

Saint Regis Mohawk Tribe

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September 15, 2006

The Secretary, United States Section
International Joint Commission
1250 23rd Street NW, Suite 100
Washington, DC 20440
United States

International Joint Commission

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

Dear Mr. Secretary:

The International Joint Commission established the International Lake Ontario and St. Lawrence River Study Board in 2000 initiated the International Lake Ontario-St. Lawrence River Study to assess and evaluate the Commission's 1952 Orders of Approval for Regulation of Lake Ontario (amended in 1956). The Board set forth three guidelines for this study: maximize net benefits, support ecological system integrity, and minimize economic loss. This study evaluated impacts of water level changes on the environment and on recreational, commercial, residential, and industrial interests given future estimates of climate change. Initially, Plan E presented the greatest opportunity for the reinstatement of natural flows, and consequent ecological benefits, by restoring the system to pre-Moses-Saunders Dam level and flow conditions while limiting ice jams but this plan was rejected and not carried forward as one of the final candidate plans. Three candidate plans for regulating Lake Ontario outflows through the Moses-Saunders Dam at Massena, New York and Cornwall, Ontario have been offered for public comment and are detailed in the Study Board's March 2006 Final Report, Options for Managing Lake Ontario and St. Lawrence River Water Levels and Flows. These include Plan A⁺: Balanced Economic Plan, Plan B⁺: Balanced Environmental Plan, and Plan D⁺: Blended Benefits Plan represent changes to the existing flow regime. Please accept this letter on behalf of the St. Regis Mohawk Tribe (SRMT) regarding these three candidate plans.

The St. Regis Mohawk Tribe supports the selection of Plan B⁺: Balanced Environmental Plan because it affords the best opportunity from the three remaining candidate plans to improve and maintain the ecological habitats of the Upper St. Lawrence River and Lake Ontario. This plan incorporates greater fluctuations in water levels than Plans A⁺ and D⁺ and therefore has the potential to return some of the natural variability to the system. The stabilization of water levels has greatly reduced the extent of wetland habitats in the system negatively impacting resources they supported. The Environment Technical Work Group (ETWG) suggests that Plan B⁺ allows for greater improvement in wetland meadow marsh communities thereby enhancing fish and wildlife habitats. ETWG estimates increased productivity of approximately 6200 wetland acres as meadow marsh can expand through existing lower value wetlands by selection of Plan B⁺.

Akwesasne, New York

Phone:

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We are concerned that selection of Plans A⁺ or D⁺ could limit our ability to implement restoration projects that require the dynamic changes in water levels present prior to Seaway construction. Implementation of certain types of restoration projects, in particular enhancement of (1) wetlands, (2) aquatic vegetation beds (submerged and floating), (3) spawning habitat for pike and muskellunge and numerous other fish species, (4) breeding bird marsh habitat, and (5) improved muskrat habitat become more feasible with selection of Plan B⁺.

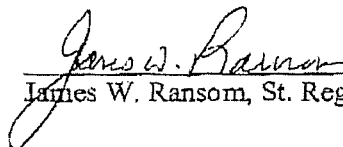
The St. Regis Mohawk Tribe agrees with the USFWS recommendations to support Plan B⁺ as submitted in their letter dated August 25, 2006 (Stilwell 2006). We concur that Plan D⁺ provides the least environmental benefit and therefore will not meet the "environmentally sustainable" goal. Plan A⁺ provides marginal environmental benefit for few species, and the plan is difficult to assess because of the economic measurements provided. As highlighted by the USFWS, an important trust resource not addressed is American eel. This species is in decline and is an important food source for the highly endangered St. Lawrence Beluga whale population. The effect of water level fluctuations on this species is presently not known. Of the three plans under consideration the SRMT agrees that Plan B⁺ provides the best environmental and economic balance among all the stakeholders.

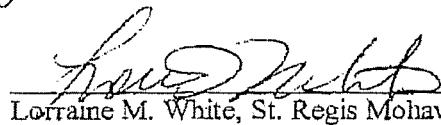
The St. Regis Mohawk Tribe is one of several natural resource trust agencies designated under the National Contingency Plan who act on behalf of the public to protect and restore natural resources. The SRMT and its co-trustees (the US Fish and Wildlife Service, New York State Department of Environmental Conservation, and the National Oceanic and Atmospheric Administration) are in the process of assessing damages to natural resources that have resulted from the release of hazardous substances from Aluminum Company of America (currently Alcoa West), Reynolds Metals Company (currently Alcoa East), and General Motors Powertrain (formerly General Motors Central Foundry Division) facilities in Massena, New York to the St. Lawrence River, the Grasse River, the Raquette River, the Mohawk Territory of Akwesasne, and the general Massena area. The Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA) and the Clean Water Act (CWA) provide authority for the trustees to seek such damages. The Trustees (collectively the SRMT and its co-trustees) formed the St. Lawrence Environmental Trustee Council (SLETC) and signed a Memorandum of Agreement formalizing this process (MOA, February 18, 1991). The goal of the SLETC was to quantify injury to natural resources from the Massena facilities, to promote restoration of the St. Lawrence area ecosystem and to compensate the public for past, present and future losses through implementation of appropriate restoration projects. The SLETC entered into a funding agreement with Alcoa, GM, and Reynolds (collectively known as "the Companies") in 1990 to develop a natural resource damage assessment (NRDA) plan. In 2000, the Trustees and the Companies initiated a cooperative assessment to resolve natural resource liability associated with releases from the three Massena facilities and signed a separate funding agreement. The Trustees and the Companies are continuing to work together to quantify or qualify injury to ecological services (e.g., sediments, fish, birds, terrestrial and aquatic mammals, reptiles and amphibians), recreational fishing, and tribal culture. Remedies have been selected, and at least partially implemented, at these three facilities. As part of this process we will implement appropriate and adequate restoration to restore those resources adversely effected by Site releases. The Trustees and the Companies initiated steps in 2005 to identify candidate restoration projects and are preparing to solicit restoration project suggestions from the public. The IJC's decision on water levels and flows in the St. Lawrence Seaway have major implications to the selection, breadth, viability, and sustainability of restoration projects evaluated under this cooperative NRDA process.

In summary, the St. Regis Mohawk Tribe appreciates the opportunity to comment on the three candidate plans and advocates the IJC select Plan B+ over plan A+ or D+. This plan affords the best opportunity to improve habitat through water level and flow modifications. Improvement in water levels and flow regulations creates better restoration planning opportunities for us as we undertake our trustee responsibility.

Nia:wen/Thank you.

Sken:nen/Peace,


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