



July 9, 2008

The Secretary, Canadian Section
International Joint Commission (IJC)

Ottawa, Ontario

**RE: IJC – Proposed new Order of Approval and Plan 2007 for the
Regulation of Lake Ontario and the St. Lawrence River**

Dear Chairs and Commissioners:

I am writing on behalf of our Bay Area Implementation Team (BAIT) of the Hamilton Harbour Remedial Action Plan (HHRAP). The BAIT is a group of eighteen organizations representing government, industry and institutions responsible for the various actions to improve the environment of Hamilton Harbour in order to seek its eventual delisting as an Area of Concern (AOC) under the Great Lakes Water Quality Agreement.

I appeared at the June 3rd meeting of the IJC in Jordan, Ontario along with several members of our BAIT who spoke on behalf of their own organizations. The BAIT's concern with the proposed order is the effect that Plan 2007 will have on the Cootes Paradise Marsh restoration. This project is the principal component of meeting criteria set for restoring Beneficial Use Impairments (BUI) iii, Degraded Fish and Wildlife Populations and xiv, Loss of Fish and Wildlife Habitat. As set out in a separate report from the Royal Botanical Gardens (RBG) to the IJC, Plan 2007 may adversely affect the restoration of the Cootes Paradise Marsh and it may be impossible to meet these delisting criteria for the Hamilton Harbour AOC. Through BAIT, the community has invested approximately \$65 million in environmental enhancements aimed at restoring the conditions in the Cootes Paradise Marsh.

We ask that the IJC note that the RBG is a shoreline property owner of approximately 30 kilometres of shoreline and 310 ha of patent water lot. As set out in my June 9 submission, the loss of a restored Cootes Paradise Marsh may have significant economic impacts to the Royal Botanical Gardens.

On behalf of our BAIT we ask that you:

- Approve Plan B+; if plan B+ can't be approved at the present time, continue to operate under plan 58D with Deviations,
- Establish a system of adaptive management; continue to examine the Lake Ontario/St. Lawrence system and determine how to move closer to conformity with Plan B+,
- Do not approve Plan 2007 as this will be very difficult to move away from. It will set a clear path entrenching errors of the past that allowed for properties to be built in locations susceptible to flooding and erosion. Plan 2007 will set a path that clearly compromises the environmental benefits of the Lake Ontario/St. Lawrence River System.

Respectfully


John D. Hall MCIP, RPP
Coordinator HHRAP

CC: Garth Napier, Chair HHRAP
Mark Runciman, RBG

IJC Water Level Regulation Hearing June 9, 2008

John D. Hall MCIP, RPP
HHRAP Coordinator

INTRODUCTION:

- I am John Hall, HHRAP Coordinator and a former member of the Public Interest Advisory Group (PIAG).
- With me are Tys Theysmeyer, Aquatic Ecologist with the Royal Botanical Gardens and Jim Hudson, Executive Director of the Bay Area Restoration Council.
- Each presenter will take five minutes and speak to a specific topic area. Further written information will be submitted within the commenting period.
- Of the range of interests considered in the selection of a water level plan only the environment and shoreline property owner will be addressed in these presentations as these are the aspects germane to our Remedial Action Plan.

A. Hamilton Harbour Remedial Action Plan (HHRAP):

- Hamilton is identified under the Great Lakes Water Quality Agreement as an Area of Concern and as such it has filed with the IJC Stage 1 and 2 reports and is working on enhancements of Hamilton Harbour with delisting targeted for 2015. To date we estimate close to \$1 billion has been invested in the remediation of the Harbour with a total investment anticipated to be \$1.5 billion. I wish to acknowledge the support of the IJC and in particular Canadian Chairman, the Honourable Herb Gray in assisting our RAP to secure funding and advancing our remedial actions.
- The HHRAP took an ecosystem approach to its Remedial Action Plan and was one of the first places in the Great Lakes to adopt such a principle.
- One of the delisting criteria for Hamilton Harbour is the restoration of the Cootes Paradise Marsh and Grindstone Creek Estuary, both on lands of the Royal Botanical Gardens.
- Our local analysis of Plan 2007 leads us to believe that the Cootes Paradise wetland restoration project will be put in jeopardy and delisting of Hamilton Harbour as an Area of Concern may not be possible if Plan 2007 is approved.

B. Treaty, 1956 Board Order and Interests:

- “The Commission must consider the requirements of the Treaty for protection and indemnification of interests that may be injured by the project.” (quote from news release of March 28/08, Cornwall)
- Royal Botanical Gardens is a shoreline property owner of approximately 30 kilometres of shoreline and approximately 310 ha of patent water lot.
- The interests of the RBG are therefore both those of the **environment** and those of a **shoreline land owner**.
- The issue of compensation for shoreline erosion appears to have driven the selection of Plan 2007. Harmful environmental and financial effects are anticipated to the property of the Royal Botanical Gardens if Plan 2007 is approved. The IJC does not appear to have recognized this as an issue and we question how it will deliver compensation to the Royal Botanical Gardens, a major **shoreline land owner**?
- The Royal Botanical Gardens made two written submission to the IJC and Study Board and will be submitting a third submission before your commenting deadline.

C. Potential Economic Impacts:

- Potential for increased revenue from visitation to a restored Cootes Paradise Marsh is substantial; for example Presque Isle in Lake Erie attracts 4,000,000 visitors per year and Point Pelee attracts approximately 400,000 per year. A restored Cootes Paradise Marsh has potential to display a greater diversity of plants and animals than either of these sites.
- The City of Hamilton has invested approximately \$60 million in waste water infrastructure upgrades to support the restoration of the Cootes Paradise Marsh
- The City of Hamilton suffers economically from the image of a polluted city with a toxic harbour and the delisting of Hamilton Harbour as an Area of Concern supports attracting the best and the brightest to Hamilton’s changing and expanding economy. A recent study by the York University’s Schulich School of Business identifies approximately \$1 billion dollars of economic return resulting from remedial actions and delisting of Hamilton Harbour.
- Not being able to delist Hamilton Harbour may have serious economic impacts to the City of Hamilton

D. Recommendations:

- So what do we recommend:
 - Approve Plan B+ and if you can't approve plan B+ at the present time continue to operate under plan 58D with Deviations
 - Establish a system of adaptive management; continue to examine the Lake Ontario / St. Lawrence system and determine how to move closer to conformity with Plan B+
 - Do not approve Plan 2007 as this will be very difficult to move away from. It will set a clear path entrenching errors of the past that allowed for properties to be built in locations susceptible to flooding and erosion. Plan 2007 will set a path that clearly compromises the environmental benefits of the Lake Ontario / St. Lawrence River System.

Please note that we believe your environmental analysis comparison of Plan 2007 to the other proposed plans is flawed and ranks the environmental outcomes for Lake Ontario too highly. We will however speak only to the Cootes Paradise Marsh. As the hearing progresses, I expect other credible public and private agencies will speak to environmental impacts.