits were not economically quantified, Plan B⁺ still shows a net economic benefit. Although it provides less of an economic benefit than Plans A⁺ or D⁺, if the environmental benefits were weighted and added in, Plan B⁺ would likely score the highest overall. It is clearly the best plan of the three candidate plans to address the shortcomings of the existing water level regulations.

Recommended Modifications to Presentation

In our previous correspondence, we indicated that the naming of the plans was poorly conceived and indicated a potential bias. The term "Blended Benefits Plan" (Plan D⁺) sounds like the preferred plan has been chosen. A more appropriate name would be "Status Quo with Minor Deviations." Plan B⁺ is also inappropriately named. It does not balance the environmental benefits. What it does is take Plan E, the truly balanced environmental plan, and modify it to reduce impacts to other stakeholders, primarily shoreline interests and recreational boaters. Plan B⁺ would more appropriately be named the "Modified Environmental Plan." Plan A⁺ likewise is not technically balanced; it is designed to achieve the maximum overall economic benefits. It should be called the "Maximum Economic Benefits Plan." Many speakers at the public meetings expressed concern that the naming of the plans identified a potential bias. The Service continues to recommend that this bias be corrected by renaming the plans.

Additional Species of Concern

The Service was invited to, and participated in, an initial presentation in Syracuse, New York, 6 years ago when the study was being initiated. The Service was not invited to participate on the Study Board. We have, however, been in contact with other members of the Study Board and have provided some input during the process. Two key species of concern were not addressed in the model. One is the American eel (*Anguilla rostrata*), which has seen significant population declines in recent years. The Service is currently reviewing a petition to see if the American eel should be listed as a threatened or endangered species. The American eel was not addressed in the study. Water level fluctuations may have some impacts on habitat used by the American eel.

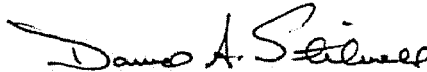
Another species of concern is the piping plover (*Charadrius melodus*), a Federally-listed endangered species. Although piping plovers are not currently found along the shores of Lake Ontario or the St. Lawrence River, the Service has designated critical habitat along Eastern Lake Ontario in Oswego and Jefferson Counties. In a letter to Dr. Joe Atkinson, U.S. Co-Chair of the Environmental Technical Working Group (ETWG), dated February 25, 2004, the Service requested that the ETWG evaluate the potential impacts of any water level regulation plan upon this habitat. To the best of our knowledge, this evaluation was never undertaken. Therefore, it is difficult for the Service to determine the relative impacts, if any, that each plan may have on the critical habitat.

Summary

The Service appreciates the opportunity to comment on the candidate plans. We strongly urge the IJC to select Plan B⁺, as it best addresses all of the critical goals of the study and, in our opinion, has no disproportionate impacts on any stakeholder groups. Although Plan B⁺ falls far short of achieving complete mitigation for the impacts of 50 years of water level regulation on

Lake Ontario and the St. Lawrence River, it provides the most environmental benefits for the broadest array of species of any of the three plans under consideration. If you have any questions or need additional information, contact Steve Patch at 607-753-9334.

Sincerely,

A handwritten signature in black ink that reads "David A. Stilwell". The signature is written in a cursive style with a large, sweeping initial "D".

David A. Stilwell
Field Supervisor

cc: TNC, Rochester, NY (D. Klein)
NYRU, Rome, NY (B. Carpenter)
NYSDEC, Watertown, NY (S. LeBarron)