

## Tom & Ann Hiatt

Hilton, New York

July 8, 2008

The Secretary, United States Section  
International Joint Commission  
2401 Pennsylvania Avenue, NW  
Fourth Floor  
Washington, DC 20440

Re: IJC Proposed New Order of Approval and Plan 2007

Dear Mr. Secretary,

Enclosed is a petition signed by over 500 concerned citizens who use, cherish and enjoy Lake Ontario, its beautiful environs and the wonderful wildlife that abound in the area.

This is a collective effort to conserve the paper and energy needed to deliver separate letters from all. We gratefully acknowledge the work put into reviewing the 1956 Order and wish to relieve the IJC from the further administrative burden of reading and responding to separate letters, faxes and e-mails. We trust that this submission will be accorded the same import as would have been given to hundreds of individual responses.

After careful review of the many documents from the IJC and the Study Board, we were compelled to offer comments and express our concern in the form of the enclosed Petition.

Extreme high lake levels under the proposed Plan B+ will give rise to excessive south shore flooding which will create environmental problems from submerged septic and sewage treatment facilities as well as from increased runoff from near-shore farmland. Not only will wildlife suffer, but the erosion and pollution of parks and beaches together with the damage of marina facilities will deny the public virtually all safe and sanitary access to Lake Ontario along the southern shore.

In order to ensure safe and secure access to and enjoyment of Lake Ontario, we respectfully request and do formally petition the International Joint Commission to:

- A. Modify the New Order of Approval to delete
  1. the word "downstream" in the paragraph preceding criterion 1,
  2. the words "taking into account any mitigation measures" in criterion 4, and
  3. all reference to Plan B+ or implementation of Plan B+ variants;
- B. Adopt a default option that would:
  1. continue Plan 1958-D with Deviations and
  2. attempt to address environmental and recreational boating interests, within the confines of the spirit and intent of conditions (i), (h), (j) and (k) currently specified in the 1956 Order; or, in the alternative, adopt Plan 2007 within those confines and with the above modifications of the New Order; and
- C. Reject Plan B + and any variant thereof.

It is difficult to fully understand the operation and impact of Plan 2007 without benefit or knowledge of the specific language of the plan. The public is asked to accept, on faith, a

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IJC Proposed New Order of Approval and Plan 2007 (cont'd)

new scheme for Lake level controls. Consequently, we can only rely on the words of the IJC Guide to the New Order, wherein it states that Plan 2007:

- a) gives rise to "greater wetland plant diversity",
- b) "reduces damages to properties along the shores of Lake Ontario",
- c) provides "lower spring, winter and fall levels that help protect shoreline property",
- d) "reduces damage by setting lower fall and spring water levels" with the trade-off of "occasionally allowing slightly higher water levels [five inches or less] ... during the... summer ",
- e) "moves closer to simulating natural control of cattail populations",
- f) "provides opportunities for establishment of more diverse flora and fauna...one of the most critical and basic indicators of the environmental health of Lake Ontario" and
- g) "improves meadow marsh area", which is "the primary indicator of the regulation plan's impact on the environment."

Plan 2007 is said to be a balanced approach to all interests. At the same time and as seen above, it will provide significant environmental benefits -- a stated goal of the New Order. Thus, there is no reason or logic for attempting to dramatically alter this delicate balance by shifting from an already unknown and uncertain plan to yet another one (Plan B+) which will have a disproportionate impact and will upset the balance of interests. There will, no doubt, be sufficient chaos under any New Order without the added confusion and damage that a midcourse shift to Plan B+ would cause.

Please eliminate all reference to Plan B+ in the New Order and reject Plan B+ and variants.

Additionally, we would point out that the New Order is deficient in its lack of specificity as to what lake level is meant by the term "1% exceedance level" in criterion 10. The New Order further suffers from a failure to provide adequate mechanisms for the International Lake Ontario-St. Lawrence River Board to respond rapidly to Lake Ontario flooding conditions. The Board should be given authority to quickly implement short term deviations in the event of a lake flooding situation.

Again, we commend the IJC and the Study Board for the monumental effort to review the 1956 Order and balance various interests. However, we ask that the issues raised above be fully addressed before adopting any new Order of Approval or operating plan.

Respectfully submitted on behalf of the 510 petitioners,

Tom & Ann Hiatt



Enclosure

**PETITION**  
to  
**The International Joint Commission**  
regarding  
**Orders of Approval for the Regulation of Lake Ontario**

**Whereas** the International Joint Commission ("the Commission") issued an Order of Approval October 29, 1952 ("the 1952 Order") for the construction, maintenance and operation of the St. Lawrence River Hydropower Works ("the Works");

**Whereas** the 1952 Order was amended July 2, 1956 ("the 1956 Order") to state that "the discharge of water from Lake Ontario...shall be regulated within a range...from elevation 74.15 m (243.3 feet) to elevation 75.37 m (247.3 feet), as nearly as may be...";

**Whereas** the 1956 Order specifically states that, in the case of flooding, "the works...shall be operated to provide all possible relief for riparian owners upstream and downstream" and, in the case of low water, "shall be operated to provide all possible relief to navigation and power interests."

**Whereas** many public and private facilities, such as, parks, marinas, boating clubs, beaches, water treatment plants, septic and sewage facilities, restaurants, roadways, bridges, farms and homes have been built, operated or maintained with complete reliance upon the 1956 Order;

**Whereas** a Study Board of the Commission has urged adoption of a New Order of Approval and regulation plan ("Plan 2007") to replace the current 1956 Order and its regulation plan ("Plan 1958-D with Deviations");

**Whereas** the Commission has expressed a strong interest in subsequently shifting promptly from Plan 2007 to yet another regulatory scheme known as "Plan B+" whenever some unspecified "sufficient mitigation measures are in place".

**Whereas** Plan B+, according to the Study Board, provides "net benefits for hydropower and commercial navigation", but "is the worst of the ... candidate plans in terms of flooding..." and "...causes the most erosion and shore protection damage above the dam." ;

**Consequently, We, the undersigned, who use, cherish and enjoy Lake Ontario, do hereby petition the Commission to:**

**A. Modify the New Order to delete**

1. the word "downstream" in the paragraph preceding criteria 1,
2. the words "taking into account any mitigation measures" in criterion 4, and
3. all reference to Plan B+ or implementation of Plan B+ and its variants;

**B. Adopt a default option that would**

1. continue Plan 1958-D with Deviations and
2. attempt to address environmental and recreational boating interests, within the confines of the spirit and intent of conditions (i), (h), (j) and (k) currently specified in the 1956 Order; or, in the alternative, adopt Plan 2007 within those confines and with the above modifications of the New Order; and

**C. Reject Plan B+ and any variant thereof.**

**Name**

**Address**

**Date**