

REVIEW OF THE LAKE ONTARIO-SAINT LAWRENCE RIVER  
ORDER OF APPROVAL - PUBLIC HEARING IN GREECE, NEW YORK,  
JUNE 11<sup>TH</sup>, 2008, 197 MIN.)

IRENE BROOKS (Chair, U.S. Section, International Joint Commission):  
We're pleased that you were able to come out tonight. We're pleased to see such a  
great turnout. We're ready to begin, if you find your seat. Thank you.

On behalf of the International Joint Commission, I would like to welcome  
you to this public hearing, one of ten we are holding around Lake Ontario and the  
Saint Lawrence River, and we express our deep appreciation for your attendance.

I'm Irene Brooks, Chair of the U.S. Section of the Commission, and with  
me here tonight are my colleagues on the Commission, Canadian Chair Herb  
Gray, commissioners Jack Blaney and Pierre Trépanier from Canada and  
commissioners Al Olson and Sam Speck from the United States.

We are here to receive your comments on proposed changes to how water  
is released through the Moses-Saunders dam on the Saint Lawrence River near  
Cornwall, Ontario and Massena, New York, which affects water levels and flows  
on Lake Ontario and on the Saint Lawrence River as far down as Three Rivers,  
Quebec. These proposals were released by the International Joint Commission for  
public comment on March 28th, 2008.

After its release, the Commission mailed notices to 5,000 people, held ten  
information sessions, published multiple announcements in local papers, sent e-

mail notices and notified elected officials so that as many people as possible would be aware of our ten public hearings.

The International Joint Commission was created under the Boundary Waters Treaty of 1909 to help prevent and resolve disputes over the use of water along the Canadian-U.S. boundary. In the 1950s, the government asked the Commission to approve a major dam in the international section in the Saint Lawrence River.

They also asked the Commission to determine how flows through that dam could be managed to achieve certain objectives and then approved criteria offered by the Commission to meet those objectives. The objectives included reducing shoreline damage on Lake Ontario, in addition to enabling hydroelectric power generation and commercial navigation.

For nearly 50 years, water through the resulting dam has been released in accordance with requirements set by the Commission in an order and regulation plan when the project was first built and then operated in 1960.

The Commission is now proposing changes to those requirements. It issued for public comment a proposed new Order of Approval and a regulation plan for the dam – in essence, a proposed new legal framework and a proposed operational plan to implement it.

Our staff held ten information sessions here in the region during April and May to explain the Commission's proposal and to answer technical questions

about the content of the proposal, so we won't spend a lot of time tonight covering that ground again.

The purpose of tonight's hearing is for us to hear your comments about our proposal, and we'd like to leave as much time as possible for that. However, our lead staff – and will they please stand so people can see them? – will make themselves available during any breaks and will stay at the conclusion of this hearing to answer any remaining informational questions.

Now I'd like to explain the procedures we'll be following this evening. Note that this is an international meeting in every respect. Whether you're from Canada or the United States, we encourage you to participate. We really welcome your comments to ensure you that all relevant matters are taken into account.

If you wish to comment and did not so indicate when you registered, please see our staff at the registration table just outside this room. You can register to speak at any time during tonight's hearing. Other than providing elected officials with the courtesy of speaking first if they wish, we will turn to those speaking to us for the first time on a first-come, first-serve basis.

Anyone who has already made a presentation, either at this hearing or previous hearings, may provide additional comments after others have had their opportunity to speak. I'll announce those whose turn it is to speak and will identify the next person or two at bat so they can be prepared.

When you speak, we ask you to please state your name and let us know whether you are speaking as an individual or on behalf of an organization. We

ask you that you limit your oral comments to five minutes so that everyone who wishes has a chance to speak.

Our secretaries will help you keep track of the time by showing a yellow card when you have half a minute, and then a red card when your time is done. If you want to submit written statements or presentations in addition to your oral presentation, in either paper or electronic format, please provide them to the secretaries, who will later provide a copy to all commissioners and will make sure that they are included in the official record.

We are recording this hearing and all comments tonight will be part of a transcribed official record. Please use the microphone when you speak so your comments can be included in this transcript. Transcripts from all ten hearings will be posted to the Commission's website once available. And that is [ijc.org](http://ijc.org), very simple.

Commissioners may ask a few questions, particularly if they need clarification. Our questions, and your responses, will be not part of your allotted time.

We would appreciate one spokesman for each organized group here this evening. If you want to make your own individual comments, please do so. However, in the interest of time, if you find that presenters before you have already made your points, please consider simply stating that you also support those points.

Following the hearing, we will accept written comments through July 11th. We invite you and your friends and neighbours who could not be here tonight to send any information or views that they might find helpful. Submissions can be made to either Commission secretary by e-mail, fax or regular mail. I assure you that anything you send to us will be given full consideration and provided to all commissioners.

We will not make any decisions until after we have considered all public comments received. We have been consulting with the U.S. and Canadian federal governments through their Department of State and Foreign Affairs, including in those meetings to which state and provincial officials have been invited, and we will be holding further meetings with them prior to seeking federal governments' concurrence on a final order and regulation plan.

So with that we will begin, and our first speaker is John Auberger and Mr. Auberger is a councilman of Greece, and I ask you to please come. I have two of you.

JOHN AUBERGER (Supervisor, Town of Greece): We come in pairs.

IRENE BROOKS: You come in pairs.

JOHN AUBERGER: Welcome. My name is John Auberger and I'm supervisor of the Town of Greece and this is our council representative, Mike Berry, from the 1st Ward who represents the lake area within the Town of Greece. And on behalf of the residents of our great town, I'd like to welcome each and

every one of you to our community. We are a community of around almost 95,000 residents who take Lake Ontario and water use issues very seriously.

I'd also like to, at this time, to personally and also on behalf of our residents thank the IJC for their efforts regarding Lake Ontario and welcome you to our community once again. It's a pleasure to have you with us.

And now I would just like to begin the comment period, and I will be speaking as Supervisor of the Town of Greece, representing our municipality. And I am, as mentioned, joined here by 1st Ward Council Representative Mike Berry.

Lake Ontario is a valuable resource within our great community here in the Town of Greece and the community of Monroe in the State of New York. It is part of our past, our present and our future.

I am here this evening to express our strong support for the approval of Plan 2007. I would like to formally submit this letter to Chairwoman Brooks in that regard.

Councilman, if you would submit that letter on behalf of the town.

IRENE BROOKS: Thank you much.

JOHN AUBERGER: At our Greece town board meeting to be held on June 17th, Councilman Berry will introduce legislation to our town board colleagues for a formal resolution in support of the Orders of Approval and the implementation of Plan 2007, as we firmly believe that this plan best addresses the interests of all parties.

As a shoreline community we feel this plan offers better protection of the shoreline and was completed with a higher and more accurate level of analysis.

Plan B negatively impacts public and private landowners along the lake and has the potential to cause significant damage to our shoreline. There is also a question with respect to the data used in the analysis for the Plan B+ proposal. Once again, I thank you for your efforts, as well as the opportunity to be here with Councilman Berry to speak with you this evening on behalf of the residents of our great Town of Greece. Thank you very much. (APPLAUSE)

IRENE BROOKS: Thank you very much. Our next speaker is a representative for state Senator George Maziarz and that would be Frank Allkofer. Frank.

FRANK ALLKOFER (Representative for State Senator George Maziarz): Good evening. My name is Frank Allkofer. I am representing Senator George D. Maziarz this evening. Senator Maziarz could not be here this evening due to a prior commitment. He represents the 62nd Senatorial District which covers part of Niagara County, all of Orleans County and parts of Monroe County.

He wanted to state that he's in support of Plan 2007. He is concerned about property protection for homeowners along Lake Ontario's shoreline. He has discussed the plan with many homeowners who own property on Lake Ontario and they also favour the Plan 2007.

These homeowners are concerned about the high water levels of Lake Ontario and the potential for property damage. The high waters of Lake Ontario impacts the health and safety of residents along Lake Ontario's shoreline.

Thank you.

IRENE BROOKS: Thank you very much. (APPLAUSE)

Next I have Mayor Michael Sullivan, Village of Sodus Point. Mayor, Your Honour.

MICHAEL SULLIVAN (Mayor, Village of Sodus Point): My name is Mike Sullivan and I am the mayor of the Village of Sodus Point. We are located on the entrance, so to speak, of Lake Ontario in Sodus Bay, so we have properties that are both shoreline and embayment. Sodus Bay, if you don't know, is the largest embayment on the south shore of Lake Ontario with about 3,000 acres.

If first want to thank you for your reaffirmed commitment to protect the shoreline communities in the proposed Order of Approval. I want to share with you tonight though some visualization of what extreme high and low waters, lake levels, mean to just one village.

Level numbers in terms of feet or metres seem rarely discussed in this kind of forum. We need to use those numbers and relate them to the real world. Without going into great detail, I call your attention to page numbered four in the handout, and that's the first page. And this handout, by the way, comes from the Sodus Bay Historical Society Newsletter of the Fall of 2005, and I apologize for

reproductions of reproductions of old black and white photos, but I think it will convey my point.

Note that the complete flooding of a large section of Sodus Point occurred at 28.24 feet above sea level in 1947. That's on that page four. Nineteen fifty-two was even worse at 248.57. On page numbered seven, you'll note a similar situation arose in 1973 at a level of 248.47. And this is after the current Order of Approval was adopted in Plan 1958D with deviations implemented. On the other hand, the photos on page nine, numbered nine, the last page, shows the consequences of a lake level just under 242 feet, with people standing in the channel to the lake and bayfront homes with unusable waterfronts.

I do not need to remind this body that the current control range is from 243.3 to 247.3. We must keep in mind that massive investments in commercial, public and private property have been made since the current plan was approved and adopted, and those investments were predicated on the promise, the contract, if you will, of maintaining that four-foot control range.

Every revetment, dock, breakwall, et cetera, was constructed with the promise the lake would not exceed 247.3 feet, unless extraordinary circumstances prevailed, as in 1973 with Hurricane Agnes.

I should add that the village sewer system was installed after 1973. High water of the kind experienced in '47, '52 and '73 would cause discharge of raw sewage into both Sodus Bay and subsequently Lake Ontario.

It is likely that the system throughout the village would be inoperable. And as a little bit of an aside, the four-bay sewer plan as recently developed calls for Sodus Point sewer plant to accept sewage from around the bay all the way over to East Bay. So it's a massive operation and to shut it down because of high water would be undesirable, to say the least.

Extreme low waters will cause serious economic distress to the commercial aspect of Sodus Bay. Several marinas will not be able to function. Tourism will decline. Restaurants and other tourism-related businesses will suffer. Many businesses will be unlikely to survive a protracted low water period. Property values in the tax base will be very adversely affected by cycles of both water level extremes.

Therefore, the village of Sodus Point, and I represent the municipality, but in particular the Board of Trustees, cannot support any plan that does not maintain the current control range. Plan 2007 does not allow for any lake level deviations until 248 feet is reached. Too much and too late, to paraphrase an old expression.

Having said that, we can accept Plan 2007 with deviations allowed and administered by the Control Board with the Board having the authority to determine and implement those deviations when needed.

Put another way, we support Plan 2007 if criteria (g), (h) and (k) from the existing Order of Approval are maintained in the new order.

One last comment: Plan B+ which provides even higher highs, lower lows and for even longer periods of time, is completely unacceptable. Adoption of that plan, I admit, as currently constructed, would be an excellent way to destroy the village of Sodus Point.

That's all I have to say. (APPLAUSE)

IRENE BROOKS: Thank you. Our next speaker is Jared Meeker for Mike Coddington, who's chair of the Fire Commission.

JARED MEEKER (Fire Chief, Lake Shore Fire District, Speaking for Mike Coddington, Chair of the Fire Commission): Good evening. My name is Jared Meeker and I'm the Fire Chief of the Lake Shore Fire District. The Lake Shore Fire District provides and protects the lives and properties for seven miles of shoreline on the south shore of Lake Ontario here in the Town of Greece in the State of New York.

The shoreline is a home to hundreds of permanent year-round families. This equates to thousands of residents who depend on my fire district for protection against fire and to provide emergency medical services.

The purpose for speaking here tonight is to address the Fire District's concern with the plan to maintain a lake level at or near the 248-foot mark.

Recently my predecessors, who were the Fire District's leadership during the Greece shoreline flood of 1973, have expressed to me great concern of what I can expect if the level of Lake Ontario approaches the 248-foot mark. They have educated me on what I and my firefighters can expect if this plan becomes reality.

They reminded me that I and my firefighters, my officers of the Lake Shore Fire District, will be the front lines of defence in this disaster along the shoreline, not you.

Since 1973 many homes have built protective breakwalls with high lake levels... for high lake levels and large waves. However, at a level of 248 storm waves can easily exceed four feet high. With this in mind Lake Ontario merges with its nearby ponds at a level of 251 feet. If you do the math, it exceeds it.

On February 12th, 1973 town leaders along the Lake Shore Fire District officials began preparing for a disaster along the shoreline of Lake Ontario. At that time the prediction was that the lake level was going to reach 248.3. The town brought together these officials to develop a formal disaster plan. They were convinced that this level would surely cause severe damage and destruction of homes. Their prediction was correct.

A north-eastern storm occurred on March 17th, ultimately resulting in a declared federal disaster area in the town of Greece. In the development of this disaster plan, some of the preparations that were put in place were as follows: The Fire District equipment was adapted to withstand constant use; additional equipment had to be purchased; the town welded all sanitary sewer covers shut; RG&E and the Water Authority came through the neighbourhoods and marked all the shutoff valves to prepare for evacuation; additional town/highway equipment was put into the readiness mode; plans were made for evacuations of hundreds of families and plans were made for housing thousands of residents.

Projections were made on anticipated costs to local budgets and plans were made of additional staffing for emergency crews. Projections were made for long-term recovery.

In the seventies the Lake Shore Fire District had a volunteer force of 110 members. We responded to approximately 150 calls annually. Many of these firefighters were at the time residents of the South Shore. Many volunteer organizations today have drastically changed; mine included.

In 2008, our Fire District only has a membership of 45 volunteer firefighters, supplemented by five career firefighters answering over 1,200 calls per year.

My predecessors have also reminded me that this is not a short-term plan to plan for. You can expect three to four months of response and recovery efforts.

In 1993, when Lake Ontario reached 248 feet Edgemere Drive was blocked at Dewey Avenue. The water level and the lake both met. The sanitary sewers on old Edgemere Drive were overflowing raw sewage into the roadway and catch basins to Buck Pond. Many homes had their windows boarded up and some families had to be evacuated.

The Lake Shore Fire District over the past 50 years has dealt with many, many storms on Lake Ontario. However, with lake levels at or near 248 feet, we can easily predict another disaster will occur to our residents and our

neighbourhoods. Homes will suffer severe damage and families will have to be evacuated.

We can also predict our emergency resources will be stretched well beyond our limits. As in 1973 and 1993, many of our volunteers will be home protecting their own homes. With all this in mind, I can only suggest to our residents that they must take action now and come up and develop a contingency plan.

In closing, representing the Lake Shore Fire District, and as Fire Chief I want to go on record strongly objecting any plan that jeopardizes the lives and the homes of our Fire District residents. And it is our position that raising the level of Lake Ontario or near the 248-foot mark is a reckless act by any government body or any individual.

Thank you for letting me speak.

IRENE BROOKS: Next is Edward McKeown, representing Senator Joseph Robach. Edward McKeown.

EDWARD MCKEOWN (Representing Senator Joseph Robach): Good evening. My name is Ed McKeown. I've worked for Senator Robach for 17 years. Senator Robach's district is District Number 56. It covers a territory from Ogden to the west side of the Genesee River, all of Greece and much of Rochester and Brighton.

We have heard from some of our constituents. Every one of them has the same fears that our predecessors have discussed in this meeting. And we are

proposing that the plan that be used be 2007 with preferably the same modifications that were mentioned earlier by the Mayor of Sodus. And we also want to emphasize that we join the emergency planners of this area in their concerns.

Thank you. (APPLAUSE)

IRENE BROOKS: Thank you very much. The last part that I have is Mike Garland, representing County Executive Maggie Brooks. No relation.

MIKE GARLAND (Deputy Director, Department of Environmental Services, Monroe County; Representing County Executive Maggie Brooks): Good evening, ladies and gentlemen, My name is Mike Garland and I'm Deputy Director of Monroe County's Department of Environmental Services; and on behalf of Monroe County Executive Maggie Brooks I would like to welcome the U.S. and Canadian Commissioners of the International Joint Commission to Monroe County and thank them for the opportunity to present remarks in the IJC's proposed Order of Approval and Plan 2007.

While I formally submit County Executive Brooks' written comments to the IJC this evening, I would like to take this opportunity to read her letter into the public record.

Quote: Dear Chairwoman Brooks and Chairman Gray, I commend the IJC's efforts to balance the various issues and propose a compromise order and plan that considers riparian property owners and municipal infrastructure, as well as recreational boaters and the environment.

Clearly, Plan 2007 represents an improvement to the current Plan 1958D, as well as the other proposed Plan B+. Protection of riparian property and infrastructure is a critical issue in Monroe County. Therefore, I strongly support the IJC's position that any new order or plan will not result in increased damages to riparian property.

Although I generally support the adoption of the proposed Order of Approval and Plan 2007, I would like to offer a few suggestions and enhancements. As you know, Monroe County owns and operates significant water, sewer, road, bridge, park infrastructure along the shoreline. The County also has approximately 37 miles of Lake Ontario in embayment shoreline, which is susceptible to increased erosion resulting from high water levels.

In fact, the Monroe County Water Authority provides drinking water to over 600,000 residents in the region through its Edgemere Pump Station located here in the Town of Greece, which has required sandbag protection from past high lake levels.

I do not believe the IJC has accurately estimated the economic damages to riparian property owners and local governments that would result from erosion and the direct loss of land area. The land value of property on Monroe County's 37-mile shoreline is assessed at over \$230 million.

Any loss of land area would directly impact the value of property resulting in economic damages to the property owner, as well as municipal and county governments. Potential damage to municipal infrastructure must also be

accurately assessed. Government agencies have invested millions of dollars in sewer, water and roads which have been, and will continue to be damaged by high water conditions on the lake. These damages should be accurately and consistently calculated to provide a realistic assessment for the balance of impacts and need for mitigation.

The IJC has indicated that deviations on Lake Ontario will be significantly curtailed, or eliminated, using predictive computer modelling. As a result the IJC has recommended a change in the role and procedural guidance of its existing International Lake Ontario-Saint Lawrence River Board of Control. I'm very concerned that minimizing the new board's level of control, by requiring consultation with the IJC before any relief or deviation could be implemented, may prove disastrous. I understand that the proposed approval process for relief or deviations could take months to accomplish, which would very likely result in serious damage during severe high or low water levels.

Therefore, I believe the IJC should maintain the Board's current level of control over deviations.

In keeping with the IJC's commitment not to increase damages to shoreline property owners, I recommend the IJC retain the following criteria from the existing Order of Approval: criterion (g), which requires that the lake level be regulated for the benefit of property owners on the shore of Lake Ontario, so as to reduce the extremes of state which have been experienced. Criterion (h), which establishes the upper limit of the four-foot operating range at 247.3 feet. And

lastly, criterion (k), which requires all possible relief to riparian owners in the events of excess supply.

The IJC has been clear in its desire to move from Plan 2007 to Plan B+ with mitigation, so as to improve the level of environmental protection. While I maintain that Plan 2007 affords a balanced approach to providing benefit to all interests, I believe it is inappropriate to even suggest a relatively swift move towards Plan B+ without significantly more analysis to determine what level of mitigation would be necessary, and ultimately whether the cost and impacts of mitigation would outweigh the improvements to the environment.

Any analysis must identify a range of appropriate mitigation measures, the costs of the measures, and the potential cumulative adverse environmental impact of such measures. Plan B+ should not be advanced until this analysis is complete and all funding for a comprehensive system wide mitigation project is secured.

With these enhancements identified herein, I believe the proposed Order of Approval in Plan 2007 will provide a well-balanced approach protecting all interests along the Lake Ontario shoreline and the Saint Lawrence River.  
Unquote.

Again, on behalf of Monroe County Executive Maggie Brooks, thank you very much for the opportunity to present these remarks tonight. Have a good evening. (APPLAUSE)

IRENE BROOKS: Thank you very much. That completes the cards of elected officials who requested to speak first. Now we'll begin with Robert

Kelsch, with the next speaker, Frank Sciremammano, and on deck will be Dan Barletta.

Robert Kelsch.

ROBERT KELSCH (Supervisor, Town of Ontario): For the record, I am an elected official, not that that particularly matters in this case. My name is Robert Kelsch, Supervisor of the Town of Ontario, New York.

Members of the International Joint Commission, thank you for the opportunity to speak with you and represent the residents of the Town of Ontario.

It is my purpose this evening to convince you that the best course of action regarding water levels in Lake Ontario is to leave them as they currently are. Since the establishment of the current levels in the 1950s, much commercial and residential development has taken place. It was done based on the belief that to the best of human ability, the lake levels would remain as promised.

Different communities along the lake will have different water level concerns. For us it is primarily economic. We have 155 privately-owned parcels of land on the shoreline of Lake Ontario where the land only assessed value at just over \$21 million. If homes are included, that value goes to nearly \$44 million.

Those 155 parcels generate \$116,000 in tax revenue for our town. A reduction in that revenue would need to be offset either by a reduction in services or an additional tax burden on the rest of our residents.

If the shoreline does become eroded and if the remedy was to rehabilitate the lakeshore line, burdensome costs would be incurred. In preparing to speak here tonight, I was talking to a lake property owner who is telling me that in the 1970s she spent \$50,000 to rebuild 300 feet of shoreline.

There are some areas of the lakeshore in Ontario that could withstand proposed lake level changes. There are certainly some that could not.

In my role as Ontario Town Supervisor, I'm also a member of the Wayne County Border Supervisors. The lake level concerns in Ontario are real, and I can tell you with certainty that the lake level concerns in other parts of Wayne County are far more serious, as we had heard tonight from the mayor of Sodus Point.

Scientific data does not bear the need for change. There's nothing in the data that I have seen, or in anything I have read that suggests there would be any benefit to changing lake levels. Although my information in this subject is not exhaustive, and there are those who can speak with more authority, those voices need to be heard, at the very least for the study and the consideration of diverse opinions are required.

Human beings are part of the environmental equation. While it is true that as humans we're the only species that has the ability to destroy our own habitat, we have the right to coexist with the rest of nature and must be considered in any environmental change.

I conclude where I started. Please leave the lake levels where they are. The system has worked well for several decades. Why fix something that, in our opinion, is not broken?

I thank you very much, again, for your time. (APPLAUSE)

IRENE BROOKS: Thank you. Frank Sciremammano.

FRANK SCIREMAMMANO (Professor, Rochester Institute of Technology; Member of the International Saint Lawrence River Board of Control): I have a copy of my written statement.

IRENE BROOKS: Give it to our secretaries. We'll lose them or get water on them.

FRANK SCIREMAMMANO: Good evening, ladies and gentlemen. By way of introduction, my name is Frank Sciremammano. I am a professor at the Rochester Institute of Technology. Probably more relevant, I am a member of the International Saint Lawrence River Board of Control and have been since 1995.

I also was a member of the International Lake Ontario-Saint Lawrence River Study Board over the entire life of the study, from 2000 to 2005.

I first want to welcome you to Rochester and the Rochester area of Lake Ontario. Thank you for holding the hearing tonight and all the other hearings you're going to hold throughout the basin. It is encouraging to me that the IJC recognized and affirmed the commitment that was made to the shoreline communities, Lake Ontario, by the governments as part of the project approvals granted in the 1950s.

The proposed Order explicitly recognizes these commitments upon which property owners, local government officials and small businesses have relied for almost 50 years.

The proposed Plan 2007 provides many improvements over the existing plan 1958D, including providing substantial environmental benefits. However, there are a number of elements and details of the proposed plan and associated procedures that make it doubtful that the regulation under the plan provisions will live up to the commitments made in the Orders of Approval.

One example is the reliance upon estimates of economic damages instead of water levels in assessing the degree of protection provided to the various interests. While this is a good idea in theory, the conversion from water levels to economic damages involves the use of assumptions and models.

It's widely recognized that the analyses being relied upon are flawed and incomplete, as clearly demonstrated in the Study Board minority report which, as an aside, is not on the tables, and as found in the independent review of the study by the National Research Council and the Royal Society of Canada.

In fact, the NRC concluded that the modelling conducted was neither sufficient, nor adequate upon which to base decision-making. Yet, here we are, with the Commission about to make an important change affecting millions of dollars worth of property based upon these unproven analyses.

It should be recognized that the '56 Order of Approval established a four-foot range as a target level for Lake Ontario water level. On this basis engineers,

property owners and government regulators have relied on this range for almost 50 years in the design of public infrastructure, such as sewer lines and water, and facilities located near the shoreline, as well as in the design and placement of shoreline protection, boat launches and docking facilities, some of which was mentioned by previous speakers.

An example is shown in the photographs I distributed to the Commissioners and attached to the back of the statement. They show a marina gas dock located in the village of Sodus Bay. It's the last page of that handout. It was taken last month on May 13th. Water level at that point was 247.1 feet. Still, a couple of inches below the 247.3 upper end of the regulatory target range. As you can see, this facility is pretty clear that it was signed and constructed in reliance on maintaining the upper range of 247.3.

The dock is already on the water, part of it. It hasn't quite got to the gas pump, but also you see some floats going out into the water. That's his boat launch docks. They're on the water.

Again, it's clear this facility was designed and constructed in reliance upon the upper edge being 247.3 feet or less and not the 248-plus foot level that Plan 2007 would allow without control action by the board.

It's clear that these and other similar facilities can be retrofitted to account for the increased range to be allowed by Plan 2007. But there is a substantial cost involved that has not been accounted for in the study economic analyses, and for

which no compensation or mitigation has been offered, and that particular marina is one example of many.

Therefore, I would encourage the commissioners to take at a minimum two actions to modify the proposed plan and the technical documents. The first is to delay the implementation of Plan 2007 until the monitoring portion of the adapted management component is in place so damages can be monitored and assessed in near real time.

The second is to allow for the possibility of deviations from the plan by the Saint Lawrence Board to control levels whenever they are forecasted to be outside the existing four-foot regulation range. Any such deviation would be subject to the report and justification as proposed under the new Criterion 10, with such a request based upon the damage monitoring data. So some real data to look at what's going on at the time.

In summary, I believe the Commission is being honest in its desire to honour the commitments made to the people of the basin. It is not merely placating the communities through ambiguous wording. Please be sure that the implementation of the new regulation plan actually upholds this commitment.

I thank you for your attention tonight and in advance for considering any further written comments I may submit prior to July 11th. Thanks again.

IRENE BROOKS: Okay, thank you. (APPLAUSE)

Next is Dan Barletta. Following Dan, Douglas Dobson and on deck will be Wayne Howard.

DR. DAN BARLETTA (Former Member of the Lake Ontario-Saint Lawrence River Board; Former U.S. Chair for Public Interest Advisory Group, PIAG): Good evening, Commissioners. First, I'd like to thank you for coming to Greece. It's an honour to see all six of you here. And for the record, my name is Dr. Dan Barletta. I am a riparian, I live in the Town of Greece. I was also a former member of the Lake Ontario-Saint Lawrence River Board, and the U.S. Chair for the PIAG portion of that same study.

And tonight basically I titled my little talk about common sense and equity. It's encouraging that the IJC has not abandoned the people and businesses of the south shore and has clarified the commitments made to the shoreline communities as part of the project.

Plan 2007 looks on paper to be the best at accommodating all interests fairly. It improves the environment and helps recreational boating, while protecting riparians and the other interests protected by the treaty.

That being said, I still have a number of concerns that need to be expressed. Concerning deviations. As part of the Lake Ontario-Saint Lawrence Study, one of the main reasons for the study was to limit the number of discretionary deviations. Any new plan will still allow deviations on the river for ice formation, boat haul-out and other short-term deviations, which accounted for the majority of the deviations by the present Board of Control.

While I agree that these may still be needed, the Commission, however, has placed extra levels of compliance to get deviations for emergencies on the

lake. You will now require the Board to submit reports on the effects of any lake deviations, which will take precious time away from preventing any catastrophe.

Since it is the objective of any new plan to operate without as much influence as there is now, and basically run it by computers, why not allow emergency lake deviations to occur automatically when the three-month forecast shows the exceedance of less than one per cent level will occur, as was suggested at the last meeting of the Lake Ontario-Saint Lawrence River Board with the Commission.

Now I have a question for you, and I don't expect you to answer it, but I'm going to give you the answer. What do earthworms, red marsh worms, honeybees, malaria and narrow leaf cattails all have in common?

The answer is they're all invasive species. The first four arrived in North America in the 1600s and the last in the 1800s. We would not be able to get rid of the first four if we wanted to, and we'll not be able to get rid of the last. Literature has shown that each plant can produce up to 250,000 seeds per year, that once in the soil can last for 100 years. Even if you dry out the wetlands as proposed by some, and as soon as the water returns so will the plants. Even the U.S. Department of Agriculture Forest Service recommends against drying out of wetlands to prevent spreading.

They do recommend flooding them, but to achieve the level required there would be a foot of water on top of the pavement of Edgemere Drive for three months in the spring of the year. And this would cause great inland flooding and

home damage, not only along the shoreline, but along the northern one-quarter of the town of Greece, and taking out the drinking supply for, as you've heard, the five counties and 600,000 people along the south shore.

The Commission actually could look at computer animation made by The Baird Group for the study that shows this widespread damage in the Town of Greece alone. You have it in your files.

A simpler solution, and one that is already in effect now, is to have a water range level of four to five feet. This favours the survival of muskrats, and once they reach the population of ten per acre can aid in the control of cattails, both the native and invasive species.

I'm going to pose another question to you. Why does the Lake Saint Lawrence area feel that it can regulate the entire system for its own benefit? They wrap themselves in the environment, saying they want to return the river to its pre-project condition. However, this is a cover that serves their purpose of not having to endure the problem of going through the Iroquois navigation lock instead of going through the open gates of the Iroquois dam with their boats. They'd rather have the preferred water levels for most of the summer at the expense of more fluctuation and damages on areas in the system.

Lake Ontario peaked lower and later in the year pre-project than since the project was built. This pre-project, or pre-regulation range was 6.6 feet, as I've been told by Doug Wilcox, among others. But the post-regulation range was actually 6.1 feet. No one has demonstrated during the study that this small change

in range or any of the other statistical measures of water levels change due to regulation has had any impact on wetlands, or that wetlands on the lake shore are not tolerant, or gotten used to such variations.

In fact, the analysis and background research based upon which Plan B+ benefits are based provide no scientific analysis indicating that any significant damage or detriment to the lake wetlands has occurred due to water level management on Lake Ontario.

Additionally, and I'm sure you'll hear tonight, environmentalists have stated a preference for Plan B+ that will provide higher high water levels and lower low water levels, each with longer durations. This was justified on the basis of an assumed improvement in wetlands around the lake. However, recent research that I've read has shown that adverse changes to wetlands are more a result of urbanization of the adjacent land areas and watersheds than the water level variations. And these are unregulated lakes.

To the boaters in the audience, I just want to let you know that Plan B+ will give you mid-summer levels during low periods of low supply of ranges of 245 to 245.5 feet for four years in a row. Those are the levels you see in March and October of the year.

Now to some of the concerns I have behind some of the science in the plans, the effects on tax rolls.

The study plan formulators did not account for the costs on local assessments with the potential loss to homes. They told me and others on the

board that they have stated there is no net loss to the tax rolls if a home on the shore is lost because the higher assessment of a lakefront home will shift to the next-in-line row of homes. (LAUGHTER)

The problem with this inaccurate line of thinking is first on much of the shore there is only one row of homes; and secondly, where there is a second, those homes are not as developed as the lakefront homes, and thus would have lower assessments for some time until remodelled. During this timeframe there would be a loss to local governments.

Now I know you've seen some pictures. I'm going to do a little demonstration. Can I have all the homeowners here hold up their hands? Homeowners. Homeowners. And the elected officials, that are still here. No, keep your hands up, keep your hands up.

Okay, this half of the room put your hands down. You guys keep your hands up. Elected officials, or representing elected officials. Okay.

The people that have their hands up represent undervaluation of cost of shore protection based on study documents. Cost for shore protection is above \$1,000 per foot and based on study documents the study used a cost of \$576 per foot for Monroe and Orleans Counties and \$589 per foot for Niagara and Wayne Counties.

The cost of shore protection doesn't matter when you're comparing between plans, but I've still yet to have somebody look at how this undervaluation

affects the aggregate dollar value for coastal and it compares it to the other interests.

The public officials that raised their hands represent the lack of assessment of approximately 17 per cent of the shoreline along the south shore that is the public taxpayer financed properties that would be adversely affected by any plan and were not considered. The bottom line is the economics of the plans are still wrong.

One final comment on coastal costs that were not evaluated. Throughout the study myself and others spoke to the problem about wave-induced damages to the homes on the shore. These comments were ignored and only the damages for first-floor flooding was evaluated. Let me tell you right now, first-floor flooding on Lake Ontario is not a problem. It's the wave damage and levels above 247 that cause the problems.

I'd like to just say a few last words on mitigation. This is still a very grey area. There is still no idea what it would take to mitigate between Plan 2007 and Plan B+. Studies need to occur to determine the type of mitigation needed and their associated costs. Stakeholders from the affected interests, primarily coastal when talking about Plan B+, need to be at the table and have their input accepted, not some bureaucrat in Albany.

Do not be led, to the Commission, do not be led astray by groups advocating B+'s immediate implementation. Based on information that I took from one of their websites last night, their only mitigation option is to allow for

expedited permits for homeowners. This may all be well and good, but it does nothing to help pay from the new protection to reduce damages. The costs should not fall on the back of individual homeowners or local governments.

You know, maybe we could take the increased benefits that hydro power and commercial navigation will see from Plan B+ to pay for the work. I'm sure the hydro power interests would welcome the opportunity to give us more benefits to more of the system, just like they did to the areas around the dam when they relicensed it two years ago. And additionally, mitigation will only lead to increased hardening of the shoreline, which at present is 60 per cent hardened.

So let me end with giving you some things to hang onto here. Commissioners, you need to hang tough with New York State. My read on New York State DEC and Department of New York State and Department of State is they will concentrate on mitigating damages for the three most populated areas on the south shore, then lobby you hard to go to Plan B+, while leaving the rest to fend for themselves. This is not acceptable. Mitigation and plan change has to be all or none. Either all mitigation is in place or no plan change occurs.

And let me conclude by stating that you'll be hearing from many opposed to your decision. The quantity of opinion does not make it right. Even if it is from misguided elected officials in the state and federal governments, or others. And let's not be like lemmings and run off a cliff together.

And I'm going to leave you with something, one item. It's in with my copies. It's a guide to help you make an ethical decision, and I want you to use it when it seems like everybody's against you. It's something I picked up as a member of Rotary. That's why I wore my Rotary shirt today. It's called the Rotary Four-Way Test. This four-way test is a cornerstone for all action of the things we say, think or do, and if you can answer these four questions, you're making an ethical decision.

The four questions are: Is it the truth? Is it fair to all concerned? Will it build goodwill and better friendships? And will it be beneficial to all concerned?

And I thank you for your time.

IRENE BROOKS: Thank you, Dan. (APPLAUSE)

Next is Douglas Dobson. Douglas, I understand, I note that you are a Monroe County legislator. On deck, we have Wayne Howard.

DOUGLAS DOBSON (Monroe County Legislator): Thank you. Yes, I am Doug Dobson. I live at 1630 Edgemere Drive. I am currently the Monroe County Legislator that represents all of the shoreline from the west side of the Genesee River through the Town of Greece to the town line in Parma.

Prior to that I was a 1st Ward Town Councilman Town of Greece for five years, again representing all of the residents along the shoreline that I just referenced.

But as well as representing my neighbours and my friends that live along the shoreline, I'm also speaking on behalf of many of my colleagues on the

county legislature that represent shorelines in Monroe County also. And what we will go on record as saying that we do not support Plan B, Plan B+ at all. That's unacceptable. You've already heard from our representative from County Executive Maggie Brooks' office. Plan 2007, probably with some modifications, would be acceptable.

I've lived on Edgemere Drive since arriving here in Rochester, New York, when I came here when I was 20 years old and working with Eastman Kodak Company. In fact, in 1972 Kodak was benevolent enough to give us all time off with pay to assist in the sandbagging for the flooding in '72. That's really kind of how I got familiar with the shoreline. And I was in the Lake Shore Fire Department for a number of years and I haven't heard any of the other speakers talk about it, but personally we did witness the loss of life because of high water and severe wind conditions one evening.

So, you know, it not only impacts the shoreline and the property values, but people will go out there to save their boats, to save their docks and they put themselves in severe jeopardy. And the Fire Chief from Lake Shore Fire District spoke about all of the emergency responses that we had to do. I personally have seen the manhole covers come up when the water gets high.

As a representative of the town at the time, we had to expend funds to put in new storm drain lines and water mains down through Edgemere Drive because the water pressure in the ground just pops them up, lifts them out and causes extreme hardship on the taxpayers.

I've lived on Buck Pond for a number of years, and now I live over on the shoreline of Lake Ontario. The water level is too high right now. There's been several nights in this April when the winds come up and those waves are pounding against the breakwalls. That water is so hard it shakes some of the houses in the neighbourhood. The level that it's at right now is really too high for that time of year. In the summertime, that would be acceptable, but not in the spring and not in the fall.

Last winter of 2007/2008, the water level was let down in the lake. It was acceptable through the winter. The winter prior to that, 2006/2007 the water, for some reason, was kept higher and through the winter the ice build-up on our breakwalls, I know I suffered damage to my breakwalls and to my metal railings and things. The ice just builds right up and just pulls them right away.

So if you're thinking water levels, you know, are dangerous in the winter too with the ice build-up. So it needs to be lowered through the winter months.

I can personally say that from an environmental standpoint, with the lake levels the way they have been, that there's no impact on the wildlife, the ducks, the geese, the rabbits. We've even got bears in the area now. They've been visiting us from the southern tier coming up here. So I think, you know, the other gentleman said it well, if it's not broke, why fix it? And I'd like to add another one, is that even Mother Nature can sometimes trip over her own skirt.

(APPLAUSE)

IRENE BROOKS: Thank you very much. Next we have Wayne Howard on deck. Kate Kremer, and then June Summers, on deck, circle.

WAYNE HOWARD (Great Lakes Committee Chair, Sierra Club, Atlantic Chapter): Good evening. I'm Wayne Howard, Great Lakes Committee Chair, Sierra Club, Atlantic Chapter, representing 44,000 members in New York State.

Dear members of the IJC and other interested parties, I'd like to take this opportunity to thank the IJC for all of their hard work and dedication over the past six years of this intensive study.

The outcome of this process will have a huge impact on protecting our most precious resource that provides essential wildlife habitat and drinking water for millions of residents.

The Great Lakes drives our regional economy. A recent report by the Brookings Institute has shown that restoring the Great Lakes will yield a three-to-four time return on our investment. And I make reference to that study at the end of the written material I just gave you.

The Sierra Club, Atlantic Chapter, stands with those calling for Plan B+ regulation plan to be fully implemented in the forthcoming Order of Approval plan for release by the end of this year rather than implementing Plan 2007 as an interim measure.

Plan 2007 does little to improve the current regulation plan, which has significantly degraded the environment for 50 years. Plan 2007 is essentially 1958D with minor changes.

We agree with the IJC that Plan B+ is the study's best regulation plan for the environment. Indeed, Plan B+ is a balanced plan that provides economic benefits, while restoring a much greater degree of natural variability and ecological diversity. The results will be healthier wetlands that provide better habitat and are more effective at filtering our drinking water and creating clean shorelines for recreation. The wetlands are the kidneys that purify our drinking water.

Plan B+ should be implemented immediately, rather than waiting for future opportunities to move to a more environmentally-beneficial plan if shoreline mitigation measures are implemented as described in the draft Order of Approval.

That time is now. We call on the State Department, the New York State Department of State, the U.S. Army Corps of Engineers, the DEC, and state and federal officials to work together to develop a comprehensive shoreline protection plan with a specified timeline to implement measures to protect the property of shorelines residents.

We recommend that the IJC delay the release of its Order of Approval for up to one year to allow time for this shoreline protection plan to be developed and incorporated into a new regulation plan.

Finally, we call on all stakeholders to help identify financial resources to fund the proactive implementation of these shoreline protection measures. As shown in the draft Order of Approval, Plan B+, the cost of shoreline protection is

estimated at \$2 million per year. Plan B+ would also increase hydro power. Excuse me, this is my five minutes, I'd like to finish my statement, please.

IRENE BROOKS: It is.

WAYNE HOWARD: Plan B+ would also increase hydro power generation revenue by over \$6 million annually. A third of this windfall could pay for shoreline protection. In this scenario, all stakeholders would win. Together we can implement a lake level plan that works for all of us. That plan is Plan B+, with an ineffective, comprehensive shoreline protection plan to protect shoreline residents. Thank you.

IRENE BROOKS: Thank you very much. (APPLAUSE)

Next on deck we have Kate Kremer, followed by June Summers. And on deck would be Ann Jones.

KATE KREMER (Shore Resident, Sierra Club Rochester Regional Group): Good evening. My name is Kate Kremer, and I have resided on the south shore of Lake Ontario every summer for the last 46 years of my 46-year life. As a long-time resident of the south shore, I stand with those calling from Plan B+ to be fully implemented in the Order of Approval, rather than implementing Plan 2007 as an interim measure.

This may sound to some as if I am advocating against my own best interest. I understand the Plan B+ will have adverse effect against the south shore. However, the south shore has not remained static these past 50 years. I come back to our family property every spring and anxiously check for changes in the

bedrock. We cement cracks and plant erosion, reducing plants and trees along the shore. Erosion is a problem now. And we need to deal with that issue, with or without a new water level implementation.

If Plan B+ will move the government to look at the erosion issue along the south shore and implement a regional and long-range plan to deal with it, then south shore owners will have much to gain. The status quo for us is not ideal. One large storm coming through, as in the early seventies that's been mentioned, and many of us will be devastated.

And what is it that draws us back to the lake year after year? It is the lake itself, as it freezes and thaws, as its waters go from 72 degrees to 45 degrees in an overnight inversion. It is the lake with its diversity of fish and birds. It is the lake as it turns from tempest to duck pond.

Can we go on the kayak tomorrow, my children ask? Well, we will have to see what the lake is like in the morning. It is bold, ever-changing, and with a mind of its own that demands respect.

But I've watched over the years as the water quality has deteriorated. There are warm calm days and lately even choppy days when I fear to have my children and my nieces and nephews swim in it.

I have seen multitudes of dead fish along the shoreline. The numbers and size of the dead fish have increased significantly over the past years. And now we also see dead birds with frequency. This is startling because in the past it was rare.

These are times of change on our planet, and in many places, and in many ways, people are taking bold action to protect our waters and all that resides within it, as well as the land and all that resides upon it.

Plan B+ is a bold plan, that is the right plan for the future of Lake Ontario. It is a plan not just for us, but for our children and our grandchildren. We do not have the luxury of being parochial anymore. We must not put off the right course of action simply because it is difficult and complicated, and perhaps costly.

Plan 2007 does little to improve the existing regulation plan, which has degraded the environment for the past 50 years. The IJC has itself stated that Plan B+ is, quote, the study's best regulation plan for the environment.

Plan B+ should be implemented immediately, rather than waiting for some future opportunity. The fact is that all of us sitting in this room right now are creating the future opportunities. After all the time and energy that went into this process, to implement something that is temporary and not in the best interests of the future of this amazing lake is irresponsible.

I do, however, recommend that the IJC delay the release of its Order of Approval for some time to allow for a shoreline protection plan to be developed and incorporated into the new plan. This will light a fire under the state and federal officials to work together to develop a comprehensive shoreline protection plan and to implement measures to protect shoreline property.

These are days of making wise decisions for the future of our environment. It is happening around the world and around our country. Let's be in the front of

that movement, not lagging behind it. The time to act boldly and responsibly is right now. Thank you.

IRENE BROOKS: Thank you, Kate. (APPLAUSE) Next, we have June Summers, followed by Ann Jones. And on deck, Paul Phillips.

JUNE SUMMERS (President, Genesee Valley Audubon Society): I'm June Summers. I'm President of Genesee Valley Audubon Society, the local chapter of the National Audubon Society. Locally we have 1,500 members. And I'd like to say our tagline is, we're not just for the birds, we're for people too.

I defer to the remarks of Wayne Howard and Ms. Kremer, who spoke earlier. We, too, are advocates for Plan B+ because we believe that this is the plan that will help us to restore our Lake Ontario to a more natural ecosystem and restore part of our natural heritage.

I present to you a picture of a black tern on the front of Birdscape, the International Habitat Conservation Partnership Magazine. This photo was taken here in Greece on Braddock's Bay. And this issue of the magazine is Summer/Spring of 2003. It was published after this bird, the black tern, disappeared from this area; we believe, in part, to high-lake levels.

As I said, the Audubon Society isn't just for birds, it's for people too, and we believe that restoring a more natural ecosystem and fluctuation of a more natural lake levels will help return this bird to the area and improve the economy of the region. Thank you very much.

IRENE BROOKS: Thank you, Ann. (APPLAUSE) That was June. Ann Jones, Paul Phillips and then Bruce Cady.

ANN JONES (League of Women Voters, Rochester Metropolitan Area): My name is Ann Jones and I represent the League of Women Voters, Rochester Metropolitan Area.

The League of Women Voters has, for many years, supported actions that protect the health of wetlands. The Lake Ontario coastal wetlands perform two important functions. They provide essential breeding and early life habitat for many species of fish and birds. In this way they are an essential part of the food web of our region and the health and numbers of fish are important to sport fishermen who often do not realize their catch may have been born in a wetland.

Wetlands also remove chemicals of concern from runoff. In this way they are an essential player in keeping the lake's water clean. A healthy wetland experiences changes in water levels through the year. Because it does a reasonable job of supporting health of wetlands, the League strongly supports Plan B+. But I understand we are not here to discuss Plan B+. We are here to comment on Plan 2007.

This plan does not do as much to protect wetlands as does Plan B+. There being no choice, we support Plan 2007, but with a caveat. We support Plan 2007 if, and only if, Plan 2007 is reviewed within two years of implementation. At that time Plan B+ will be reconsidered.

Our wish is that during the two years of implementation local, state and federal funding will help shorefront owners mitigate erosion using rock barriers or some other physical methods.

All stakeholders in this effort must realize that erosion is a natural phenomenon. Some erosion will continue regardless of human efforts to stop it. In short, the League of Women Voters supports, regretfully, Plan 2007 with a stipulation that it will be reviewed at the end of two years, at which time Plan B+ will be reconsidered.

Thank you for holding this hearing. (APPLAUSE)

IRENE BROOKS: Thank you, Ann. Next is Paul Phillips. Following by Bruce Cady. Lisa McKeown is on deck.

PAUL PHILLIPS (Pultneyville Mariners Club): Good evening. I'd like to thank the Commission for the chance to speak here tonight. I come to you both as a sportsman, who uses Lake Ontario for recreation and leisure, and as a scientist. As I sit here in the room tonight I noticed that everybody in here, no matter what colour T-shirt you have on, or what your address reads, I think everyone in here has two things in common. I haven't heard a single person say that they want property loss and erosion, and I also haven't heard anybody say they want a sick lake.

With those two things in mind there are some other areas where people differ on how to achieve one or both of those goals.

As a scientist, as a biologist, I look at Plan B and I see some benefits to that. Anybody who lives on the lake or recreates on the lake can see that Lake Ontario is not a perfect lake. All it takes is going out on a hot, still August morning along the shoreline and you wonder whether you're going up to a lake or a water treatment plan. It has its own health problems and you have to look at the last 50 years to wonder whether or not the past water regulation policies have contributed to that.

We're not alone here in upstate New York dealing with this type of problem. Water balance issues go from Maine all the way down to Florida. The Everglades are in the news a lot, where they're trying to strike a balance with the water levels to both help the habitat and nature, and at the same time protect property owners.

The shoreline of the lake is strongly connected to the depth of the lake itself. The marshland is a breeding ground, it's a nursery for fish, for amphibians, for waterfowl, and Lake Ontario, whether you live on the shoreline or whether you commute to the shoreline, offers a lot of fishing opportunities and a lot of chances to go bird watching.

But those marshland areas, those areas right on the shoreline, are very sensitive to the water levels. And that's why I think Plan B should strongly be considered.

We also have the hydro power benefits. And all we have to do is turn on the news and you can see that self-reliance on energy is an important topic. And

hydro power is one of the areas where New York state can provide its own energy without relying on others for the source.

Plan B is supported by some very reputable organizations. As you look at the list of organizations that are backing it, these are not extremist organizations, these are very reputable, very respectful organizations, that not only support nature enthusiasts, but sportsmen. Not extremists building tree houses up at the top of trees in parks.

As a sportsman I look at the lake and I wonder sometimes whether or not I should put a yard sale sign out on my boat. Anybody who uses a small inland marina this fall can tell you that our boating season was cut quite short because of the low fall levels. A lot of those small inland marinas really depend on the higher level waters of the fall and of the spring in order to get their boating season going, and those small marinas are the main connection for a lot of inland residents to the lake.

We realize that the waterfront property has risk with erosion. My family owns waterfront property. I spend a lot of time there. I enjoy it. We realize the risk of erosion, and that's why as we look at Plan B we realize that mitigation with the state and the federal government to protect our property is going to be very important if we do go through with either of these plans.

But with that mitigation in place we see Plan B as being the best for the water quality, for the environment and for small boating interests on the lake. We

don't want to see us rush into Plan 2007 if there's a chance to put off a decision and perhaps develop some better mitigation so that Plan B can succeed.

So in closing, as someone who enjoys property and enjoys the lake, both Plan 2007 and B+ both have advantages, both have disadvantages, but with the proper mitigation we see that Plan B+ would be the best measure at this point.

Thank you.

IRENE BROOKS: Commissioner Olson has a question for you.

ALLEN OLSON (Commissioner, U.S. Section, International Joint Commission): The answer to my question may be in your written material, but could you explain the credentials for your science? Are you a teacher in some...?

PAUL PHILLIPS: I'm a science teacher with Bachelor's degree in biology.

IRENE BROOKS: Thank you, Paul.

PAUL PHILLIPS: Thank you. (APPLAUSE)

IRENE BROOKS: Next is Bruce Cady, followed by Lisa McKeown. And on deck would be Al Isselhard.

BRUCE CADY (Resident of Monroe County): My name is Bruce Cady and I'm a resident of Monroe County. I am not a lakeshore property owner, but I do drink the water from the lake and I'm very interested in maintaining the health of the lake.

Plan 2007 is what I consider a good plan that attempts to balance all interests, and I really think the Commissioners and everybody involved in coming up with Plan 2007, I know it was probably quite an effort.

However, Plan 2007 acknowledges that B+ is best for the health of the lake ecosystem and in particular the marshes and the wetlands along the shore. It also acknowledges that there is a need to have mitigation for property owners. In other words, protection of them if there are events that will effect those property owners and cause loss.

I understand that that is something that is not within the purview of the Commission to address, and will have to be taken up with the proper elected authorities and government agencies. So I would request that you adopt Plan B+ and using the comments of some of the folks before me, consider a delay to do that. And in the meantime initiate a process with the correct government agencies to find ways to resolve this issue for property owners that even they will acknowledge has been ongoing for many years, and that any plan has had difficulties.

Today I believe we ought to be able to find solutions that can address this in a reasonable amount of time, that will benefit everyone.

I thank you again for your effort.

IRENE BROOKS: Thanks, Bruce. (APPLAUSE) Next is Lisa McKeown, followed by Al Isselhard – and I apologize if I mispronounce your name – followed by on deck is Jim Howe. Lisa.

LISA MCKEOWN: Hi. I'm Lisa McKeown and I'm here to support Plan B+. Plan B+ would create a more sustainable water level regulation system for Lake Ontario and the Saint Lawrence River and return the flows to more natural conditions.

For more than 50 years the environment health of Lake Ontario and the Saint Lawrence River has been compromised and now is the time for a change towards a healthier lake and river.

The approach outlined in Plan B+ mimics Lake Ontario's natural water patterns, while taming the extremes of highs and low water levels that can lead to economic damage.

A healthy Lake Ontario-Saint Lawrence River system is essential to sustaining the region's new economy, which is increasingly dependent on tourism, water recreation, low-cost and environmentally-friendly hydroelectric production, a thriving lake and river environment that will enrich the quality of life for all its inhabitants.

Please take this opportunity to exercise principles of sound water management for Lake Ontario and the Saint Lawrence River. This can be accomplished by implementing Plan B+.

IRENE BROOKS: Thank you, Lisa. (APPLAUSE). Next is Al Isselhard. And on deck is Jim Howe.

AL ISSELHARD (Resident of Town of Huron, Wayne County): Hello and thanks for the opportunity to speak. My name is Al Isselhard. I live in Wayne County in the Town of Huron.

I'm asking the IJC to adopt Plan 2007, mainly because of the erosion issues. My wife and I have a home on Lake Ontario with 590 feet of frontage. The home is 110 feet above the water and we're deeply concerned about erosion and what impact high water will have. So if you would consider Plan 2007, that's what we ask. Thank you.

IRENE BROOKS: Thank you, Al. (APPLAUSE) Jim Howe. Jim Howe is next. On deck would be Gary Gustafson, and then Ann Baker.

JIM HOWE (Executive Director, The Nature Conservancy, Central and Western New York Chapter): Good evening, Commissioners and the public. My name is Jim Howe. I'm the Executive Director of the Central and Western New York Chapter of The Nature Conservancy. We're a non-profit organization based right here in Rochester, and our motto is "Protecting Nature and Preserving Life." We protect nature not just for nature, but for people too.

I think that motto is particularly appropriate tonight as we restate our organization's support for Plan B+ as the most balanced regulation plan for Lake Ontario and the Saint Lawrence River, with clear economic and environmental benefits.

We congratulate the IJC for presenting B+ and for the support that the IJC has given to Plan B+ in its documents. I also want to say it's great to see all six

commissioners here. I think that we really appreciate you coming out and hearing all of us tonight.

Plan B+ offers a way to restore the natural cycles of Lake Ontario, while at the same time increasing hydro power production, providing increased access to the lake for recreational boaters, for hunters and for fishermen and avoiding extreme high and low water levels that can cause economic damage.

Our support for Plan B+ though comes with the recognition that creative solutions need to be found to help shoreline property owners protect their investments, and you've heard a lot of that tonight from the B+ proponents. These solutions could include expedited permits for shoreline protection repairs, or insurance to partially cover the cost to repair breakwalls and other shoreline protection structures.

It's clear that every regulation plan will require trade-offs, and no plan will be perfect. I think we all recognize that. It's also clear that erosion will happen under any plan.

Our hope though is that there is a lot of common ground between proponents of Plan 2007 and Plan B+. I think we all want a healthy lake. There's no question about that.

We're convinced that a solution can be found that minimizes impacts to shoreline investments, while permitting Plan B+ to go forward. And The Nature Conservancy stands ready to commit our resources at the local level, at the

national level, at the regional level, at the state-wide level, in the search for this solution of this nature.

We urge the IJC to implement Plan B+ as the next regulation plan and to implement this plan also in an adaptive manner that allows us to make adjustments in response to new information and new scientific information. The Conservancy is ready to help design and implement an adaptive management approach. We urge the State of New York and federal agencies in Canada to team up with the IJC in making adaptive management a reality.

And finally, I'd like to say a word in support of the comprehensive ecological research and science that was done as part of the five-year IJC study. The conclusions of this research are consistent with scientific literature world-wide on the impacts of stabilizing a river or a lake. The science is clear. When natural variability and water levels and flows is reduced a few dominant species take over and habitat and species diversity decline. And in fact, this is exactly what's happened on Lake Ontario and the IJC's wetland model clearly shows that Plan B+ would help to address 50 years of environmental damage to some of the shoreline communities and wetlands, as well as the species that inhabit them.

This wetland predictive model is currently being published in peer reviewed journals, scientific journals and a recent peer review found very close agreement between 50-year predictions for Lake Ontario and the actual distributions of wetlands today. So I think the science is sound.

You've heard a speaker earlier make the statement that wetlands filter our water, prevent flooding damage, provide critical habitat for fish and wildlife. There's no question that a healthy economy requires healthy ecosystems. The science is sound, the ecosystem need is clear, and the economic benefits here are significant. The missing piece, in our mind, is the need to find a solution that minimizes impacts to shoreline investments, while permitting Plan B+ to go forward.

I want to reiterate that The Nature Conservancy stands ready to commit our resources to this effort to find solutions that will help shoreline property owners protect their investments. But let's move forward with Plan B+ while we develop those solutions.

The Nature Conservancy would like to thank the IJC for bringing this issue forward and would like to commend Governor Paterson for concluding that Plan B+ represents the best interests of the State of New York.

Water may be the most important resource of the 21st Century and Lake Ontario is the greatest water body here in upstate New York. For our environment, our economy and our future, Plan B+ is the right choice.

Thanks for the opportunity to speak today. We'll be submitting written comments and appreciate again all of you making the trip today.

IRENE BROOKS: Thank you Jim. (APPLAUSE) Next we have Gary Gustafson. On deck is Ann Baker, and you have to help me with this one. I can't read the writing. Is that an E? Stephen Lewandowski on deck.

UNIDENTIFIED: That's what we're doing up here, we're reading the names and trying to make sure that we don't do too much damage.

ANN BAKER: My name is Ann Baker. I'm here representing myself. I'm speaking in support of Plan B+. B+ supports biodiversity of the lake and along the shore. B+ reflects the natural ebb and flow of the river and lake waters. B+ is science based. B+ is good for commerce. B+ has been devised and is supported by respected individuals and institutions who have the greater good of the larger community in mind.

I can understand the fears and frustrations of the property owners gathered here. Of course, you deserve a satisfactory mitigation plan. But at the same time, I would respectfully suggest that you are part of a larger community and a longer timeline and that more important issues than your property are at stake here. Property owners, Lake Ontario is not just about you.

IRENE BROOKS: Thank you Ann. (APPLAUSE) Next is Gary Gustafson. I hope I have that right, Gary. And on deck is Stephen Lewandowski. And after that, Michael Crawford. Gary.

GARY GUSTAFSON (Resident of Town of Hamlin, LOSS): Good evening. My name is Gary Gustafson. I live on the lakeshore in the Town of Hamlin. I'm also a licensed professional engineer in the State of New York and have lived on the lakeshore since about 1968.

The first thing I want to talk about is wag the dog. Ever year in the spring water is held back on Lake Ontario the riparians' detriment. As you know the

Ottawa River runs... joins the Saint Lawrence just above Montreal. Water is held in Lake Ontario to compensate for Ottawa River surge every spring. This practice began in about 1963 after completion of the Saint Lawrence Seaway project. Why 1963?

Well, this was the beginning of construction of islands in the middle of the Saint Lawrence River for the upcoming World's Fair of 1967. So out of a swamp a city was created. Ever since then, the Lake Ontario riparians have had to pay the, what I call the "swamp city tax." This tax is levied in terms of erosion, flooding and property damage.

Now our brothers, the Canadians, go at great lengths to appease the French, but since we are sick and tired of paying the yearly swamp city tax, I insist that a wall be built around swamp city. I further recommend that they contract the Dutch to build this wall. (LAUGHTER)

You remember how effective the U.S. Army Corps was with the walls they built around New Orleans that were savaged by Hurricane Katrina, and if they're the ones that are going to do the mitigation that has been called for by all these B+ people, I have a real problem there.

UNIDENTIFIED: Amen.

GARY GUSTAFSON: The second one I want to talk about is frogs and floods. My environmental friends are having a very strong input to these new Lake Ontario level regulation proposals. Many of these proposals have a very

negative effect upon Lake Ontario riparians. Riparians can expect higher lake levels with commensurate flooding and property damage.

Now mind you, I am not against the environment. In fact, as a riparian I am also an environmentalist, but I am against the environmental movement, a movement rooted in a Chicken Little ideology of scare tactics, lies, pseudo science and a flagrant disregard for individual liberties and private property rights.

The environmentalists appear to be the embodiment of the current socialist agenda with the communist undercurrents.

IRENE BROOKS: If you could, get to your point please.

GARY GUSTAFSON: In general environmentalists hate people. People are the problem in the cause of all of our environmental ills. For example, people are responsible for such myths as all of the pollution, for alleged global warming, where we see 31,000 scientists have shattered the myth of a scientific consensus on global warming, and in fact, the ice is coming back.

The ozone hole, allegedly caused by CFCs like freon, which incidentally the lack of freon has resulted in shuttle insulation falling apart, in the 2003 Columbia disaster. Then we have other myths such as deforestation, clear-cutting, endangered species, drought, famine, hurricanes, tornados, volcanic eruptions, earthquakes and maybe even sunspots.

Actually the biggest, man's biggest effect on the environment is farming. And the question is, do you like to keep eating?

By the way, the elimination of DDT has resulted in billions of malaria-related deaths around the world. But then again, since people are the problem, the fewer the better.

IRENE BROOKS: You have half a minute, Gary.

GARY GUSTAFSON: Pardon me?

IRENE BROOKS: You have half a minute. I don't think you can see the card.

GARY GUSTAFSON: I can't see the card, but then I'll move on.

IRENE BROOKS: Thank you.

GARY GUSTAFSON: The last one is HAL. If you remember HAL, he was the computer of this movie 2001: The Space Odyssey, where he killed off most of his crew. Remember at their last meeting on May the 1st, the IJC speaker mocked out the use of tools to develop 1958D. Back then they only had slide rules and now we have computers. Of course, it was slide rules that put men on the moon and built our infrastructure and much more. But is it the slide rules and the computers, or what's between the ears that count? If you ever hear of one of these people say the computer says to justify some decision you can draw one of three conclusions. Number one, there was a short-circuit between the ears, number two, they don't know what they were talking about, and number three, they were too lazy to think.

IRENE BROOKS: Gary, I believe you have the red card now.

GARY GUSTAFSON: Okay. Well, I'm going to finish anyway. If you're going to rely on computers...

IRENE BROOKS: No, I'm sorry...

GARY GUSTAFSON: ... to manage.

IRENE BROOKS: I'm sorry, we have probably 26 other people to speak so if you could...

GARY GUSTAFSON: Okay. Well, the conclusion is, that none of the plans are satisfactory, nor are they materially better than 1958D, and that's it.

IRENE BROOKS: Thank you. (APPLAUSE) Next is Michael Crawford. Followed by Max Streibel. And then Henry Stewart on deck. Michael.

MICHAEL CRAWFORD (Resident of the Town of Parma): Good evening. My name is Michael Crawford. I'm a property owner on the Town of Parma, Hilton, New York.

I've been an environmentalist for over 35 years, and as an elementary teacher I promoted environmental issues and concerns to hundreds of students throughout my professional career. I also support numerous environmental and conservation organizations. That said, my wife and I are also property owners on the south shore of Lake Ontario. We purchased our property in 2002 with the intent to build our dream house retirement home. In the fall of 2005 we hired a highly-recommended experienced marine contractor to construct a 138-foot breakwall using three- to five-tonne armour stones to protect our property.

The stones were individually set to maximize and ensure the greatest protection for our shoreline and at great expense prior to the building of our new home. On May 2nd, 2008, this spring, a nor'easter storm pounded our breakwall and the impact of the waves dislodged a four-tonne stone. The lake level at that time was 247, which is within the current regulations of water levels. Higher water levels will create even more damage to a well-constructed breakwall that is only two years old.

How will we afford to make future repairs due to higher water levels? The storm drain on Hamlin Parma Townline Road that borders our property has been clogged for several weeks now with the current water levels. I have personally attempted to unblock and dig out the debris several times. But the current water levels quickly refill the drain.

I presume this will create drainage problems for all the other property owners back up along the road away from the lake. I'm also sure there are many other storm drains that have the same problem. Higher water levels will create even more drainage problems in the future. Higher water levels increased the chance of flooding along the shoreline. Flooding can wash out sewers and septic systems. Flood water can also wash pesticides from the lawns and farm runoff into the lake. All of these are serious environmental issues.

Any plan that raises water levels will cause erosion all around the lake. This erosion will take away New York State land and the state actually becomes smaller. It has been suggested that mitigation may be available for property

owners. If mitigation is in the form of flood insurance that basically offers very little help to protect property owners' shorelines. If mitigation is suggested as financial assistance from New York State or other federal agencies, well, that's not very realistic to expect that help, given their current economic status.

We love living on the lake and are assessed and pay a higher tax rate than other property owners. We strive daily to protect the environment and the lake. However, not at the expense of devaluing and losing our lakeshore property. We currently have 20 feet of lakeshore property underwater. We still own the land, but we're paying taxes on it, even though it's underwater.

As you devalue waterfront property due to higher water levels you also create a major impact on the tax base for all the towns, school districts and counties along the lake. Proposed Plan 2007 offers some benefits for all interested parties and is the only plan that reduces damages to properties along the shores of Lake Ontario. Plan 2007 also provides significant increases in hydro power production, greater wetland plant diversity along the shores of Lake Ontario, fewer delays due to the unacceptable strong currents for the ships in the Saint Lawrence Seaway and more reliable shipping depth through Montreal to harbour.

We wish to thank the IJC for all their time and efforts to study and research this complicated task. We urge you to implement Plan 2007, which is the only proposal that provides a balanced approach for all interested stakeholders.

Thank you. (APPLAUSE)

IRENE BROOKS: Thank you, Michael. Next, we have Stephen Lewandowski. I misplaced his card. So if Stephen could go next. And then you, Max. Thank you. And then on deck we have Henry Stewart.

STEPHEN LEWANDOWSKI (Erosion Control Specialist): Thank you. I'm Stephen Lewandowski, and I asked some questions at the public information hearing that was here a month ago and I do appreciate the good effort that was made to answer those questions at the time. And I appreciate the honourable Commissioners listening to our testimony at this time.

I'm an erosion control specialist. I worked for 25 years for Soil Conservation Service and the Ontario County Soil and Water Conservation District. In more recent years, I've been a private consultant, specializing in watershed protection and I am currently a consultant for the Canandaigua Lake Watershed Alliance and a program director for Lake Ontario Coastal Initiative. I don't speak for any of those organizations. I'm speaking solely for myself at this time.

I wanted to encourage all of the parties present at this meeting to exercise humility, and by that, the first definition would be that we're talking about what the intended water levels of the lake are, should be, what we'd like, what we'd like it to be. We all know that excursions are quite possible because we don't know what the climate is going to bring us. I talk about forecasting over three months. I truthfully would not encourage you to use information like that. I don't think that

we can predict that well what climate is going to give us, what evaporation is going to give us and so forth.

So much of what I've heard this evening have been fears about what, in fact, climate and evaporation gives us, not what is included in these various intense, water level, your regimes. (Laughs). I seem to hear people talking about... I was here during Agnes too, and it wasn't any fun, and I guess everyone knows that, but I'm not certain, I probably need to be more of an expert to understand what the implications are on these various regimes on events like that.

Another reason to be humble is because we are a community here, and we all have to see one another again, you folks will go back to where you came from and do your work there, but all of us will see one another again in the course of our duties and our responsibilities. So it's really important not to offend people too direly, because we may need their help in the future.

I also am really moved by the representations of this ecosystem and it really is important to have a proper feeling for the creation as it was given to us. I know that we love to tinker with it, we love to do things with it. But in fact, the question is, the creation that was given us, has regulated itself for, well, since the glaciers got off it 13,000 years or so, and have done a good job of it. And now we have regulated it and tinkered with it.

The 1958 order did what most of the other guide curves, rule curves, all those sorts of things tried to do, that I'm familiar with, which is to compress the water levels into something that people like more and feel more comfortable with.

What that brings on is shoreline development at elevations that cannot be sustained. When we turn that around I don't know, but if we don't turn it around in terms of our regulations then nature will finally, as in New Orleans, will turn it around for us, will come at us from some direction we're not expecting, which is what happened there.

So I'm speaking up in favour of a more natural system, because it is more sustainable, finally, over the long run, and we all want our grandchildren to enjoy this as much as we enjoy it. So personally I'll come on board for B+. Thank you.

IRENE BROOKS: Thank you. Next is Max Streibel. (APPLAUSE)  
Followed by Henry Stewart and on deck is David Bell. Max.

MAX STREIBEL (Former Member of the Public Interest Advisory Group, PIAG): Commissioner Brooks, Commissioner Gray, Chairman Brooks, Chairman Gray, and the rest of your fellow Commissioners, it's good to see you here tonight. And I've had the pleasure of knowing several of you for an extended period of time, and also the staffs.

My name is Max Streibel. I was a former member of the PIAG that spent five years of his life trying to learn a little bit more about the system. And I can report that I did learn a great deal about the system. And that's not only Lake Ontario, but the Saint Lawrence River. And I can put to rest the myth that says you can simply turn a faucet and you can make the lake go down. There's very good information out there that obviously that's not true.

I would also say that being liaison to the Coastal Technical Working Group as a PIAG member, there were issues that I disagreed with. I disagreed with the way the economics were put together for that and the assumptions that were used to do that. I'm familiar, obviously, in the Town of Greece, with the property along the south shore of Lake Ontario, as well as during our travels, Sodus, Olcott, Newfane, those areas as well. And based on the economics being used in the study, these people would be hurt seriously because they're being disproportionately put forth, okay, against other interests.

Plan 2007, I want to commend you, I want to commend you for saying, you know, we worked for five years on three plans and three plans were put forth, but we think we can maybe do a little better so that all interests receive something out of this study, and I think sticking to that is a very positive thing.

A concern I have is of course allowing the water to go up to 248 before any action would take place. Currently, as has been stated before, we have criterion (k), which once the water level gets to 247.3 or above, action would be taken to release water, if possible, to the greatest extent to benefit riparians.

I'm concerned, as I'm sure we all are, at how well the model will work. As a gentleman just preceding me said, you know, weather forecasting three months in advance, I'd like to think that's true. I know here in Rochester we can't do it two days in advance. Putting the automatic seasonal adjustments in place to eliminate some of the deviations, that's something that also has to be seen to be appreciated, and the concern that taking the Board of Control out of this process,

if you will, and having to defer to the IJC Board before any relief is provided should we get into that upper range is a concern.

I was here during 1973 and I saw the sandbagging. I participated in it. And I also was here in 1993, and it seems to be the formula for devastation, the early spring time, when you get the hard waves and if you have a high water situation, and the Ottawa River's being held back because of the freshet, there being a lot of water in the Ottawa River watershed.

We've seen issues develop based on localized excessive precipitation. And what I mean by that is the Lake Ontario Basin. The other Great Lakes, supplies were a little lower. We got hit with some very severe precipitation and it caused issues, localized. I've seen it, '73, when all of the Great Lakes had more than above average water levels. I understand that the Ottawa River freshet is a very natural process. There are no controls. And so if that's flowing heavily we certainly don't want to flood out our friends down in Montreal. And we have to hold water back in Lake Ontario. Hopefully the plan being proposed will take that into account in terms of earlier releases, should things be forecasted that way.

Erosion, very important. Erosion takes place at all levels, but at 246.7, which was one of the firm points made in the coastal study, it accelerates. So if you don't have an adequate breakwall, or no breakwall at all, you're going to lose a lot of land.

Relative to mitigation, thinking that the state and federal governments are going to come in and do whatever mitigation is necessary is folly. U.S.

government doesn't have the funds today to do that, nor does the State of New York. And certainly localities don't have it, either at the local level, or the county level. Remember one thing with mitigation, should a mitigation be put in to move towards a B+, that mitigation would require higher breakwalls, which would say to people living along the shores of Greece, if you want to enjoy your property and you want to enjoy Lake Ontario go up to the second floor, because that breakwall will be halfway up the front of their homes.

Thank you very much, and it's great to see you all.

IRENE BROOKS: Thank you, Max. (APPLAUSE) Next is Henry Stewart.  
Followed by David Bell.

HENRY STEWART (President, Lake Ontario South Shore Council, Member of the Public Interest Advisory Group, PIAG): Good evening, my name is Henry S. Stewart. I am and have been a member of the Public Interest Advisory Group and I am the President of the Lake Ontario South Shore Council. I am a resident of the Town of Greece, and I have a cottage and lakefront property at Crescent Beach in the Town of Huron in Wayne County.

The Lake Ontario South Shore Council is comprised of several hundred owners of property along the shores of Lake Ontario. The Crescent Beach Association in Huron represents the interests of approximately 80 lakeshore homeowners.

I speak tonight as an individual with whom many members of the organizations noted share a consensus of viewpoint. In reviewing the aspects that

have gone into the proposal of Plan 2007, it appears that the IJC may be deserving of considerable commendation in formulating a plan for regulation that seeks to respect the interests of all of the greatly divergent stakeholder groups. To its credit the IJC appears to have listened attentively to the concerns expressed by the various constituent interests and who have been conscientious, responsible and careful in holding back from proposing a plan that clearly would cause severe detriment to the publicly and privately owned properties along the shores of Lake Ontario.

Immediately upon the IJC's announcement of its proposed Plan 2007 a significant lobbying effort was demonstrated, particularly on the part of components of the government of the State of New York and certain elected and designated officials, urging the IJC to abandon its proposal of Plan 2007 and to move to or quickly toward a supposedly more inventive environmentally-oriented plan, most particularly to move to adopt Plan B+.

Although the IJC appears to be dedicated to continuing responsibility to hold back from adopting or moving to a plan such as is characterized by Plan B+, unless and until appropriate mitigation against damages is fully in place, the proponents of Plan B+, including certain representatives of the State of New York, have appeared to be urging such movement to or towards Plan B+ without full creation or provision of mitigation protections. Any adoption of Plan B+ or movement towards provisions of that plan, beyond the components within Plan 2007 without adequate shoreline property protections provided and paid for by

government entities, as opposed to private landowners, would cause catastrophic harm to properties owned and maintained by hardworking taxpayers.

As a member of the Public Interest Advisory Group, it has been important to me and to many other members to be non-parochial in viewpoint and to attempt to assist in building consensus and respect for one another's needs and concerns among members of divergent shareholder groups affected by regulation of Lake Ontario and the Saint Lawrence River.

It may merit noting that shoreline property owners must be concerned for the safety and welfare of their own and their fellow landowners' properties, but that also with their interest in living along the lakeshore, they are very likely avid boaters and lovers of nature who are deeply concerned for the welfare of the environment.

It is significantly hoped that proponents of any plan deemed more beneficial for the environment than Plan 2007 may be as non-parochial in concerns, requests and demands as are environmentally-conscious boaters and property owners who live along the shores of Lake Ontario.

I wish to thank each of you as Commissioners for your dedication in listening and paying respect in regard to heartfelt concerns of the potentially conflicting stakeholder interests affected by your decisions, and I respectfully ask that the IJC adopt Plan 2007 and resist any lobbying efforts that would precipitously propel movement to a plan such as B+ without full imposition of proper and necessary mitigation in the form of sufficiently strong shoreline

protection provided fully, if it is to be at all, at federal, state and/or provincial expense.

Thank you all very much. (APPLAUSE)

IRENE BROOKS: Thank you, Henry. Good to see you again. Next we have David Bell, followed by John Waud. And then Philip Perotto.

DAVID BELL (Resident of the Town of Greece): Hello, everyone. My name is Dave Bell. Excuse my voice, I have a sore throat.

Thank you for all being here. I am a lakeshore landowner and also, I live in the Town of Greece. When I first looked at Plan 2007 I thought it's not so bad. Only five more inches of water in the summer, lower water levels in the winter. However, I found that Plan 2007 allows IJC to go to Plan B+ without any further public input. That's not acceptable.

We have been dealing with artificially elevated lake levels since 1960, as you know. I already have 15 per cent of my property under water. Why would we want to further jeopardize property, parks, boat docks, sewers, roads, water supply and treatment? The water pumping station, the facility for Monroe County and this area, that serves around 600,000 people is at my level around 252, directly across the street from my house.

Also Plan 2007 doesn't provide any specific plan for mitigation. We seem to be putting the cart before the horse. Also, why give up current protections under Plan 1958DD with clear caps on water levels? Also, I must state that there is nothing really natural about Plan 2007. It's just more water.

Therefore I oppose Plan 2007 as it is currently written since it doesn't provide enough protection. Thank you. (APPLAUSE)

IRENE BROOKS: John Waud, followed by Philip Perotto. And then Don Zelazny.

JOHN WAUD: Good evening, my name is John Waud. I teach environmental science at Rochester Institute of Technology, but let me make clear that I'm here representing only myself. I do not represent RIT. I only represent myself.

First, let me thank you for the opportunity to speak with you and participate in the important matter of lake level regulation. I appreciate the opportunity you afforded.

The IJC Commission, a five-year study that was carried out using the best available science, and best available scientists; this has been spoken to earlier in the night so I won't belabour the point, but there is a considerable body of peer-reviewed literature to back the findings of that study. As well as input from the public.

The study was conducted at a cost of \$20 million, as you well know, and at the end of that study the recommendation was, in fact, Plan B+. Plan B+ will provide the following clear benefits.

First, it'll restore some of the natural variability of the lake levels. This, in turn, will provide greater diversity in the associated wetlands. These wetlands

provide key habitat for such species as northern pike, largemouth bass, Least Bittern, Virginia Rail and Black Terns.

Further on average, Plan B would extend the recreational boating system. It will also enhance opportunities for small business owners and provide revenues to the municipalities in these areas. It'll serve to protect the recreational fishing industry. It'll increase hydro power production and improve shipping conditions.

Pending the complete evaluation of Plan 2007 by the scientific community and regional agencies, the impact is at best unclear and speculative. In the meantime, other mechanisms are available to protect the shoreline interests, including a substantial protection plan as had been outlined earlier. Plan B will provide a higher quality of life to all inhabitants of the Lake Ontario Basin.

In conclusion, I strongly urge you to implement Plan B with a shoreline protection plan for the good of everyone living in the Lake Ontario Basin.

Thank you. (APPLAUSE)

UNIDENTIFIED: I'd like to ask the presenter a question. You said that the study recommended B+. Now when I read the study, I thought it said that it was presenting for consideration three candidate plans of which B+ was one of them.

JOHN WAUD: The working group...

UNIDENTIFIED: What is the basis for your statement that the study recommended B+ above all others?

JOHN WAUD: In fact, three plans were brought forward, but it is my understanding, from what I've been able to read, both on the IJC site and the site

of the various organizations, that B+ was the first choice of the study group itself, by the majority.

UNIDENTIFIED: Well, I would appreciate it if later in the evening you would take the study and I'll stand with you and you show me where it says that.

JOHN WAUD: Okay, thank you.

IRENE BROOKS: Thank you. Next up is Philip Perotto, followed by Don Zelazny and then Thomas Barlow.

PHILIP PEROTTO: Madam Chair, Committee, I am Phil Perotto. I own my house is on 770 Beach Avenue. I guess my only claim to fame is being co-CEO of said property.

My discussion this evening is very short and it's kind of food for thought for you. If the wetlands are that important and you are responsible for the wetlands and responsible for the south shore properties, would it be less expensive for you to pump water from the lake into the wetlands, or pay for the damage to the properties along the southern shore of Lake Ontario?

If Montreal has problems because of damming why should the south shore be responsible for this? My property is in such bad shape, due to the water problems. Whether it was done before I brought the property, or whenever it was done, it's just not right.

I've contacted the Army Corps of Engineers. I want them to come down and give me some expertise on the property as to what to do before I just take whatever monies I'm going to use and just throw it out in the middle of the lake or

burn it on the shore when I want to have a fireworks display or something. Should we have a government subsidy to help with this expense? Because I foresee spending quite a bit of money to fix this.

And once these repairs are done, am I responsible, because I've done these repairs and stopped the erosion into the lake and any damage that this might possibly cause to the lake, why should the municipality come in and tax me more because I've had to repair this to the tune of \$50,000 to \$80,000? It's not fair to the landowners.

Thank you very much. (APPLAUSE)

IRENE BROOKS: Thank you. Philip. Don. Followed by Thomas Barlow and then Ann Taylor.

DON ZELAZNY (Great Lakes Programs Coordinator, New York State Department of Environmental Conservation, DEC): I'm Don Zelazny, Great Lakes Programs Coordinator for New York State DEC. And on behalf of the Department, I'd like to extend our gratitude to Chair Brooks, Chair Gray and the other Commissioners of the International Joint Commission for the opportunity to offer some brief comments on the IJC's proposed water level regulation plan for Lake Ontario and the Saint Lawrence River, referred to as Plan 2007.

The Department acknowledges the substantial environmental damage that has resulted from the current regulation plan 1958D with deviations, or '58D. And in particular the degradation of coastal wetlands that provide feeding, breeding and nursery habitat for a host of fish and wildlife species. We also note that

neither plan, 1958DD, nor any other candidate plan, eliminates shoreline erosion damages. These processes are important for the ecology and we recognize they are a concern to property owners along New York's shoreline.

The Department and a number of Great Lakes environmental scientists view the proposed Plan 2007 as potentially more damaging to the environment than Plan '58DD. In addition, Plan 2007 fails to provide sufficiently low water levels favourable for restoring beaches, which are important to many of our constituents, and the dunes, which are very critical ecological features along Lake Ontario. And it provides little, if any additional relief, for shoreline property losses.

In short, Plan 2007 largely mirrors the status quo. Therefore, the DEC supports implementation of Plan B+, which is the only candidate plan that effectively moves towards restoration of more natural range of seasonal and annual water levels. Plan B+ is also the only candidate regulation plan that infrequently allows water levels to fall lower enough during prolonged periods of low water supply to permit restoration of beach and dune habitats.

Implementing Plan B+, and I want to stress the following, implementing Plan B+, in conjunction with a coastal restoration strategy and adaptive management plan, is our recommended approach to benefit both the environment and our coastal interests.

In summary, the Department urges the IJC to implement Plan B+. And if so, we will work in concert with the IJC, our partner, government agencies in the

U.S. and Canada, and with our constituents, as we have already begun to do with meetings here in the Greece area to collaboratively implement a comprehensive coastal zone restoration strategy and an adaptive management plan.

The Department believes we can achieve a win-win solution. To not take advantage of this opportunity would be tragic. We look forward to continuing our discussions with the IJC relative to the resolution of outstanding issues with implementation of Plan B+.

Again, thank you, Commissioners, for this opportunity to share our concerns.

IRENE BROOKS: Thank you, Don. We have Thomas Barlow next, followed by Ann Taylor. (APPLAUSE)

UNIDENTIFIED: If I can just...

IRENE BROOKS: Sorry, Don.

UNIDENTIFIED: I'd like to ask the gentleman, do you have a draft coastal management strategy to table before us today?

DON ZELAZNY: No, sir, we do not, and I regret that. We are in the process of working on that. We are trying to collect information from our constituents. We have been working with the IJC staff to go through much of the technical information that was developed through the study board process, and to determine how that relates to New York State, especially our coastal areas, and specific reaches that may be of more critical concern than others. So we're really trying to put all those pieces together at this time.

UNIDENTIFIED: So at this time you're not able to say how much the State of New York will commit for that strategy and what it'll consist of, am I right? (LAUGHTER)

DON ZELAZNY: No, I am not.

UNIDENTIFIED: Eh? You're...

DON ZELAZNY: No, I am not.

UNIDENTIFIED: I just wanted to make sure I understood your position.

IRENE BROOKS: Don, do you have any idea when the State of New York will have a plan to give to those who need it?

DON ZELAZNY: We are working on it now. Much of the components of that plan will be determined by some additional policy issues that we feel we need to discuss with the IJC. So as soon as those additional consultations can take place, all of the pieces can begin moving together.

SAM SPECK (Commissioner, U.S. Section, International Joint Commission): (Inaudible...).

IRENE BROOKS: Okay, Commissioner Speck had a question for you, too.

SAM SPECK: Right. Could you elaborate a little more on your statement that 2007 is potentially more of a problem than 1958DD?

DON ZELAZNY: I certainly could if I had all of my technical experts here with me. (Laughs). But for the most part what we see is it could be more damaging because during the summer months, on the average, 2007 provides

higher water levels during the summer months. What this means is that there's less ability to dry out shoreline areas and to allow natural processes of sand and sediment drift along the shoreline. Therefore we would not be seeing the beach rebuild-up and the dune rebuild-up that we normally would.

In addition, there have been concerns expressed by our scientists, and by other scientists that the lower levels during the winter months that would be provided under Plan 2007 will actually impact, negatively impact, the ability for many of the wildlife... the fish to spawn in the shallow wetland areas. It will also impact the ability of the muskrat to get into wetlands and to help to take care of the cattails, which we recognize as a significant problem to the biodiversity of those wetland areas.

Those would be two examples that I could offer to you off the top of my head, Commissioner.

SAM SPECK: I appreciate that.

IRENE BROOKS: And thank you.

SAM SPECK: I'd like to just say one more thing.

IRENE BROOKS: Okay Sam.

SAM SPECK: Sorry about that, it's getting long, but I had the opportunity over about a four-year period of working with Don as he represented New York and I, Ohio and with bunch of others and trying to get the compact, the interstate compact and the Ten-Party Agreement enacted. And just want to say thanks, Donald, for all the work you did for New York and New York has voted to

support the compact and that is going to prevent diversions of water outside of the Great Lakes Basin which will protect the lakes in a very important way, and you were a big (inaudible) on that.

IRENE BROOKS: Thomas Barlow.

THOMAS BARLOW (Resident of the Town of Greece): I forgot what I was going to say.

IRENE BROOKS: Ah, yeah. We're still here.

THOMAS BARLOW: My name is Thomas Barlow and I'm a riparian here in the Town of Greece. I believe, it's my opinion that Plan 2007 does have greater environmental solutions than the current order that you're working under. I would encourage the Commission and the Board to implement Plan 2007 to see if, indeed the computer modelling that they've been testing is indeed accurate before moving on any further than that kind of as a stepping stone.

With that being said, as was stated earlier, any water level that currently exceeds the thresholds that we're working under, 247.3, I believe that will be a detriment to several interests.

As was stated earlier, municipalities, businesses and myself as a riparian, have established an infrastructure based on the given 247.3. Should those levels increase, be it in the spring or in the summer, those infrastructures would no longer be satisfactory. And the term mitigation has been thrown around, and while I believe it's a valid point, I believe mitigation needs to be prevented, not reactive.

Insurance would be a reactive mitigation, not a preventive mitigation. I believe any mitigation that is considered should be preventative, so that we can ensure that what we have will stay, as opposed to try and fix it after it's ruined.

The other concern that I have with the order as it's written has to do with Criterion 10. It says in Criterion 10 in the event the board's three-month forecast shows a significant probability of the lake level going above the 1 per cent exceedance level or below the 99 per cent exceedance level, as defined in the table approved by the Commission for this purpose, et cetera.

I posed two questions to the IJC since the last informational meeting regarding the table. The questions being, is the table part of the new order? And how easily can that table be changed? The response I was given was this: the exceedance table will be a Commission approved, publicly-available document. After it is approved the IJC would certainly notify and consult with the public before changing it. However, it would not be part of the order per se, so that the IJC could make technical improvements without having to amend the order.

As a riparian in order to ensure my property is safe I need to be satisfied that the boundaries that the lake level are being held to are consistent. If I'm going to make an investment in property with shore protection I need to know where the limits were going to be, and that I'm not wasting my money by having to do it over again.

The current order, 1956D, it's clearly defined in criterion (h) that the regulated monthly mean of the Lake Ontario should not exceed elevation 247.3

with supplies of the past as adjusted. In the new order, we're given a reference to a table that I was told would be Commission approved and need public comment, but nowhere does it state that has to be. And I'm concerned about that.

I believe that the exceedance table needs to be part of the order, or the new order needs to define a higher limit and a process on how the exceedance table gets changed. I think those should be included in the order. Thank you.

IRENE BROOKS: Thank you, Thomas. (APPLAUSE) Next we have Ann Taylor, followed by David Shields.

ANN TAYLOR: My name is Ann Taylor and I reside at 760 Beach Avenue, and you have heard my neighbour, Mr. Perotto, speak about the erosion problems that we are encountering. I have lived at 760 Beach Avenue now for 48 years, my adult years. I'm 85 years old, so I could tell you a little bit about the lake. Thank you for listening to us, but these are important issues. They deal with family finances and the future of the lakefront property.

We have to rebuild that wall because it's been battered by the oncoming waves, and it's very difficult to decide what to do when there seems to be such a divergence in presentation of the data that you have assembled for this beautiful sum of \$20 million.

When I look at the water now it is cleaner than it used to be. About 15 years ago, you would go out and take a knife and had to cut through some of the thick accumulations that were by the wall. However, I support my neighbour's

suggestion that the wetlands could be supplied with more water, by diverging certain effluents of streams and other sources of rain water flow.

So you are confronted here with damage to the property owners if the water levels become higher. Even now we have probably lost about 12 cubic metres of dirt over a period of ten years. You will say that's not much. Well, we've been there 46 years, so it then becomes a lot of dirt gone.

Thank you again for hearing us.

IRENE BROOKS: Thank you, Ann. (APPLAUSE) Next is David Shields.  
David Shields.

DAVID SHIELDS: Okay, my name is David Shields and I've been attending the informational meetings for the last two years, trying to get an education in terms of the process and the water. I've also had a family cottage at the Thousand Islands on the Saint Lawrence River for over 50 years, and my in-laws have a place at Fair Haven now over 30 years and my boat is there.

I'd like to thank this opportunity for being able to speak in front of the International Joint Commission and I just have a couple of comments. I'd like to make sure that the control of Lake Ontario and the Saint Lawrence River is relegated to the Control Board so that fast decisions can be made in terms of the levels of Lake Ontario.

Last year I had to take my boat out at Labour Day weekend, which I've never had it done before, on Fair Haven Bay on Lake Ontario. This year I couldn't put it in till Memorial Weekend because the lake level was high. And I just want

to make that comment. And I'm concerned about the recreational boating and also the marina operations in terms of the tourism.

I also am concerned about the... I understand the International Saint Lawrence River Control Board has been reviewing this Saint Lawrence River and Lake Ontario for the last five years, and what I'm concerned about is I was wondering why the minority report wasn't a written document to be shared so that we can have other information in terms of making a decision on this.

I understand from being at those informational meetings that nobody has any money, the state, federal government, the Army Corps of Engineers, to help with any type of shoreline protection. I submit to you that maybe the opportunity would exist with member initiatives in Congress or the state in terms of getting monies associated for protection of the shoreline. Thank you.

IRENE BROOKS: Thank you, David. (APPLAUSE)

At this point we're going to take a seven-and-a-half minute break. The next person on deck is Phyl Contestable. And we thank anybody that has already spoken and wishes to leave at this point, and we intend to pick up our list in seven and a half minutes.

(BREAK)

IRENE BROOKS: Commissioners, if we could have you back here at the table, and folks, if you could sit down. We have 16 more cards here. We'd like to hear from all of you who wish to be heard, so if you would please sit down.

The next speaker is Phyl.

PHYL CONTESTABLE: Phyl Contestable. Oh, my goodness...

IRENE BROOKS: Contestable. Phyl and then Brian Simpson is the next one up. And then Patricia Palermo. Go ahead you're on.

PHYL CONTESTABLE (Property Owner on Hilton Beach in Parma): Thank you. My family has owned two pieces of lake property on Hilton Beach in Parma since 1955, over 50 years ago. And I recently inherited the family estate in September and moved from a townhouse in Penfield.

The property is boarded on two sides by the lake and a wide creek and the house sits approximately 30 feet from each side. As professional entertainer and middle school teacher, I look forward to enjoying the peaceful and healing and energizing setting, but I'm obviously concerned, as a new lake property owner, about the daily signs of deterioration due to the high lake level.

The bank along the creek specifically is unstable and it's losing the huge support of rocks every season. I was just standing on one Mother's Day evening, cutting the limbs off the willow tree. It was an enormous rock and it just gave way into the creek and there I was up to my shoulders. So I never expected that to happen, but obviously it's not stable. So that was a huge sign for me.

And after looking over the instrument survey map, I became rudely aware that I'm paying taxes on land that is underwater in the middle of the creek, which is a little unnerving.

The beach is gone that I remember as a child. The stormy waters leave telephone poles on the lawn four feet from the kitchen window. That's happened

three times. This past winter also I watched in horror as these huge ice blocks as big as cars were being flipped around like potato chips, I kept saying.

The small boats and canoes and kayaks can no longer pass under the bridge in the creek. The water is dangerously high. Dangerously high. The environment, water life, the wetlands are and always have been a deep concern to me, but not at the risk of losing my home and those of my treasured neighbours.

It would appear that Plan 2007 with some modifications could be a reasonable, more balanced and just compromise for the homeowners. Plan B+ for me is not good enough. It does not serve the needs of those whose families and loved ones have invested their futures, their histories, their very lives as lakeshore residents.

And I just wanted to add, I was really pleased today that Mike Hedeem and the R News people came out to our home on the water this afternoon to film, because they'd heard about what an unusual setting it was, so it will be on the news tonight.

Thank you so much for making the effort to be here.

IRENE BROOKS: Thank you, Phyllis. Brian Simpson, followed by Pat Palermo and Don Teringo.

BRIAN SIMPSON (Resident of Hamlin): Good evening. I'd like to thank you for this opportunity to be heard. My name's Brian Simpson. My home's on the shoreline in Hamlin. I'm a retired New York State professional engineer. I've

lived on the shore since 1970 and have personally experienced the consequence of the current control plan.

At Lake Ontario... Well, a little more. My bank elevation is 252, which is kind of typical for Hamlin. Hamlin is low. My shoreline is protected by 500 tonnes of rip rap, some pieces as large as five tonnes. At 247 these rocks begin to move. The power, the erosive and destructive power of the waves increases with the fifth power of the water depth offshore. So you're playing with fire when you go above 247 and you're on the south shore, as most of us are, just a few feet above water. Maybe it's different if you're on a bluff or on bedrock or something, but that's not our situation.

Lake Ontario has over 700 miles of shoreline and a mean retention time of six years. A single violent incident, like 1973 when we actually had a number of violent incidents strung together, with water levels up around 248, can easily cause erosion of 10,000 tonnes or more, much more sometimes, of soil, vegetation and chemicals for each mile of unprotected shoreline. Now, like I say, it could be a lot more. It just depends.

All this debris kills fish and other aquatic life and could linger for years, depending on what was in the soil, which could include septic systems.

Now Plan B+ calls for high water in the spring and fall, and that's what concerns me, because that's where we need the safety... that's where you get the storms and that's where we need the safety margin. Plan B+ takes away the safety

margin. Plan 2007 appears to be much better because we have some safety margin to work with in spring and fall.

You've been deliberately vague in your documentation about mitigation. And mitigation is the key here. Since this whole section of the south shore is so low, and like I say, 252 is a typical bank elevation, many of them are much lower than that, mitigation means high breakwalls, higher breakwalls. One gentleman mentioned earlier, which limits access to the shoreline, it also stabilizes the shoreline, but you know, the mitigation efforts really defeat the intention of B+, or parts of the intention. You know, basically beaches won't form, not under high water conditions, not up against a breakwall.

And after 40 years of trying, you haven't been able to exert precise control over Lake Ontario, and I don't believe they've demonstrated that you can do it, frankly. So now we're into experimentation, which means you're experimenting with our homes and property and I'm not too warm to that idea either.

2007 may represent an improvement over '58D, but B+-based plans that you suggest might follow, to me that's just another part of the relentless campaign for high water. I mean, it benefits hydro power and shipping, we all know that, but we end up paying for it, and as one other fellow said there earlier, I'd like to get a share of their profits to help rebuild my breakwall and pay for the pumps to pump the storm water uphill.

IRENE BROOKS: You have half a minute, you have a yellow card.

BRIAN SIMPSON: And I'm all done. Thank you.

IRENE BROOKS: Okay, thank you very much. Thank you, Brian.  
(APPLAUSE) Patricia Palermo, Don Teringo. Patricia.

PATRICIA PALERMO (Resident): I live on the lake now and my dad brought a property there, just a lot when I was like seven or so, around 1957 or '59 or something like that. His brother brought the lot next door and built a small house.

Well, since then, I think it was about 60 to 80 feet from the lake. Now it's more like 40 feet from the lake. And the beach where I used to play on is like 40 feet out into the water. That's because the level of the lake is constantly higher. And I believe that even under the current plan it's been creeping up, creeping up, due to pressure from marinas that were created after the Seaway was built.

They said, okay, the levels are going to stay constant, we'll build a marina, because it won't be too low sometimes. So you get the marinas in there. They're good, viable enterprises. Oh, well, let's get the water a little higher. I believe the lake, and I think Mr. Barletta or one of the people that spoke earlier, is constantly now about three feet above what it would have been if Mother Nature was in control and the Seaway was never built.

Okay the Seaway was built, we've got to deal with it as it is. A lot of people talk about mitigation and how well the shipping is doing. It's nice to have economic growth with marinas, boaters, and all that. But when they built the Seaway they built only part of the infrastructure because the other part of the infrastructure should have been protection of the shoreline.

Now I'm not really in favour of breakwalls. I don't like them, I can't afford one, mainly. I'm paying so many taxes that it's out of the question. I can't have one. I'm currently far enough from the lake on the same road where my dad had a lot and I'm about, I think, 60 feet from the lake. When we moved in four years ago, my neighbour said he lost nine feet in 12 years. At that rate in 40 years it's up at his house.

I mean, people talk about flooding, like there's no flooding. Well, erosion is flooding. Anytime that lake comes out of its little basin and goes up on the bank that's flooding. If the bank's not low enough for it go over that's still flooding. And it's not something that happened just in 1973. It's something that happens every year, little by little, creeping, creeping.

So I think if you're going to have... I mean, talk about nature, mitigating nature. They said, oh, what got me here was the letter in the newspaper by the guy from The Nature Conservancy talking about how shipping will be better and all this. Shipping brought us the zebra mussels and the gobies. You know, boating, all the little marinas, and all these little streams that are now a little deeper, they're dredging them. That's not good for all the nature that would have spawned in those creeks.

I mean, we've got it now. Nature is never going to be the same as it was. So we've got to deal with it as it is. If that means a breakwall, it should be paid by the people that are benefiting. I'm not saying the government. I'm saying the

shipping interests, I'm saying the marinas, all the people downstream that benefit. And that's my point.

Let's see if I've got anything else here. Oh, they said people shouldn't build at shoreline elevations that can't be sustained. What about people that built at shoreline elevations that were perfectly fine before the Seaway, you know? Nothing was ever done for those people. It's not just a question of which plan we got now. It's something that should have been done then.

And if you don't address it now, it's just worse. And that's about all I got to say.

IRENE BROOKS: Thank you, Patricia. Don Teringo, followed by Ron Colura(ph) and Mary Testa.

DON TERINGO: This will be very brief. Good evening, I'm Don Teringo. I'm here because my wife said get your butt in here, if you've got an opinion. Don't sit home and not express it. (LAUGHTER)

So I'm a property owner on the lake and I just wanted to come in and express my support for Plan 2007 with the exception that it has maintains the current 247.3 max. Thank you.

IRENE BROOKS: Thank you, Don. Ron Colura? Is Ron Colura still here? Ron? Going once, going twice.

UNIDENTIFIED: He left.

IRENE BROOKS: Thank you. Mary Testa. Followed by James Quick and Sherry Stephens. Mary.

MARY TESTA: Hi, my name's Mary Testa. I'll be brief, I have a puppy at home.

As a lakeshore owner, I feel that Plan 2007 tries to meet the needs of all the parties, while Plan B+ benefits mainly the environmentalists with little regard to the shore owners. In the fall and winter of 2006, the lake level was left high for the winter and we incurred severe damage to our breakwall due to ice. It cost us over \$25,000 to repair the breakwall, which was approximately about \$6,000 per layer of stone. How many times, as a shore owner, are we going to shoulder this burden of having to constantly repair our breakwalls, when the lake levels could and should be regulated?

I do not support the proposal to move to Plan B+, with or without mitigation. I do support Plan 2007 with deviations. Thank you. Sorry.

IRENE BROOKS: Thank you Mary. (APPLAUSE) James Quick. Followed by Sherry Stephens.

JAMES QUICK: Good evening, and thank you. I'm James Quick, Howland Road, North Wolcott, 14590. I've attended many of the study meetings. We've gone as far as Ogdensburg and down through to Greece. I've listened to many real concerns. I've written to the study group.

I keep a record of the date, the lake level, the Lake Ontario average level, the water temperature, the air temperature, the wind direction and the wind velocity in our area, the Rochester area. I'm adding to it this year the precipitation, because it was such an issue last year.

I live on Lake Ontario daily. We have lost 150 feet in 50 years. We're right down to my cottage, and she mentioned before having so much land out in front, 150 feet seemed like a lot back in 1957 when I bought. I have a DEC map dated 1985 showing we're supposed to have 18 inches of shoreline loss per year the prior 100 years. My property loss of 150 feet by 130 feet wide is permanent. It'll never come back.

Environmental concerns are speculation. They do not have a single dollar invested to lose. All through the studies I have said there can be compromise. I'm concerned about the word mitigation. Corps of Engineers promised Louise Slaughter, and I got the letter, in the very early 1980s. The DEC's talking about it now. There's no funds. They've had since the 1980s to come up with funds, so it's not been a real answer. I'm concerned about computer modelling. I call it garbage in brings the garbage back out. It's easy to put something in a speculation.

If something goes wrong, I lose dollars. Do not tell me high waters will bring back my beach. I was told that in Syracuse about three years ago. That does not happen. Our winds are predominately from the west, the northwest. Another few weeks or few days we'll be going to Oswego. I believe there's a lake level station there. When they say it's 247, I wonder how high it is when we have these northwest winds in Oswego. How much higher it is then up in Canada?

I intend to be at Oswego. I guess I don't understand right now why we're at 247. I maintain that our grief is the Ottawa River, which flows for the Upper Canada to the Saint Lawrence at Montreal. I brought this up at the beginning of

the study and was told that I didn't know what I was talking about, and the folks in the study and so forth are beginning to listen.

I'm about 20 minutes away from Oswego southwest. I invite any of you to come up and see the real world.

Thank you for having the study in the first place, because that's the first time the public's ever been invited. The shipping industry, or the power industry has said they do not really gain with extreme high water levels. There is a level that they like best.

Thank you.

IRENE BROOKS: Thank you, Jim. Sherry Stephens? (APPLAUSE)

Followed by Richard Dollinger.

UNIDENTIFIED: Ms. Stephens asked me to give you her regrets.

IRENE BROOKS: Oh, thank you. Richard Dollinger. Followed by Jean Iزارo(ph). Do I have that right? Yes.

RICHARD DOLLINGER: Thank you very much, Madam Chairwoman. This is like a trip down memory lane. I've been a part of the Saint Lawrence River and Lake Ontario for a long time. I grew up on the Saint Lawrence River. I've seen this lake from Scarborough Bluffs all the way to Chimney Bluffs. I've sailed it from the Rideau Canal to the Seneca-Cayuga Canal, but I appear here tonight because for ten years I was a state senator here in New York and I represented the people in the Town of Greece.

And I got my introduction to highway in Lake Ontario when in 1993 Max Streibel, who spoke earlier, and I, I actually got a call from a constituent who said that my house was under... their house was under attack because large clogs of ice, shards of ice were being propelled in the air over the top of their house by high water and high winds in 1993.

I did the sandbagging. I did everything I could to help my constituents, and quite frankly, as Frank Bevacqua knows, I started sending letters to the IJC and the International Board of Control to get a local representative. You've heard from Frank Sciremammano earlier. I worked with Louise Slaughter and representatives of the Town of Greece to make that happen.

But more importantly, we focused on the need for a reliable system of water regulation. And I would suggest to all of you at this table that for 50 years, the water system has been regulated under the 1958 plan and now comes the Plan 2007 plan.

I have not studied the plans in enough detail to give you a complete summary of those plans, but in considering the options the most important thing you should consider is reliance. The people in this room have relied on regulation of the water within the four-foot range for almost... for a half a century, as long as the Saint Lawrence River system has been in place. When it was tampered with by people who created the dams and the hydroelectric power they have depended upon the regulation within the range.

I would strongly suggest that their reliance now has the force of law as a matter of international law. I'm an attorney as well. I've researched the issue briefly, and I believe that their reliance on the Board of Control and the IJC's regulation within the four-foot range has the effect of law. And to change that law, quite frankly, I would question whether that can be done by anything short of treaty realignment, whether it could be done by the IJC or by the Board of Control without a realignment of the treaty.

Let me pass on just two other thoughts. If a plan goes into effect, whether it's Plan B or some other plan, that allows higher water, the practical consequence of that decision will be to shift the risk of damage from high water entirely on the backs of shore owners on the south shore.

What you will do is shuffle the cards and increase their risk. You will make it more likely that the storm that I ran into in 1993 will recur and that those flying shards of ice and large cannonball size pieces of ice will once again will flying around Edgemere Drive in Greece.

Lastly, I would suggest two other things. I understand my colleagues from the Department of Environmental Conservation prefer Plan B+. I would strongly suggest that no one, no one consider even discussing a serious implementation of Plan B+ without the mitigation plan already in place. A mitigation plan that, in my judgement, will involve very thorny legal issues, including whether the government can spend large sums of public money on private property. I think that's a serious issue that would need serious attention by the state legislature.

A young woman earlier described there was a need to light a fire under all levels of government for a mitigation plan. I sat in the state legislature for ten years, I can tell you there were tonnes of fires that we had to stamp out, but we never got around to being good at mitigation planning.

We got reasonably good, Katrina aside, on disaster response, but we were never very good at mitigation planning. The type of mitigation planning which would involve land use controls, financial investments and revetments, the creation of concrete or other major stone devices to prevent high water destruction, in my judgement is not going to happen for a decade. I would strongly suggest that no one implement a plan that would create high water risk unless the mitigation plan is in full effect, fully funded. Based on my experience in the state legislature, in this state, I regard that as highly unlikely.

A final thought: There's often a tendency in government, and since I was a part of it I think I can speak with some limited authority, that you spend a lot of money, you do a lot of studies, you put all this effort in, you hire very smart guys like Frank Sciremammano to come in and help do all these studies, you spend public money and you come to a conclusion, and the urge is we've done all this work, we should do something. Let's do something. Let's make a little tinker. Let's tweak the system a bit. Let's justify all those dollars. Let's convince people that we properly and wisely spent all their money.

My suggestion to all of you is resist that temptation. If you think that momentum drives you to change in this instance, I would simply ask you, on

behalf of the people that I once represented, to think again. Go back to the plan. If you're going to do 2007, keep all the criteria that were in effect that were discussed earlier. Resist the temptation to make a change which shifts the risk of high water, the costs and the damages to the people that live in this community.

They don't like the '58 plan. They don't like the 2007 plan. They'd like the water problem to go away. They've lived for 50 years with the problem, they've adjusted, their expectations are in place. They've relied on what you've done in the past. I would suggest that that reliance should be honoured in the future.

And Mr. Gray, I would just welcome from a former colleague, I believe in the Canadian Parliament, my sister-in-law's Karen Redmond, the Liberal whip. So she says hello. Thank you.

IRENE BROOKS: Thank you very much. (APPLAUSE) Next is Jean Izara(ph). Followed by Sarah Rubin(ph)? Jean Izara? Is Jean still here? Does anybody know? If not, we'll move on to Sarah Rubin, Sarah Rubin? Is that what it says?

UNIDENTIFIED: Budinski. That looks like an M. Kenneth. Followed by Craig Goodrich.

KENNETH BUDINSKI (Lake Ontario Coalition): My name is Ken Budinski. I live on a sandbar about four miles north of here and I have lived there for 18 years and I had waterfront property for 25 years before that on a bay off of Lake Ontario. It's Sodus, Town of Sodus, Sodus Bay.

And I have several points I'd like to make to this group, and the first one is that I have always been uncomfortable with all these study groups because they never had a member who had first-hand knowledge of Lake Ontario. This \$20 million study was conducted by somebody from New Mexico or someplace. They were brought in. They didn't have any riparians in this part of the study group. And every time I run into one of these groups, there's nobody that has first-hand knowledge of Lake Ontario. Nobody lives there. The people that live on the lake are not part of any of this.

IRENE BROOKS: I think you heard from a couple of them tonight. Frank could probably tell you who they are.

KENNETH BUDINSKI: Frank doesn't live on the lake.

IRENE BROOKS: Dan and/or Frank. But keep going. Let's not argue about that.

KENNETH BUDINSKI: Okay. One of the premises of the plans that advocate higher lake level is that this is good for wetlands. Now, for the last 18 years I have sailed out of a wetland, Braddock Bay, which is just about five miles away from here. And it's open to the lake. It's maybe half a mile wide at the opening and it's open to Lake Ontario.

Well, I can tell you what high water does to that wetland area. It drives sand into there. In 1993, we had big storms. Well, it filled about 40 per cent of that bay with sand. So it doesn't help wetlands. It destroys wetlands. The ponds that are up north of us here, there's several ponds. The sand, when we have high

water it drives and into the outlets for these ponds. They become stagnant. They become... they putrefy. It's really not good! The high water is not good for the wetlands.

And I challenged one of the people, the head of one of these study groups on this and I said where are you getting your figures from? And your facts? And he said he would send me some. I gave him my name and address. Well, that was like four years ago. I never got anything. So I really challenge the statements that these things are good. I don't believe they are.

And then the other thing that I'd like to bring up is that shoreline protection is not an option. Not in New York State. The permitting is years. The only thing that's allowed along our region is the steel interlocking breakwalls. They cost \$1,000 a foot. Multiply that by 700 miles, we're talking about \$3.5 billion or something like that.

And the other system that they allow is rebar driven in with rocks underneath and then people usually put a stone cap on it. Well, I kayak down the shoreline most mornings and there's many of these and they don't work. The rocks degrade in the freeze/thaw cycle and become crumble and just disappear. So they don't work. And this is what the DEC allows. That's the only thing they'll allow.

And the massive boulders, you've heard other people say they just move around. Well, they do. I mean I don't know how big they gotta get them, but three weeks ago, or four weeks ago, I had something that probably weighed 1,000

pounds washed onshore. A big chunk of concrete from somebody's breakwall. So the lake handles these things like they were tennis balls.

And also I've seen in some of these studies damage estimates of like \$20 million. If we have 248, we might have damage of \$20 million. Well, right here in the Town of Greece, the street I live on, there's at least 400 homes that would be destroyed with a lake level of 248 and with an average assessment of \$200,000 a piece, that's \$80 million. Just for what's in our little town.

So what I'm for is regulation to the 100-year average with absolutely no water above 247. Ever. We'll do whatever has to be done to keep the water below 247. Thank you for listening.

IRENE BROOKS: Thank you, Kenneth. (APPLAUSE) Craig Goodrich? Craig? Craig Goodrich? William Mayer. Is Craig still here? Are you Craig?

WILLIAM MAYER (Mayers Marina, Inc.): Mayer.

IRENE BROOKS: Mr. Mayer. Craig, I guess has left.

WILLIAM MAYER: My name is Bill Mayer. I own and operate a 300-boat marina. I don't like to have to sell gas walking on concrete blocks on planks to gas customers when it's above... when you're in the neighbourhood of 247. Two-forty-six is plenty high enough. No more. Don't think of 247, don't think of 248. Don't even dream of it. Seventy-three was my wake-up call. You call it Hurricane Agnes. We don't have hurricanes in New York State. They don't have snow in Florida.

You know, sooner or later the truth always comes out. Sooner or later it's been out a long time. You people can control that lake to the inch. There's no disputing it. There are three entities. You've got hydro, shipping and shoreline owners. Shoreline owners should be first, not last. There's no reason for anything above 246. People don't like to run cellar pumps all summer. Those cellars were dug, some of those houses, in the twenties. People knew what proper levels were. They didn't dig cellars deep enough so that they could have the pleasure of running pumps all summer. And where I am there's 10, 15 pumps running 24 hours a day. It's good for the hydro people because they earn money, but we have to pay it.

The last five or six years were not bad; '06 not too bad, '07 you're pushing the water a little bit, getting it too high; '08 again you're pushing it again. Now it is too high. It's unnecessary. Shoreline owners should be first, not last. If you think we're going to move, we're not going to move. We were there before hydro got started down there.

I leave you with one question: How much money in hydro does one foot over normal Lake Ontario levels bring the hydro people? Can you give me an answer? One foot over normal levels? How many millions of dollars? It would be very interesting to find out.

Shipping is right along there too.

UNIDENTIFIED: Well, I think that the presenter should speak to some of our professional staff who are here, and for the purpose of answering questions,

because these sessions are to hear from people and we had information sessions. The presenter has asked a very important question and he deserves an answer, but we have not come here to do anything but hear what people have to say. And I think that there are people that... Tom?

IRENE BROOKS: They can...

UNIDENTIFIED: Mr. Trowbridge, perhaps when we adjourn you can speak to this gentleman and see if you can help him with an answer to his question. These gentlemen are a part of our professional staff, and they're ready to assist you.

WILLIAM MAYER: Mm-mmm.

IRENE BROOKS: Thank you.

WILLIAM MAYER: It's just an interesting question, because I have a lot of customers that ask me questions, and they're not dumb questions. They're very intelligent questions by very intelligent people. We have a pretty good cross-section of Americano in a marina of that size. And a lot of questions are quite pointed, and they like reasons. They like answers.

Please see what you can do. Two-forty-six is the top.

IRENE BROOKS: Thank you very much.

WILLIAM MAYER: It really makes you focus when you lose two houses. Smashed them up, took them away, gone. The shoreline is there is gone. It was later faced by rocks by New York State. Nothing left. That kind of sharpens your focus. You start asking questions.

IRENE BROOKS: Thank you very much. (APPLAUSE) Sarah Eckel, us Sarah Eckel still here? She spoke earlier for an organization. Richard Swasen.

RICHARD SWASEN (Great Waterways Institute): That's Swasen.

IRENE BROOKS: Sorry?

RICHARD SWASEN: Swasen.

IRENE BROOKS: Swasen. Thank you. You're up.

RICHARD SWASEN: Okay, thanks. I'm Richard Swasen. I've lived at our home on Lake Ontario, purchased that 30 years ago. We are on Summerville Beach. We're essentially very close to lake level. In the 30 years we've lived there we've lost well over 200 feet of frontage, including a whole lot of trees.

The really disturbing thing to me is that a large percentage of that 200-plus feet, and by the way that 200-foot measure was my neighbour who was here, who could not stay later, was by actual survey and it was only over a percentage of the time of the 29 years that he's lived next door to us.

I owned additional property which adjoins Westage at the Harbour, a 164-unit apartment complex that we have photographs of hundreds of feet of beach in front of Westage at the Harbour. Logs were bashing against the front buildings. In an emergency measure, they had to bring in those big Jersey barriers. Logs would jump the barriers to hit the buildings. Eventually they had to resort to the large dolomite boulders. That has transferred, the rate of erosion seems to have rapidly increased on my former property, which now belongs to a fellow yacht club member.

The alarming thing is that our houses are all on Summerville Beach, are all basically at lake level. Behind us are a number of non-lake-fronting homes, several restaurants, the entire Rochester Yacht Club, the Coast Guard... well the Coast Guard station is protected by a revetment that they put in.

The rest of our houses, there are 16 houses in our little stretch and then probably another 16 or so before you reach the long protected area that was installed, large dolomite boulders installed in what we call the Rock Beach Road area. It used to be called Willow Beach. Once the rocks were put in place in the late 1800s, the point held.

The rest of us are basically unprotected and given the fact that we've had to sandbag at least three times, severe storms, where our house has been flooded, I feel that with the increased rate of erosion in the last two years that with a severe wind event on top of those sustained high waters, we will start losing homes, St. Paul Boulevard will be endangered, there will not be access to the yacht club or the Coast Guard station or the fishing access site. The land does not rise until... I mean, it's just a very worrisome thing.

I am also an environmentalist. I've co-founded 20 years ago the Great Waterways Institute. We brought hundreds of students to environmental issues. I'm an environmentalist as well, but I'm also just a very concerned lakefront owner. We just simply need help with mitigation efforts. It's just a bear to deal with. All the regulations of the state DEC, the Army Corps of Engineers.

Westage, in fact, has 164 condo owners sharing 500 feet of beach. My family alone has 178 feet of beach. We also need help to get all those other owners together because if one owner does it the water would simply come behind... you know, behind our berm, behind our revetment or whatever we construct.

We do need help. I'm very concerned. I don't know which particular plan to promote. I'm inclined to promote the one that offers mitigation efforts, but as many speakers have said, is there any assurance there'll be any money in the budget for mitigation?

Our taxes in the time that we've lost 25 per cent of our property, our taxes on the beach have gone up at least 700 per cent, and depending on how you calculate it, as much as 1,000 per cent, to add insult to injury.

So I just hope that... I strongly back Bill Mayer's suggestion that that water level is just kept at 246. I do know that an engineering neighbour and friend of mine estimated that every inch on the 7,000 square miles of Lake Ontario many years ago generated perhaps \$40 million in hydro power. You know, with the rate of inflation and increase in hydro power now it could be \$100 million an inch.

There are just a number of reasons. But I do believe, that as Bill said, the three interests, the three parties to the 1908 agreement were the riparian owners, as well as shipping and other interests, but we were named... our interests have to be concerned. There are issues of personal safety. And I'm just very concerned. We simply need help from the IJC, from the International Saint Lawrence River,

from anybody of how to do deal with this? The last two years have been very severe. It's getting worse. Please try to help.

Thank you very much.

IRENE BROOKS: Thank you for your comments. (APPLAUSE)

That concludes the list of registered folks who wanted to speak. We thank you for your patience. We thank you for your comments. We will be accepting comments in the forms that I explained before, fax, e-mail, snail mail, up to July 11th.

Also, if you'd like to follow the hearings proceedings on our website, it's [ijc.org](http://ijc.org). It's very simple.

Thank you again for coming tonight. Safe trip home. (APPLAUSE)

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