

New York State Department of Environmental Conservation

Statement

Before the International Joint Commission
Hearing on the Proposed Lake Ontario-St. Lawrence River Water Control Orders of
Approval and Regulation Plan
26 June 2008

Chairwoman Brooks, Chairman Gray and the other IJC Commissioners, I would like to thank you for providing the New York State Department of Environmental Conservation with this opportunity to offer brief comments on the IJC's proposed water level regulation plan for Lake Ontario and the St. Lawrence River, referred to as "Plan 2007". My name is Donald Zelazny, and I serve as the Great Lakes Program Coordinator for the New York State Department of Environmental Conservation.

From tonight's attendance, as well as the previous four hearings in New York, you can clearly understand how important this matter is to New Yorkers.

The Department is concerned about the widespread environmental damages that have resulted from the IJC's current regulation plan, 1958DD. In particular, the current water level regulations have resulted in the degradation of coastal wetlands that provide feeding, breeding and nursery habitat for a wide variety of fish and wildlife species. The most environmentally damaging effects of Plan 1958DD are the reduction in the overall range of water levels, as well as deviations from natural seasonal patterns and long-term trends. In order to improve the diversity and ecological function of Lake Ontario and St. Lawrence River wetlands, as well as the extent of dunes and beaches, a candidate regulation plan must move toward a more natural range of seasonal and annual water levels. Plan 2007 fails to achieve these critical measures.

During fall, winter, and spring, water levels would, on average, be lower under Plan 2007 than those experienced under Plan 1958DD. These conditions would further exacerbate the damaging effects of Plan 1958DD on over wintering mammal populations and spring fish spawning habitat access. Plan 2007 fails to provide sufficiently low water levels favorable for restoring meadow marsh wetland habitats, beaches and dunes, and provides little, if any, additional relief for shoreline property losses.

The Department supports the immediate implementation of Plan B+. Plan B+ is the only candidate plan that effectively moves toward restoration of a 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 low enough, during prolonged periods of low water supply, to rejuvenate meadow marsh wetland habitats, and replenish beach and dune habitats.

The IJC's adoption of plan B+ would be further enhanced by the State's commitment, in concert with U.S. and Canadian government authorities and constituents, to aggressively pursue the development of a comprehensive coastal restoration strategy and adaptive management plan.

I know you are especially interested in what such a strategy will involve. So I would like to share with you the preliminary elements of our strategy that include, but are not limited to: a public outreach process to involve local governments and other stakeholders; identification of the range of risk mitigation and shoreline restoration options; assessment of shoreline defense structures; evaluation of options for flood-prone structures; development of resource management plans for sensitive aquatic and terrestrial habitats; and identification of potential funding sources to implement the coastal restoration strategy. While the Department recognizes that shoreline erosion and property damage will occur under any water level plan, only Plan B+ provides the flexibility in water levels that is needed to mitigate ecosystem damages that result from the regulation of water levels.

It is important to note that, as trustee for the environment, the Department is mandated by law to minimize adverse impacts to the environment. Further, we are bound by international agreements to uphold the goals of the Great Lakes Water Quality Agreement's Lakewide Management Plan for Lake Ontario's that calls for restoring the impaired ecosystem, and the Great Lakes Fishery Commission's Strategic Plan for the Management of Great Lakes Fisheries. Adoption of Plan 2007 by the IJC would seriously restrict New York State's ability to fulfill these international obligations.

Commissioners, you have a unique and historic opportunity to choose a regulation plan that, when implemented in conjunction with New York's proposed coastal restoration strategy, will incrementally improve tens of thousands of acres of environmentally sensitive habitats and the vast array of flora and fauna they support, while also addressing the concerns of riparian property owners. This is truly an opportunity for a "win/win" resolution, offering the only realistic approach to benefit both the environment and coastal interests. To not take advantage of this opportunity would be tragic. We look forward to continuing our discussions with IJC relative to the resolution of outstanding issues with the implementation of Plan B+.

Although this is the last of your scheduled hearings, we hope you will return again to visit our vital north coast. Again, thank you Commissioners for this opportunity to share our concerns.