

REVIEW OF THE LAKE ONTARIO-ST. LAWRENCE RIVER ORDER  
OF APPROVAL - PUBLIC HEARING IN OLCOTT, NEW YORK, JUNE 10<sup>TH</sup>,  
2008, 116 MIN.)

IRENE BROOKS (Chair, U.S. Section, International Joint Commission):  
...and Sam Speck, from the United States.

We're here to receive your comments on proposed changes to how water is released through the Moses-Saunders dam on 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 downstream as Trois-Rivières, Québec. These proposals were released by the IJC for public comment on March 28<sup>th</sup>, 2008.

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. border. In the 1950s, the governments asked the Commission to approve a major dam in the international section of 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 those objectives offered by the Commission to meet all of the objectives above. The objectives included reducing shoreline damage on Lake Ontario, in addition to enabling hydroelectric power generation and commercial navigation.

For nearly 50 years, 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 regulation plan for this 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 answer technical questions about the content of the proposal, so we won't spend time tonight covering that same ground.

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 if you'll stand up, they're over here at this table, so that people can see where you are and who you are – they will make themselves available during 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 and ensure you that all relevant matters will be taken into account.

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

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

When you speak, we ask that you 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 to have a chance to speak will be able to speak.

Our secretaries will help you keep track of the time by showing a yellow card when you have half a minute left, 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 form, please provide them to the secretaries, who will make sure that all commissioners receive a copy, and they will be 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 microphones when you speak so that

your comments can be included in this transcript. Transcripts from all ten hearings will be posted to the Commission's website once they are available.

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

We would appreciate one spokesman for each organization here this evening. As you can see, we have a packed room. If you want to make your own individual comments, please do so. However, in the interests of time, if you find that the presenters before you have already made your point, please consider simply stating that you also support those points.

Following the hearing, we will accept written comments through July 11<sup>th</sup>. We invite you and your friends and neighbours who could not be here tonight to send any information or views that might be helpful. Submissions can be made to either Commission secretary by fax, email, 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 comment received. We have been consulting with the U.S. and Canadian federal governments through the Department of State and Foreign Affairs, including in 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.

So that's the plan. And we will begin now, this is just part of the stack of names, and I will call on James W. Ward, Executive Advisor to State Senator...oh, there it is. It's your card and you couldn't find his name. Have a seat right there, thank you.

JAMES WARD (Executive Advisor, State Senator): Thank you, commissioners, and thank you for your visit here, which I also understand you announced the binational treaty 100<sup>th</sup> anniversary, is that correct?

IRENE BROOKS: We did.

JAMES WARD: Congratulations. We hope that that great partnership continues between Canada and the United States. I am here representing New York State Senator George Maziarz.

Welcome, commissioners, to Olcott, New York, one of the many historic communities and Ontario south shore jewels that the Senator takes pride in helping to revitalize a hopefully not-forgotten past of economic boom.

There is another history on this south shore, of uncontrolled high water destroying private property, public property, municipal infrastructure, and creating economic destruction to communities that lived off tourists for over a century.

The Senator and myself personally, as a past Niagara County legislator, have been closely involved with lake level issues for well over a decade, as far back as public statements at Sackets Harbor.

We were told at the beginning of this process that there would be no disproportionate loss to any one entity. Well, where do I start? The Order states that outflows shall be regulated to provide no less protection for riparians than would have occurred under pre-project conditions. Nothing – and I stress nothing – will ever be the same since the construction of the Moses-Saunders.

You talk about order taking into account the changing – and I quote – changing interests. The south shore interests have never changed. The controls have changed them. Even Plan 2007 has the damaging B+ plan hidden in the verbiage to be approved in two years.

Flawed studies, insufficient samplings should not be used to support the implementation of any form of B+ now or even two years after a Plan 2007 may be effective, as the Order states, especially with no relief mechanisms in place for damages. In addition, how do we justify any studies that, as you know, have a negative peer review attached to them?

The Order talks of future assessment reviews from monitoring programs. Please, we've asked over a decade ago that you cannot regulate the dam's outflows by merely monitoring the Ontario lake basin.

We are the dumping ground for the other four Great Lakes, whose weather and precipitation patterns in a given year could be entirely different than Ontario's. We must monitor them all together in assessing the outflows that are needed.

Unfortunately, we have a State regulatory agency, being the New York State DEC, that won't efficiently or effectively allow for the protection of property to south shore residents.

People are paying taxes on property that doesn't exist anymore. Please protect our private and public property. Please protect our south shore interests.

Thank you. (APPLAUSE)

IRENE BROOKS: (inaudible)...Andrea Colao, Chief of Staff of Assemblywoman Francine Delmonte. Can you hear me? Thank you.

ANDREA COLAO (Chief of Staff, New York State Assemblywoman Francine Delmonte): Again, my name is Andrea Colao, I am Chief of Staff for New York State Assemblywoman Francine Delmonte. She has sent a letter for me to read to you today in her absence; she is in Albany for session.

Dear commissioners, I would like to address the IJC this evening on behalf of my constituents that live along the Lake Ontario shoreline. While I realize that the B+ plan has garnered a significant amount of support from State and federal offices, as well as environmental groups, this plan may have serious ramifications for our local residents.

Raising the water levels in early spring will not only encourage additional flooding but will also cause a disproportionate amount of damage to the shoreline. The cost of this damage will then have to be offset by the homeowners and the local municipalities.

It is my understanding that an alternative Plan 2007 has been produced that is similar to Plan B+, but offers relief to shoreline property owners while continuing mitigation measures presently available under the existing plan.

Homeowners contacting my office have repeatedly expressed their frustration working with the New York State DEC to obtain permits allowing them to build retention walls to stem the amount of erosion occurring yearly.

At the same time they are expected to pay property taxes on land under water, they are stonewalled in pursuing methods that will help stem the loss of their property.

It stuns me that a \$20 million study yielded inconclusive results regarding Plan B+'s success in protecting wetlands. That being the case, the IJC should pursue alternative Plan 2007, taking into consideration the challenges and costs higher water levels present Niagara County shoreline homeowners.

A plan that works for only parts of Lake Ontario and the Saint Lawrence River is not a successful plan. I respectfully encourage the IJC to adopt a plan that will benefit all of our New York State residents. Sincerely, Francine Delmonte, Member of Assembly.

IRENE BROOKS: Thank you very much. (APPLAUSE)  
(inaudible)...Timothy Horanburg, township supervisor. Timothy Horanburg.  
And after Mr. Horanburg, we have Wally Nowacki. And after that, we have  
Floyd Clark. So if you'd be ready to step in.

TIMOTHY HORANBURG (Supervisor, Town of Newfane): First of all, thank you for having me and thank you for holding these public hearings. I am a lifelong resident of Olcott and Newfane. I am the town supervisor. I have been here, lived on this lake my entire life.

Back in 1973, I was with the local fire department when we were sandbagging the west side of Olcott to stop the undue (?) damage that was coming from the high water. We thought those days were over, but again, studying your plan, I see them days coming again.

Our marina, we have built our community around Lake Ontario. It is very, very important to us. Last fall, we were within a couple of inches of shutting down our marina because of the water levels. When the water levels go high, the residents who have paid more than their fair share for their property lose property.

And as the Senator and Francine have stated, getting a permit in this state to do any work along the lake is near impossible. The minute you do anything wrong, though, you're prosecuted to the fullest extent.

I can't tell you...I know you have a daunting task of trying to take care of a lot of interests - the power people, the shipping industry - but our economic in this area along the lake is built on tourism, charter fishing, charter boats, and our residents. We need to take care of these people. It's a must.

And Governor Patterson the other day said it just right: the people are starting to vote with their feet. It means they're running out of this state. We don't need any more regulations or rules on us that are going to damage us. We

need to start thinking about people, about ourselves, about how can we make it more convenient for our people to live in this state.

And I beg you, on behalf of all of our constituents and the Town of Newfane, not to let happen again what happened in '73. Because at this time and date, we have millions of dollars of infrastructure in those areas – water, sewer – and the State agencies will be the first one to climb down my throat when the lake water runs into it.

So I beg you to look at that 2007 plan, but don't jump into that other plan that will kill us, especially without another way of input (?). I think we can do it with a fair way to everybody.

Like I say, I know you have that daunting task. But the last few years has been pretty good, it's been fairly equal. I can't understand why we can't stay with that.

But again, on behalf of my constituents and the towns along the south shore of Lake Ontario, please reconsider this and take a good hard look and don't make guinea pigs out of us. Thank you very much.

IRENE BROOKS: Thank you very much. (APPLAUSE) Wally Nowacki.

UNIDENTIFIED: Put those under there.

UNIDENTIFIED: Sure.

WALLY NOWACKI: My name is Wally Nowacki. I am a resident on the lake in Youngstown. What I'm asking is to help to deal with EDC in honour

to get the permits. And we all like to be treated equal. Some people with a deep pocket build the walls, pay the fines, and they're being left alone. That's only two things I'm asking for, to help us to deal with EDC. Thank you.

IRENE BROOKS: Thank you. (APPLAUSE) Floyd Clark is next. Floyd Clark, and then after Floyd, we have Michael Waterhouse. Floyd, are you here?

FLOYD CLARK: (inaudible)...

IRENE BROOKS: No? Okay. Michael Waterhouse?

ALLEN OLSON (Commissioner, U.S. Section, International Joint Commission): You subscribe to what has been said, is that what you're saying?

FLOYD CLARK: Yeah.

IRENE BROOKS: Thank you.

UNIDENTIFIED: Good, thank you, Sir.

MICHAEL WATERHOUSE (Sport Fishing Coordinator, Department of Tourism, Orleans County): Good evening. My name is Mike Waterhouse. I am a lifelong resident of the southern shorn, near southern shore of Lake Ontario.

For the past 24 years, I have operated a fishing charter services out of Point Breeze, New York, and for the last three years, I have held the position of Sport Fishing Coordinator, Department of Tourism, Orleans County. So my comments tonight are based on a mixture of all three positions.

It was my understanding that one of the charges to the task force was to come up with a plan that had no negative impact on any one group. And of all the plans I have seen, none of them meet that criteria.

When Plan 1958D was implemented, Lake Ontario was a much different body of water. Anybody that was along the southern shore of Lake Ontario at that time could remember that the alewives was the top fish in the food chain. Die-offs were massive, and during the summer, it was impossible to go outdoors if you lived along the shoreline.

If we jump ahead ten years, we introduced trout and salmon into Lake Ontario, and the alewives population slowly came under control. But at the same time, a sport fishery was created that is unequalled any place in the world.

In the last economic impact study, which was completed in 1996, taken from the boat census that the DEC does, the total economic impact of the sport fishery on Lake Ontario and the Saint Lawrence Seaway was \$137.5 million.

From what I have seen of your studies, that far exceeds what you said for recreational boating, so I have to assume that this was not even included in this study. Now that's 1996 dollars. Bring that forward to 2008 dollars and that number is even more substantial.

Tourism in New York State has grown to, I believe, the number three industry in the State, and I believe it's the number three industry in the United States. We are no longer an industrial nation, we are moving very quickly towards a service nation. And that kind of money in New York State is very important, especially when you look at the industries that we've lost.

Now I am originally from Rochester, and in Rochester, for a long time, the Eastman-Kodak Company was the number one employer. Now it's the

University of Rochester. Somebody before me alluded to the fact that people are leaving New York State by the droves, and they're right, because industry has left.

The environmental impact is something that is critical to all of us. Over the years, we have seen the damage that we as humans can do. And in some cases, we have seen how we can reverse those damages.

And I think in any decision that this Commission and, after the Commission, the United States and Canadian governments make, the environmental impact has to be very, very high on that list because, as probably many others in this room, I would like my children's children to see some of the things that are in existence now and not miss on some of the things that were in existence when my great-great-grandfather lived.

Everything we do today in this shrinking world has impact on something else. What we do with the Lake Ontario water levels has an impact not only on the lake levels, but on all of the shallow draft harbours along the southern shore of Lake Ontario.

Today, there are two harbours that are considered commercial deep-water harbours, and out of those two, one is about to lose its accreditation from the Army Corps of Engineers.

What this means is the Army Corps of Engineers has no funding for dredging of shallow-water harbours such as Olcott, Wilson, Point Breeze, Irondequoit Bay, Braddock's Bay, and go right up the line.

So with no dredging, we can conceivably have one harbour that charter fishing can operate out of. Now along the shore, when these small charter fishing businesses started, the associated businesses - the restaurants, the tackle shops, the marinas - also came. Well, if these harbours are closed, all that's going to go away.

So I guess, in conclusion, what I'd like to say to you is of the plans that you have come up with, I don't see any that really meet the criteria that needs to be met, and I would ask you to go back, look at the data that you haven't looked at yet, such as the economic impact data.

I know everybody's trying to get a decision by the end of the year, but why make a decision only to have to go back and rectify it two years later? Thank you.

IRENE BROOKS: Thank you, Michael. (APPLAUSE) We have a question for you.

MICHAEL WATERHOUSE: Questions?

SAM SPECK (Commissioner, U.S. Section, International Joint Commission) Yeah. I'm hearing you say that you have a problem getting boats into your marinas. Is that...which would suggest low water.

MICHAEL WATERHOUSE: Last year (inaudible)...were very critical because of the low water. I read a study last week that was done in Michigan, and supposedly in Michigan, and their ten-year forecast was for low water for the next ten years in the Great Lakes system.

SAM SPECK: I was just trying to get clear in my own mind the issue of the problem of low water versus the issue of property owners suffering from high water.

MICHAEL WATERHOUSE: It's a balancing game. At best, you're trying to control Mother Nature. Good luck. (LAUGHS)

IRENE BROOKS: (inaudible)...much. (LAUGHS) Thank you very much. We have Sarah Eckel, next speaker. On deck, Tony McKenna and Dave Parrish. Sarah? That's okay, take your time.

SARAH ECKEL (Program Coordinator, Citizens Campaign for the Environment): Hello.

SAM SPECK: Good evening.

SARAH ECKEL: My name is Sarah Eckel and I am Program Coordinator with Citizens Campaign for the Environment. CCE is supported by over 80,000 members and we work to protect public health and the natural environment.

On behalf of our Great Lakes members, I want to thank you for the opportunity to speak today. CCE appreciates the research, analysis, and effort by the International Joint Commission to revisit water level management in Lake Ontario and the Saint Lawrence River.

The multi-year study funded by u.s. and Canadian tax dollars identified Plan B+ as the preferred management plan balancing all interests, including environmental health, hydro power, and navigation.

CCE is disappointed that the IJC failed to recommend Plan B+ and is instead advancing Plan 2007, which will do nothing to reverse the decades of environmental degradation done by the status quo. CCE is respectfully requesting that the IJC adopt a new Order that includes a firm deadline to implement Plan B+.

It is clear that we as a society know a lot more now than we did 50 years ago about the impacts that our actions have on the environment. Plan B+ is a balance plan. It restores more natural water level fluctuations, promotes diverse habitat for key species, increases clean, renewable hydro power production, and respects the rights of all of the stakeholders.

CCE is concerned that while the IJC speaks highly of Plan B+ and indicates that this plan or something similar could be implemented in the future, there is no firm deadline.

CCE strongly supports proactively addressing the Lake Ontario-Saint Lawrence River water level management to restore wetland diversity that filters near-shore pollutants, provides critical spawning and nursery grounds for aquatic life, and buffers erosion to benefit all lake and river users, dwellers, and of course the enthusiasts.

As you know, the Great Lakes are an ecological tipping point. We have manageable solutions, but the longer we wait, the more costly the solutions will be. Plan B+ addresses some of the problems facing Lake Ontario and the Saint Lawrence River, such as loss of wetlands and loss of critical key species.

As of today, 2,000 citizens have signed a petition in support of Plan B+ and over 550 individual letters have been written, both to the IJC and to Secretary of State Rice, calling for a firm deadline to implement Plan B+.

I implore you all to please protect our river and our lake while you can. Thank you again for the opportunity to speak today.

IRENE BROOKS: Thank you, Sarah. Next we have...next we have Tony McKenna, and after that we have David Parrish. David...let me put a seat up here so someone...the next...the in-bat...on-bat...what is it called? Batter's circle...

SAM SPECK: You're on-deck and in the hole. That's his spot. And there's some more seats over in here.

IRENE BROOKS: Can we turn this one around so this can be the on-deck? Thank you. Tony?

TONY MCKENNA (Study Board Public Interest Advisory Group): Hello and welcome. Glad to see you all. Tony McKenna. I am the representative of this area to the study, the Public Interest Advisory Group. I was on the group and participated in the study for all five years, so I think I know a little bit about the history of how we got here.

And I'd also like to say, before someone tries to interpret me as being anti-environmental, because my remarks will probably tend to be that way, I'm passionate about Lake Ontario and the Saint Lawrence River. I live on it, I spend

most of my vacations on the lake and river, and I have volunteered for over 30 years in pursuit of protecting its health and well-being.

I will say here that as I came over here tonight and I was reflecting on what I was watching on the evening news, and the terrible floods that are right now working such damage in our Midwest of the United States, and I thought how ironic it is...

UNIDENTIFIED: (inaudible)...a little bit. We can't hear you (inaudible)...

TONY MCKENNA: Can you hear me now?

UNIDENTIFIED: (inaudible)...

TONY MCKENNA: Okay. Glad you said something.

UNIDENTIFIED: (inaudible)... (LAUGHS)

IRENE BROOKS: I like (inaudible) to do that.

TONY MCKENNA: Okay. So as I said, I was reflecting as I came over here about the floods that are visiting our Midwest and all of the damage that is being caused, and I thought how ironic it is that our federal government is actually coming to us with a plan to damage our property, so... (APPLAUSE)

At the beginning of the study, I think our entire group, all of the scientists and all of the public interest people all had an agreement with each other, and that agreement was that all of the stakeholders would be treated equally and no stakeholder would gain an advantage by damaging another stakeholder.

And I would say that probably somewhere in the fourth year of the study, that agreement was abandoned, and I've seen it all the way through tonight. We know that you have...are under an intense and well-organized lobbying effort, not necessarily based on science, but based on an organized group of environmentalists who want to push you to Plan B+.

So let me say this first: thank you for being able to stand up to that intense pressure and coming out with Plan 2007. It's definitely an improvement. I think we need one more thing added to it. I mean, right now, as I understand it, if we're under a flooding and erosion event, Plan 2007 makes it very difficult for us to do what we can right now under Plan 1958D, the current plan, where we can call the Control Board and they can actually act, under certain criteria, to take water off the lake and help us. So we need that probably added to it.  
(APPLAUSE)

I want to talk about the switch to Plan B+, as I see us rushing into that, and I think it says that you can go there as part of your regulations without having to come back to a public hearing and go through the public process, and I don't think that's right, but I also think that I don't know how you're going to be able to mitigate the damages.

I mean, we've been here for a long time, and it's very difficult to mitigate high water and storms. And especially if you're in a low-lying piece of property, I don't know what you could do. I mean, when you have got high water and ten-foot waves, the only mitigation I think you could even think of is either

expropriating that property – in other words, taking it away from people – or giving them some boots, because that’s about all it’ll help.

I want to talk a little bit about B+ and the environmental benefits that we have been told about. I read with interest the peer review that was done by the prestigious groups, the National Resource Council and the Royal Society of Canada, probably one of the few people that could wander through that, but I did.

And it’s very clear in there that it casts doubt on the methods that were used in the environmental studies of this plan. I know for a fact that the environmental groups got together late in the process, there was a lot of turnover, and I can understand that they probably didn’t finish their studies or do a good job.

And this is kind of what I got out of that thing, that peer review. It criticizes the wetland data for sure, and that’s the source of all of the environmental work, it even says so in there. So without that, you don’t have anything. And so if that’s not done well, then there is no environmental support for this change.

It also is very clear about warning you against using this work for decision-making, and I think that that...you would think you paid them to do it, that they would have given you the benefit of the doubt, but it was a pretty damning peer review, I would say.

So I would ask the Commission not to institute Plan B now or any time in the future. It’ll take a lot of work to actually prove that you’re going to get any

benefits. And why would you want to move forward with a plan that severely and irreversibly damages our properties based on science that was questionable and probably erroneous?

Lastly, I want to talk about the permit process. The study says that we should centralize the permit process and streamline it, and I think everybody here wants that to be done.

You know, if we can come up with a driver's licence, an enhanced driver's licence that the federal government and New York State can agree on, that one agency can do it and we can cross the border, you would think that we could agree that we have one agency that would do the permitting.

And that agency cannot be the DEC. The DEC is adversarial, they want us gone and they have no incentive to expedite your permit process. They are exactly the wrong people. They have a totally different agenda.

I would suggest that you move that permit process to the New York DOS. They are in charge of the coastal processes, they have jurisdiction over the many stakeholders that have interests in the lake. And I know them, they will educate us, they will encourage best practices and they will expedite the process. Thanks very much. (APPLAUSE)

IRENE BROOKS: Thank you, Tony. David Parrish. David Parrish.

DAVID PARRISH: Yeah, I'll pass my time.

IRENE BROOKS: Okay.

DAVID PARRISH: Everybody has said more than I could ever say.

IRENE BROOKS: Thank you very much. Doralyn Marshall, and then we have Terry Yonker, if Terry Yonker could sit up here to be on deck, that would be great. Doralyn?

DORALYN MARSHALL: (inaudible)...

IRENE BROOKS: Okay, thank you. Terry Yonker, and then on deck, we will have Roy Plummer. Do you want to come up here and sit on...be ready to speak next, please?

ROY PLUMMER: (inaudible)...

IRENE BROOKS: You pass? Okay. Terry, the floor is yours.

TERRENCE YONKER: Thank you, Madam Chairman. My name is Terry Yonker, I live in Youngstown, New York. I am a meteorologist by training. I do research as a consulting on bird migration in the Great Lakes. I am a past executive director of Great Lakes United, Lake Erie Alliance, and the Michigan Audubon Society.

I was also a member of the lake level study reference that reported in 1993, I was on the wildlife working group in that particular study. And I recall many, many discussions about where we should proceed in the regulation of all five lakes to be able to meet the needs of property owners who wanted the lakes managed to within a foot either side of the mean, and I think we were talking then about works that would cost something like \$8 billion.

And I think the conclusion that many of us reached, although it wasn't exactly clear in the final report, is that we can't do much about it, things are

changing and that we're going to have to learn to live with this regime in whatever state we currently find it.

I also lecture all around the Great Lakes on the subject of climate change. That's my passion, and I'm looking at how birds migrate through the Great Lakes and the impact of climate change on the migration of these several species.

And every model that I have ever reviewed of what constitutes probable changes in the Great Lakes shows us that the lake levels are going to move inexorably down, except for one model, and I don't mean down by a few inches, I mean down by feet.

This study and the model and the supply sequences that are used are in terms of 30 years, 29 or 30 years, and they're just extended out and repeated to fill out the 100 years in that chain, and it does not really show levels going down past that year 29.

And I think no plan that you adopt right now is going to account for what we are going to see in the future in the Great Lakes. Plan B probably comes the closest to maintaining some sort of healthy Great Lakes ecosystem, but even that, I believe, will require adaptive management almost from the start.

I don't want to enflame the situation, but one of the problems that we have in the Great Lakes is that we have historically hardened the shoreline of the Great Lakes. And every time we add a bulkhead, every time we add a seawall, every time we add a piece of concrete to this system, we harden it and it requires more and more regulation to maintain levels at some level that people would support.

When you add a bulkhead, you add a seawall, when lake levels rise, they have no place to go but up. And without those structures, we probably would have no lake level problems at all.

I will be adding, I will be writing some detailed comments, particularly on the lake levels issue and climate change, and I'll be submitting those later. Thank you.

IRENE BROOKS: Okay, thank you very much.

ALLAN OLSEN: Thank you, Sir.

IRENE BROOKS: We have Roy Plummer. Is Roy here?

UNIDENTIFIED: He already passed.

IRENE BROOKS: Okay, he already passed, sorry. Michael George, and then Jane Whitmore.

MICHAEL GEORGE: Hi, good evening.

IRENE BROOKS: Good evening.

MICHAEL GEORGE: Good evening. I don't have nearly the experience or the life of the people that have been speaking, and, like, all of the experience that they have. I've grown up on the lake, I've lived my whole life on the lake. I now own a house in Wilson on the Lake.

When I was a kid, I mean, 20 years ago, not that long ago, there was 35 feet of beach in front of the cabin down in Lyndonville that my grandparents had. Now there's nothing. There's three feet of water on the break wall, and it's been that way for the last probably four or five years, and it's just getting worse and

worse. Every year it seems to go up a little bit, everyone stomps their feet, complains about it, but nothing ever changes.

From what I've read, Plan B+ is basically just going to perpetuate that change and even make it worse, because the springtime erosion is going to get worse and we're just going to lose more.

This past year, right in Wilson, I lost 7 feet of shoreline. I don't have a break wall, it is actually about 15 feet out in the water. It's fallen over, the water is right over top of it, and I have no beach. I had a beach last summer, I now have seven feet less dirt, embankment, than I had last fall because of the high water.

Basically, just I'd like to see a change in the DEC because it took us, down in Lyndonville, it took us five years to get a permit to replace a break wall that was already there. All we were doing is repairing and replacing, and it took us five years, over five years to get the permit in place, just to do a repair.

So that's all. I don't want to take everyone's time or anything, I just wanted to voice an opinion. Thank you. (APPLAUSE)

IRENE BROOKS: Thank you for your comments. Jane Whitmore? Jane Whitmore? Jane Whitmore?

UNIDENTIFIED: She is right there.

IRENE BROOKS: Where is she? Oh, I'm sorry.

JANE WHITMORE: Do I move this down?

IRENE BROOKS: You may if you like.

UNIDENTIFIED: As you wish.

ALLAN OLSEN: Get it as close to your mouth as...

JANE WHITMORE: Aaahh...

UNIDENTIFIED: It's okay. It's not broken, it's okay.

JANE WHITMORE: I don't know anything about these things. Okay. My name is Jane Whitmore, I live in Lockport, and I will admit I don't know anything about your plans. But I do have sort of common sense questions, and I have two items with just questions and I don't know whether the Commission addresses them or not.

The first one is the Somerset Pier (?). Now my interest is Camp Keenan. Three generations of my children...family, I should say, have attended Camp Keenan, so the pier will have an effect on the camp.

I don't hear anybody asking questions about it. Now I want to know, when you have a pier extending two-thirds of a mile out into the lake, all the erosion that takes place on the west side, all the ice will build up against that pier. What happens to all those properties along the south shore, on the west side of the pier?

IRENE BROOKS: Okay, we'll have your other question. I think it's a very specific question that probably our staff can help you with (inaudible)...

JANE WHITMORE: Well, no, I'm not involved politically or anything. I'm just wondering if you're asking, if these things are not being taken into consideration.

IRENE BROOKS: As I said, our staff at the table I'm sure can help you with that. They are more familiar with the more specific data than the commissioners at this time could tell you.

JANE WHITMORE: The other question about that was they plan on bringing in ocean-going cargo ships. They have saltwater ballast. If they start releasing a small amount of ballast, all of those foreign critters might affect the salmon fishing and the big fishing industry? (APPLAUSE)

IRENE BROOKS: Unfortunately, we deal in flows and levels. We're right there with you with the alien invasive species.

JANE WHITMORE: So is that...

IRENE BROOKS: If we could do something about it, we would.

JANE WHITMORE: But is that how it affects, with the pier and lights, will that not affect the fishing industry?

IRENE BROOKS: Again, I think those specific questions would be best answered by our staff.

JANE WHITMORE: The other question, well, I just wondered why people aren't concerned. The people who live along the south shore are not asking questions, and I live in Lockport and I'm asking questions. (LAUGHS)

IRENE BROOKS: Well, good for you. Our...

JANE WHITMORE: The other thing is in the Buffalo News today, in an obscure little column, it said the following: the Bush administration has made a decision not to require permits under the Clean Water Act so water can now be

diverted from one source to another. Does this mean that legally, any amount of water can be sent from the Great Lakes to meet the demands of the water-starved southern U.S.?

IRENE BROOKS: Do you want to answer that?

SAM SPECK: That's being dealt with at the state level now. Today, Ohio voted 33 to nothing in the Senate and 90 to 3 in the House to pass the Compact. There are only two states that have no completed work on the Compact, and they are moving right along and will likely have that done before the end of the year.

That compact prohibits diversions of water outside of the Great Lakes basin. It will still have to go to the U.S. Congress for approval, and consequently, you will all have to let your Congressmen and women know what you think about it when it does go to Congress.

But things are moving along in a very productive way in that regard. I saw Donzell Asney (?) here, who has been with the State of New York for quite a while, and he worked on the same committee that I and some others to get that moving forward.

JANE WHITMORE: Thank you.

ALLAN OLSEN: Thank you.

IRENE BROOKS: Thank you very much. (APPLAUSE) Next on deck is John Shimshack. John Shimshack?

JOHN SHIMSHACK: Good evening. My name is John Shimshack. I live on the shores of Lake Ontario and the property has been in my family for 65

years, and obviously we've seen a lot of changes in water levels over those 65 years.

I've seen boats wash away, I've seen boathouses wash away. I've seen severe erosion. Contrary to what one speaker said, we have a very strong break wall in front of my house, that doesn't stop the water, the water crashes over the break wall, it doesn't stop the water at all.

I'm also a boater. I'm on the board of directors of (inaudible) yacht club. And on all three bases, I'm opposed to Plan B1.

Independently, and surprisingly, my son is a professor of environmental economics at Tufts University in Boston, and he's also a consultant to the EPA. And I spoke with him last night, and he's actually working in Australia at the moment, and he said, dad, what I found out is sometimes, environmental people take extreme positions in what they're trying to represent hoping to come back some kind of level of balance between the two extremes.

The extremes in this case are very high highs and very low lows. And what I'm asking you to consider is a balance. A balance is really what needs to be done at the end of the day.

And we also need to focus on not only water levels, but also focus on the quality of the water coming into the lake and what kind of pollution we're getting from power plants, what kind of pollution we're getting from farming (?), what kind of pollution we're getting from chemical plants, what are we doing to control that.

And he says to me – he’s done a lot of work in this regard – he said, well, you have to set a level of fines that can change behaviour in that regard. I know that’s not your stick, but balance is your stick, so I ask for your consideration in that regard. Thank you.

IRENE BROOKS: Thank you very much. (APPLAUSE) Next we have Judith Wiedl. Judith Wiedl? Judith Wiedl? Is she still here?

SAM SPECK: Yes, she’s coming right now.

IRENE BROOKS: Okay, thank you. It’s hard to see from here all the way to the back.

JUDITH WIEDL: (inaudible)...

IRENE BROOKS: Yeah.

ALLAN OLSEN: Take your time.

IRENE BROOKS: And then after that Bruce Laubacker, if he wants to get ready, if he wishes to speak. Okay.

JUDITH WIEDL: I want to explain why you have a lot of angry people sitting here, and I’m going to explain by telling you my family’s history. We have lived, since my parents bought land, on Woodlawn Heights, which is between Olcott and Wilson, right near the borderline.

The water, the bank is at least 12 feet tall there. I can remember way back, 58 years ago – so now you know how old I am - when we had Ontario clay and we used to make things out of that Ontario clay and bake them and put (inaudible). My children (inaudible)...this.

The land that we own, going right straight to the lake, lots were 100 feet deep when my mother bought them in 1950. When she died in 1991, we had lost approximately 20 feet. Well, that's roughly half a foot a year.

We preferred having it natural, normal. We didn't want to put in rocks, we didn't want to put in anything like that. By the way, there was sand on that beach when I was a child. Now it's pure stone.

What's happened since 1991? Remember I said it was 100 feet going deep and we had lost the 20, so we were down to 80. Between 1991 and the year when we finally had to go and put lots of rocks in, we lost approximately 55 feet. 55 feet! It's interesting because we're still paying taxes on that land that's out in the lake. (APPLAUSE)

So the man that talked about a hardened bank. We're doing this in self-preservation or we're going to be falling into the lake like you're seeing on the newsreel.

The water levels are up too high when there are storms going on. Yes, I see it go down way low. I also know that my children don't want to go swimming in it now because of all of the oily, greasy, seaweed that seems to be right along there.

I don't know what plan is best, but I know the plans that you have proposed keep talking about high water. You don't seem to understand you are destroying family history. You're destroying land. You are not making it environmentally what it was then, you are destroying it. You're taking it away.

My children can no longer work Ontario clay. It's all gone. We have all rocks there. And the person next to us didn't put rocks, so we're even starting to lose our rocks. And that's in less than eight years. We spent over \$22,000 to try to preserve it, and it's being lost.

What are you going to do about these angry people back here who are upset because we're losing our land? We're losing our history, our family history. What are you going to do about that water level?

Are you going to be able, when it's a large storm, to take it down fast enough to preserve the land? I don't see that in any of your plans. Suggestions, but I don't see it there.

I'd like to see something that cares about the families that live on the lake, which I'm sure are most of the people who are sitting here. Thank you.

IRENE BROOKS: Thank you. (APPLAUSE) Judith, we have a question.

ALLAN OLSEN: No, I understand the clear direction of your testimony. Would you differentiate between the two plans that have been mentioned the most tonight?

JUDITH WIEDL: I got those plans as I walked in here. We, many of us, did not get the plans. I live in East Aurora, which is some distance. It took me – to be honest, there's a big back-up on the 90 today – it took me an hour and a half to get here. My brother lives in White (inaudible) Corners.

And we're just amazed that we don't get the information, we don't get the time to look at it. You're not communicating to the people who are being affected. That's another reason why we're angry, very angry. So I hope we don't slug (?) one of you on the way out. (LAUGHS)

SAM SPECK: Thank you. It's important to get that perspective.

IRENE BROOKS: Yeah. Bruce?

BRUCE LAUBACKER: Okay, thank you. I think everybody can hear me.

IRENE BROOKS: We sure can.

ALLAN OLSEN: Yes.

BRUCE LAUBACKER: Thank you. My name is Bruce J. Laubacker, Sr., and I have lived in Somerset, then on the lake, for 52 years. And I was 5 years old when my parents bought the property, so you can do the math, I'm about 39. Times 18, I've been telling everybody that for 18 years.

But anyways, I appreciate, lady and gentleman, coming here, your Commission, and I'm going to make it real simple because I'm a simple person. I've never missed a summer on the lake, and in 1976, I moved to my parents' cottage from Lockport to Somerset and I have been here since, and lived there as a bachelor. In '84, I got married. In '85, my wife and I bought the property and cottage from my parents.

And we love it on the lake. I've it ever since I was a little kid. And I can remember when I was 5 years old and we first camped out, we had army tents,

and I have three older brothers, a younger brother, a younger sister, and we all just loved the lake. And we all learned to ski when we were just little kids, my older brothers taught us younger ones.

And those are all the great things that I remember. And what I've seen over the 52 years is an erosion of that, of a lot of those enjoyment and recreation times, along with the erosion of the lake. And it's a real thing.

And I followed John Muffalt (?) around to all these meetings and I got all the paperwork like this, and thank you for that, it's important to have the paperwork.

But there's nothing like first-hand experience and being there. And I've been there for 52 summers, and from '76 until now, approximately, what, 32 summers, winters, springs, falls. And it's a great lake, it's a great place to live. All those people that live on my road, they love it. I know they do because I know most of them that have been there a long time, and we all love the lake.

And like the lady before said about the anger, I'm not angry, I'm saddened by what's happening to it. That bothers me, to see the lake eroding away when man is basically part of the problem. Yes, we do have other problems, things happen, then we have to deal with it.

And men and women have to get together, and God has given them a pretty good spirit of rebuilding things. We rebuild, we rebuild, but we need some help on the lake.

Because I can see it, right now we're at a critical point where, if it does keep going up, the level keeps going up, we are going to lose our homes. Where I am, it's where some of the cottages and some of the homes are pretty close to the lake. They're only maybe 50 foot away, 85 foot away.

The boathouse...I live in a different house now, I moved about three years ago, ten buildings, ten houses down the road. And there's a lot of erosion in all of our area, in Somerset. And every year, when the water is high in the spring, there is a lot of erosion.

It's hard to deal with. What are you going to do about it? It's happening. It's costly for everybody, it costs a lot of money, put years and years into it, and there it goes.

Well, I think there is a solution. I think the solution is we need to have a medium ground there, a medium waterway where we can get along together. And you can help us and we can help you and support you, but we've got to have a good plan, we've got to have something that's going to work.

And I don't believe that higher highs is going to work. It's not, because I've seen what the highs will do. And lower lows, I don't know, maybe a little bit, but it's pretty low in the fall, it's approximately 30-35 feet, and everybody has a beach in the fall if we don't have a big problem with a wet summer like three years ago that causes it to be a little higher.

It's about all I have to say, is we need your help to do the right thing for us. Thank you.

IRENE BROOKS: Thank you very much.

ALLAN OLSEN: Thank you, Sir.

IRENE BROOKS: Robert Wattam? Robert Wattam? Is he here? Here he comes. After that, Kathy Pelligrino.

ROBERT WATTAM: My name is Robert Wattam. I live in Somerset. And we've been there since 1965. And we were there in time to hit the storm of '73.

But in the late 60s, we had very low levels, and they had a problem down in Hamilton, and they started to dredge the harbour down there so the shipping could get in there, and environmentalists jumped in and stopped them from dumping. So that created a little problem for the shipping, because they needed 27 feet of draft to get through the Saint Lawrence seaway.

So strangely enough, in 1968, the levels started to rise. And after the levels rose, around 1972, they started to get to record highs because they found they could (inaudible)...water out of the lake, but they can't put water into Lake Ontario, very limited that way.

So with the evaporation, if you have a warm summer, you lose a lot of water in evaporation. And we have a lot of records of precipitation in the general watershed of the lakes, we should be able to drain into the lakes and know ahead of time what's coming.

And when the high water is coming and you have a wet season, they should start opening the gates. I realize they can't open too many gates because

the Saint Lawrence River downstream there, when you get to Montreal, when they put in the Saint Lawrence seaway, they drained off those islands that used to flood every spring and they built condominiums and stuff on them. So now they can't let them go, so they can only open...of the 30 gates in the Sioux Dam, they can only three or four at a time.

When '73 came, we referred back to the origination: when they were going to put the Saint Lawrence seaway in, number one, riparian land owners; number two, hydroelectric power; number three, shipping.

In the 80s and 90s, all the reports I've seen, number one hydroelectric power, number two shipping, and number three riparian land owners. So we've dropped from number one to number three, from the hype we had of being interested and accepting this new thing.

Well, in the 1958 plan, we have criterion K (?) available, and that is something, I'm sure you're familiar with it, but it states that it was included to allow outflows to be specified in response to conditions outside the range on which the plan was developed.

We need something like that in the plan so that the Corps of Engineers can open the gates down there, where, when we got in '73, the International Joint Commission had to sit on their thumbs for a while – excuse me, I don't think the same gentlemen were there, Henry P. Smith III was there – but by the time they kicked around whether they had to let the water out and let the Corps of Engineers get down there, and take them a week to get it, the damage had been

done because we had the tail-end of a hurricane, it lasted four days, and we lost two rows of trees in front, and a 15-foot bank and about 30 feet of bank.

And then, speaking at some of the meetings in Olcott then, the colonel from the Corps of Engineers stated that the main plan, he was told that the government wanted to own all the property around the lakes, the Great Lakes, Lake Ontario in particular, and will let the water get high and will wash out a new waterline and we'll have (inaudible) on there, and he said that would be the best thing they could do.

At any rate, it would seem to me, if you had something like criteria K in this new plan that you could now regulate the thing on a short-term basis, knowing in the spring it's going to be high, in the fall, when we get to September, then we start to get more normal. Then we at least get a three-foot beach, where we used to have a 20-foot beach, but we at least have some beach.

And when you come out with your charts, and the (inaudible) for the Great Lakes all the time, when you look at those, they're based on the last ten years. So when they add in the new higher levels, the level keeps going up and up, so you say, well, we're not much higher than we were from the long-term average, but you're really averaging higher numbers.

That's all I have to say. I would like to...I think I know too much because I've been watching as they go along, and very unhappy because I know that we're talking money versus riparian land owners.

And when it comes into every inch of water you can get, you can get many more thousands of kilowatts of power, that much more tonnage, and knowing that the ships take 26 feet in saltwater, they take 27 feet in the freshwater, so therefore they can't load them up as well on the Great Lakes as they would in the ocean. Thank you.

IRENE BROOKS: Thank you very much, Robert. (APPLAUSE) Kathy Pelligrino? And after Kathy Pelligrino, Kathy Okeefe.

KATHY PELLIGRINO: Hello, I am Kathy Pelligrino, and my husband and I are recent residents of Somerset on the Lake. And I've heard stories of all of the residents who have spent their lives enjoying and giving to the lake.

And we haven't done it as long as them, but in five years, three years, I've brought pictures of what high water has done to my property. This is just in the three years that I've been there, and I can't afford to replace this.

And I invite all of the environmentalists who want to give home for the birds, which I enjoy too, when my wall falls and my land erodes, they're welcome to come and help me build my home again, but I don't see the offers of that. (APPLAUSE)

And also, I noticed, I hadn't gotten any information ahead of time, and in one of the things I was briefly looking at tonight, there was a meeting in April here that I knew nothing about.

And I received a letter from this one, and everybody on my road is here tonight, so we had no previous information to even start reading the materials and thinking about it.

So I agree with all of the residents who have spoken before me. The water level is higher...

UNIDENTIFIED: (inaudible)...

IRENE BROOKS: Thank you.

KATHY PELLIGRINO: So you know, I would just ask you to please protect the residents. And I retired, we put our life savings in this property to establish a home on the lake, and I can see it go with the high water.

IRENE BROOKS: Thank you for your comments.

KATHY PELLIGRINO: Thank you.

ALLAN OLSEN: Thank you. (APPLAUSE)

IRENE BROOKS: Kathy Okeefe

KATHY OKEEFE: Hello, my name is Kathy Okeefe, and I am very blessed to have spent 18-19 years in the town of Newfane, and grew up playing on the lake. And now, I have since spent 14 years in Wilson, the last four years have been spent literally on the lake.

And I can only say that it bothers me to the core that we pay our taxes in good faith, that people like you are sitting up there today with our best interests in heart, and it just amazes me that until three days ago, I never even saw anything on this.

And I am very active in all of the communities out there, and for me to not even know, living on the lake, that any of this is going on, I have to wonder who is involved in doing the studies, who did they talk to. Because, did they talk to any of the people here? Who came and talked to these people? They're your taxpayers. They're the people that you're supposed to be protecting.

And I have a real hard time with that and the DEC's attitude that I've seen along all of the waterfront, from Newfane to Wilson, and the stories all the way to Youngstown. When people are having problems with erosion, they should be there to help solve the problem, not hinder. They should be there to help support the homeowners that are beautifying the lake right now.

I mean, the homes that are being built on this lake now are just gorgeous, and we are really making huge strides in reaching the market of tourism, making Newfane, Wilson, Youngstown, a destination place for tourism on the Great Lakes.

There's so many possibilities. But when every time there's a struggle, there has to be a huge fight, it just doesn't make sense. Because we're not there to deliberately harm the DEC or this committee, but we have property that we need protected.

And these are the reasons that we pay the taxes that we pay in New York State, so that we can have representation, that we can have the best engineers looking at things, saying what is the best answer.

Not just what's the best answer for some birds and some fish or some shipping industry, but what is the best interest for Lake Ontario, all the coast, the whole entire area.

I mean, if we're spending \$20 million on a study, shouldn't we know that? And I just have a really hard time believing that we weren't notified. I mean, you look at the project in Wilson alone, in the Wilson Harbour. I opened a store down there and I ran it for two years. For two years, it was under water until the end of June.

I mean, there are definitely problems that need to be addressed, but you have to make up your mind what we're developing here. Are we developing a tourism area or are we developing a place to hatch birds?

I'm not sure where we're going. And I think in our confusion, we're sending the wrong message by not communicating well, by not asking for input, by not talking to the people that live on the lake, addressing their issues, looking at their banks.

My bank this year, with the pier fixed, 425 pier, which is one house away from it, with that fixed, I lost ten inches in one winter this year. And the DEC's recommendation for the level that they fixed the pier, it's under water. The pier is under water.

So I have a hard time jumping right on board that this DEC is going to be out there monitoring the effects of the decision that you're making. So when you

guys all walk away, when your part in this is done, who are you entrusting to protect us? The same people that fight us every step of the way?

I mean, there are other solutions, and I'm sure that they, of all people, should have them. They're the science that we're paying for. They should be able to say we'll plant this here, this will help, you know, save this. Put this here, this will help save that.

And if there is a huge, huge change in the banks, what do we have set aside to help monetarily each one of these people? Because we certainly can't afford to have houses floating down Lake Ontario like you're seeing in the Midwest right now. And there are many houses, from Newfane to Wilson, that are literally hanging on the edge now.

So that's what I have to ask you, is don't just make a decision that we're going to have to live with. Make a decision that you're going to have to live with. Thank you. (APPLAUSE)

IRENE BROOKS: Thank you. Next we have David Klein. David Klein? Is David Klein here? We have James Sansone on deck after David.

DAVID KLEIN: Good evening.

IRENE BROOKS: Good evening, David.

DAVID KLEIN: I guess I'm part of the minority that's here tonight to congratulate the IJC for coming forward with a plan as balanced and...

ALLAN OLSEN: Try to swallow the mic so that people can hear you.

DAVID KLEIN (The Nature Conservancy): Try to swallow the mic?  
Okay. Congratulate the IJC for coming forward with a plan that's as balanced and environmentally and economically beneficial as Plan B+.

I guess I'd just like to make a few points, because I'm really struck first of all by...

UNIDENTIFIED: (inaudible)...

DAVID KLEIN: Oh yeah. My name is David Klein and I work for an organization called The Nature Conservancy, which is a private conservation organization.

UNIDENTIFIED: (inaudible)...

DAVID KLEIN: No, I live about ten miles away from it.

UNIDENTIFIED: Great.

IRENE BROOKS: Please give our speaker the courtesy of being heard.  
Thank you. Go ahead, David.

DAVID KLEIN: What Plan B+ does is work with the natural cycles of Lake Ontario, and these are 15 to 30-year cycles of low water alternating with higher water in a kind of a general undulation that's thousands of years old.

There are studies which have demonstrated that all of the Great Lakes have this as their heritage, natural cycles of about 15 to 30 years. A number of people in the audience tonight have alluded to these, remembering periods of low water and periods of high water.

When I was a kid growing up in Chicago, I remember periods when water seemed to be running right up underneath the buildings on Lake Michigan, and then a few years later, water would be extremely low and everybody would be worrying about the Great Lakes drying up.

And that probably is something that we need to be thinking about, because as one previous speaker has pointed out – not the Great Lakes drying up, but the fact that global climate change is almost certainly going to result in much lower lake levels than we're seeing now.

UNIDENTIFIED: (inaudible)...

ALLAN OLSEN: Let...

IRENE BROOKS: Please continue, David.

DAVID KLEIN: So what Plan B+ does is it brings back natural cycles of lower water and occasional higher water, but it does so in such a way that, as the IJC study demonstrated, that Plan B+ in the 20<sup>th</sup> century would not have brought water any higher and wouldn't have brought it as low as the current regulation plan does now.

It would have operated within the operating range of the current regulation plan. It would have tamed...it would have worked with the natural cycles of the lake, it would have restored these, but done so in such a way that it would have operated within the current operating range.

So the issue with Plan B+ is not higher water. It demonstrably does not result in higher water than the current regulation plan.

A number of speakers have...I guess there's been a preponderance of speakers who have been talking tonight about erosion. And it's to be pointed out, it's not a pleasant thing to say, but erosion is inevitable no matter what plan is in place.

There's no stopping it. There probably are regional approaches. One previous speaker mentioned that if it were possible to reduce the number of shoreline protection structures, we might actually see a healthier shoreline, one that was more capable of restoring itself.

In Plan B+, with the lower water that it allows, when the water supplies from the upper lakes are low, and they are that way every 30 years or so, 15 to 30 years, Plan B+ allows Lake Ontario to go low, and what that does is restore shorelines.

We see that all the time on the eastern shore of Lake Ontario, where there is an extensive barrier beach ecosystem, 17 miles long. During periods of high water, this shoreline erodes. But when there's even one year of lower water, through the summer, it's amazing how quickly that shoreline repairs itself.

So if we could have a plan that restores these cycles while remaining within the current operating range, I am convinced we'd all be amazed at how quickly the shoreline would repair itself. People would begin to see beaches again which they no longer see.

So erosion is a constant. The cycles are the evolutionary background. They are the background that formed all of the habitats that we see around us, the

coastal habitats of Lake Ontario. They depend on this gentle, long-term cycle, which Plan B+ partially restores.

So I guess I just want to congratulate the IJC. I commend the IJC for recognizing in its own documents that Plan B+...the tremendous benefits of Plan B+. Ecologically, yes, but also economically.

UNIDENTIFIED: Time's up.

DAVID KLEIN: All right. I suppose it is. But I do also want to say that clearly, if something like Plan B+ could be contemplated and could be implemented, it needs to be done in such a way that provisions are made for property owners along the shoreline. Oh, time's up, okay.

IRENE BROOKS: David, are you speaking as an individual or on behalf of the Conservancy?

DAVID KLEIN: As an individual.

IRENE BROOKS: Okay, thank you.

DAVID KLEIN: We'll make our statement tomorrow night.

IRENE BROOKS: Thank you. James Sansone.

JAMES SANSONE: Hi folks. I just want to thank you for allowing us to come out here and be able to express our opinions and our thoughts and our feelings and our concerns.

I am also a resident of Olcott, Olcott Beach, and I do live on the lake, but I am also a member of the Olcott Beach Carousel Park. I don't know if you have

ever been to our park, we have 25-cent rides, we're right near the water and it's a wonderful place.

We started in 1999 to build this kiddie park, it's all volunteer, and we've had literally hundreds and hundreds of people that have worked on this park and we've turned it into a wonderful little amusement park.

And what it has done, last year we had probably 65,000 people come through our park, the Carousel Park, and we found that what it has started to do, among other things, among, also, the fishing industry, what it has done is given us, I think, our area a terrific economic boost in tourism.

And this is very, very important, as one gentleman said earlier, as you heard, how important tourism is becoming in view of the fact that we're losing our other economic supports such as our manufacturing and things like this. Tourism has become very important, especially here. What do we have left other than our natural resource? And one of the greatest natural resources that we have, as you realize, is our lake.

My point is that...Olcott is also called Olcott Beach. We have a beautiful little beach, not many beaches left that are usable. I work on the committee to maintain the beach, we've re-sanded the beach, we're in the process of re-sanding it, bringing 750 tonnes of mason sand in probably next week, cleaning the beach, trying to keep it nice.

I don't know the science. I look to you people, we look to you people for the science on this. I hear people coming up to you and talking to you about all

of these scientific things and I am sure that with all of the research that's done, you know what the science is.

My point is I would like you to really consider the economic impact of what these plans will do to our shoreline and our whole quest for economic development. We've had hundreds and hundreds of people working to try to develop...to try to build our economic basis, change it from what it was, and I would really ask you to consider that.

I hear people talk about...the gentleman talked about Plan B and how it won't really affect the shoreline, because of the lows and this and that. And I'm not a scientist, but you get really confused when you hear from one person say one thing and another person say another thing and they're both scientists, and you're looking...

We are trust you to make a proper decision. And if that decision may be to do a little more research and a little more study on these things to make sure we have the right decision, then I would ask and implore you to do that because your decision is going to affect many, many people.

And it's going to affect people...and I like to think of myself as an environmentalist, too. I'm not here on one side or the other. I think we have to have a plan that's going to... and I think you're working and striving to do that just by the fact that you're here getting input...but we have to satisfy all of these issues as best we can.

As an attorney, I know sometimes that's very difficult to do. Just look at our constitutional law history and how we try to balance all of the issues and all the questions. And so it's very difficult. But please, please consider the economic impact these plans are going to have on our communities.

And I just want to thank you for taking the time to allow me to speak.

IRENE BROOKS: Thank you, James. (APPLAUSE) Peter Sharp. And after Peter, Dan Mandaville. Is Peter Sharp here? Would Peter raise his hand? Okay, come on down.

UNIDENTIFIED: (inaudible)...

IRENE BROOKS: I don't know who you are.

ALLAN OLSEN: Are you Mr. Mandaville?

DAN MANDAVILLE: Yes.

IRENE BROOKS: Okay.

ALLAN OLSEN: And you pass? Okay.

IRENE BROOKS: Thank you. This is Peter Sharp.

PETER SHARP: Hi there. My name is Peter Sharp. I have lived on the lake for just five years, I've lived in the area for about 30 years plus. And I guess one of the problems...again, I haven't gotten any information on this before until I heard about it tonight.

One of the problems of the environmental impact of Plan B+ as opposed to 2007...it's kind of comical because when I was a kid, we used to come down here with my mother and father to bring me down to Olcott Beach to go swimming,

and we always knew when we were getting there because you could smell it about a mile away. And of course, it was a great fun for us. We had walked through 50 feet of seaweed just to get out there to walk in the dead fish.

And now, I live down there, but there's all kinds of ducks. Never saw a duck in Olcott until 20 years ago. Canada geese. I had a beaver swim in front of my house a couple of months ago or a couple of years ago.

I don't think...whatever is being done is being done right environmentally, and don't screw up a good thing. Thank you.

IRENE BROOKS: Thank you. (APPLAUSE) Peter Diachon. Peter Diachon? Peter raise his hand? Okay. And on deck, Dan Hanley.

PETER DIACHON: My name is Pete Diachon. As a homeowner and resident of the shore of Lake Ontario for 41 years, I have seen the water levels rise and fall off. Our water, as we know, is very damaging to the lakeshore residents.

This spring, the water has been nearly as high and destructive as I've ever seen it. And I'm here to speak against any plan to purposely cause the level of the water in Lake Ontario to be high at any time.

The adverse results to lakeshore residents from high water is well known and recognized. Over 35 years ago, government agencies even provided funds to lakeshore residents to repair and protect our property which was damaged from high water levels.

Keeping the water level low enough to reduce its damaging effect to the shoreline has long been the mission of the International Joint Commission, and we thank you.

We're now confronted with a new, dangerous element: the New York State Department of Environmental Conservation. (APPLAUSE) Make no mistake, the DEC is not only unfriendly to Ontario's shore residents, they are our enemy.

The DEC Enforcement Officer has taken as a cause to use our position to prevent lakeshore residents from protecting our property. This officer refuses to issue permits to install and repair protective devices.

Some of these installations, which were originally built under grants from various government agencies...she has demanded that repair to these installations be done only under permits which she is slow or reluctant to issue.

This DEC officer has been quoted as saying "lakeshore residents live too close to the lake and should move away. I will force them to do so." She considers all waterfront to be public property. She wants to remove its occupants. She considers lakeshore residents as her enemies, to be displaced by any means. The DEC has given lakeshore owners no relief when complaints about this officer and her actions, attitudes, and behaviour have been made.

I do not lightly make my statement that the DEC is the enemy of lakeshore owners. Their actions, words, and especially this particular officer's, show them

to be such enemies. They want to take away our homes, our property, and the lifestyle we have chosen.

I plead with the International Joint Commission to reject any plan which includes a high water level in Lake Ontario, insist that any plan which is submitted include a complete accounting of all damage it will cause as well as a detailed list of supposed specific benefits it will provide, allow public scrutiny of all claimed benefits and evaluation of costs, including damage to private land.

Please do not allow the DEC to use high water as a tool to dislodge lakeshore residents or deprive us from the use of our property. Thank you.

(APPLAUSE)

IRENE BROOKS: Dan Hanley. Dan Hanley? There you are. And on deck we have Bruce Williams. Good evening.

DAN HANLEY: Hi name, my name is Dan Hanley. I am the owner-operator of the Wilson Boathouse Restaurant, located at 57 Harbor St., Wilson, New York, which is on the harbour itself in the town of Wilson. I have operated the restaurant since 2003, April.

This year, if you wanted to jump in your car right now, you can come and see the four inches of standing water in our banquet room. Kathy mentioned it was the location that she formally had leased as a storefront. Right now, there is four inches of water, and that's about what it's averaged since the middle of April.

We did have a little windstorm out of the east, which made it nine inches deep and nearly entered the building proper, back...I think it was the first week of May, last week of April.

What's odd here is with the news and the floods and everything is I was raised on the Mississippi River, in Davenport, Iowa, and when I graduated high school in 1976, the scientists all told us that we were in for global cooling. Of course, I think they might have gotten that one wrong, it depends who you listen to.

And it's sort of a situation of drink coffee, don't drink coffee, drink decaf, don't drink decaf, drink milk, not 2%, you've got to drink skim, for God's sakes don't drink skim.

My point is that the science, by definition, is imperfect, and as you guys, I'm sure, have run into, it's pretty evident to us that...I have operated that property since 2003, April, and if it wasn't for a customer telling me about this event this evening on Saturday, this past, I would not have known about it either.

I employ 63 local folks. I paid over \$80,000 or created over \$80,000 in sales tax last year, with our five month...we were open the first weekend of May, closed the last weekend of September; we're a seasonal restaurant. I paid over \$18,000 in sales...I'm sorry, in property taxes.

So far this year, because as I said, this room, which is at water's level, historic water's level, and the building has been there since 1907, is under water currently and has been for our entire season, which has kept me from generating

so far \$4,200 in sales, which were private parties that I had to cancel because we couldn't pump the water fast enough, especially when the wind blew out of the east or the north and it backs up in the harbour proper.

I'm going to probably lose another \$12,000 worth of revenue this year, all of which, of course, is tax generation. And at this point in time, I'm anxious to hear what's going to happen with the lake next year, because not only do I don't get to generate revenue in that building, but I feel it's our responsibility, having people make plans with us, to find them other locations, and of course I have to pay for any inconvenience that I've caused my guests because the lake decided to swell overnight.

My phone rang at 9:30 on a Sunday night because the landlord's property maintenance man called me and said, Dan, I swung by, I heard the lake was up, I swung by and your basement is under water, which is really fun to deal with, especially when you have to deal with New York State Health Department too.

So the final thing for me is do no harm. Don't make a decision, make a decision, but just make sure that you don't do any harm. It's imperfect, it is nature...oh, by the way, I am a lifelong outdoorsman, I hunt, I fish, I'll be fishing tomorrow at 5:00 am in a local tournament. My point is that...I have an Ontario fishing licence also and have had since 1982. I've lived in western New York since 1982.

So I have an understanding on both sides, but the reality is that what's happening with the lake right now, in the situation, I am begging you to lower it because I get five months to make a whole year. Thank you. (APPLAUSE)

IRENE BROOKS: Mary Lou Fisher, for Bob Williams.

MARY LOU FISHER: Thank you, thank you. I'm Mary Lou Fisher, I live on Lakeshore Drive in Barker, New York. I have been to many of these meetings and it's like listening to a recording, because the gripes are always the same, the answers are always the same, and the water keeps going up.

People are talking about snow melting and causing lakes to swell and Lake Ontario getting...and nature's doing this. If nature was doing this, we would not be sitting here. If you're telling us that nature would have flooded out our shoreline, let it. We can't do anything about nature.

But if you're holding back water, you just caused a 15 by 20 wall to drop in front of my property last Wednesday night, probably about 2:00 in the morning, when the waves were really big.

And I don't understand all of this. How can you do this to people? Let the water go. I feel like Martin Luther King. (LAUGHS) Just let it out. It's coming in faster than you're letting it go. Let it go. If nature wants my shore, nature can have it. You can't. Let my water raise and roam according to nature.

Oh, and for the people out here who want to have information about the lake, there's an organization called LOSS, Lake Ontario South Shore, the man's

name I believe is Henry Stewart and I do have his phone number and the address for LOSS at home, which I hope is still there when I get there.

So if you'd like to know, I can let you know. My number is 795-9528. You are welcome to call, I will give you their number. They too work to keep the lake low, according to nature, not man. Thank you. (APPLAUSE)

IRENE BROOKS: Thank you, Mary Lou. Our next...Clayburn Booth. Clayburn Booth? If he's here, could he raise his hand? Clayburn Booth?

CLAYBURN BOOTH: Yes.

IRENE BROOKS: Come on down. And on deck will be James Hufnagel. Good evening.

CLAYBURN BOOTH: Good evening. I am happy to be invited to come and speak and being allowed to speak. I will probably say some of the things that other people have said, but more important, I'll say some things that have not been said.

One, as taxpayers on Lake Ontario, everyone who pays taxes should be notified about the meetings. And the taxes that we pay in Niagara County and in Wilson, where I have lived since 1962, I have not seen the shoreline repair itself at low levels. I don't care what anyone else says, that does not happen. (APPLAUSE)

I am concerned about other things in Lake Ontario and its shoreline. I am a physician, I've been a physician over 50 years, and I worry about the health of

the people along the shoreline because if we get excess water, we get excess bacteria, excess fungus.

And I would say to the Commission, if the science that has gone into all of the studies is shaky, please don't make a decision now. Don't get forced into a bad decision just because it's going to be the first of the year or some particular date. Make a decision that will not hurt the people.

And also, people who get damaged in other areas because of storms get reimbursed as taxpayers. And we all who live on the lake pay taxes to our local government and our state government, and I think we should get the proper protection.

And it's not just so we have more birds...and I heard somebody say they've seen ducks. Well, I've been here since 1962 and I've seen ducks ever since 1962, and some of the ducks are dirty.

I think the Commission...I would plead with the Chair and all of the representatives of the Commission, please take time with making your decision. It can mean the difference between life and death.

And we might have some faulty scientific work with what we call the environment and how wind blows and how water raises. I related a story not too long ago, when I was in college, at the City College of New York, I took a course in earth science - so I'm not just a physician, I am a chemist and an earth scientist - and we were told on a field trip to Battery Park that Battery Park, the water level is about four feet below the level of the tip of Manhattan, and were told

within 50 years, it would be four feet over the level, which would be eight feet total.

Well, my dear wife and I were down there and I showed her Battery Park – it's still four feet below the level of the sidewalk. So we have to say, are some of these scientists more concerned with other things than the nature of our problems here in Lake Ontario?

Thank you very much. I hope I didn't hurt anybody's ear talking loudly, but I am very passionate about this and I have been living here since 1962, and this is a wonderful place to live. And also, the economics of having a lake like this can be very beneficial to the whole county. Thank you very much.

IRENE BROOKS: Thank you, Clayton. James Hufnagel.

JAMES HUFNAGEL: Good evening. It's an honour to address you tonight. My name is James Hufnagel, I live in Wilson. I live on 50 feet of paradise in Wilson. I've lived there for 15 years and enjoyed living on the lake very much.

I also happen to be a card-carrying environmentalist. I'm on the board of directors of a couple of different environmental organizations here in western New York. I've served on local, state, and national Sierra Club committees.

So when I got this plan two days ago, I was very interested in this issue and I did a little bit of research. I'd like to speak about that tonight, or this evening.

If I am going to sacrifice my backyard and my house on Lake Ontario, I wanted to know what the environmental benefits would be. So I went to this plan, and I am referring to page 9 of this document, Proposed New Order of Approval and Plan 2007, and I am looking at Lake Ontario, the list of benefits here. Excuse me, I'll put my glasses on.

And I'm looking at the vegetation, the fish, and the bird life, and I'm looking at the bird life and I looked it up very simply on the Internet, it took me about two minutes to find out that the Virginia Rail, the Black Tern, the Yellow Rail and the King Rail are all New York State threatened species.

I'd like to speak to threatened species and my experience in advocating for threatened species over the years. Five years ago, there was a plan to dredge Twelve Mile Creek in Wilson, and this would have resulted in a significant detrimental effect on a threatened species called the bushy sinkfoil (?) plant.

Okay, so this came up before the DEC and the final analysis was bushy sinkfoil, come on...just now, I heard some woman back here giggle at that, and I agree it's a funny name, but the bottom line is we dredged the mouth of this creek and destroyed this habitat for this threatened plant.

Let's fast-forward to a couple of years ago. The Seneca Nation decides it needs a diversion for the high rollers at the casino, and that being a golf course. On the site of this golf course was a grove of shellbark hickory trees, another New York State threatened species. Well, guess who won that particular issue? The shellbark hickories or the golf course?

So what we're dealing with here is bushy sinkfoil/sport fishing, and along those same lines, shellbark hickory/golf course, shellbark hickory/golf course. The reason I'm going through is it's very clear that these threatened bird species are simply a poker chip. They're a poker chip being used by the shipping interests, the hydroelectric interests to really force these high lake levels down our throat.

And it seems to me, in my cursory reading of these plans, is that the environmental aspects between the B+ and the 2007 plan, the environmental aspects are really the difference between those two plans. Am I correct in assuming that?

For the most part, it's the Least Bittern and the Virginia Rail and the Black Tern, are basically being used as a rationale for severely impacting the shoreline properties.

Now having been, as I said, an environmentalist, for about 20 years, I understand one thing, and that is, you know, if you're going to advance environmental causes and environmental issues, you have to work along with people who have private interests. You have to make it seem like they're not being negatively and severely impacted.

And this is a very negative and severe impact. I mean, people's houses are falling into the lake. And sure, when you present it in this fashion, of course there's going to be resentment and anger towards such a plan.

And the final point I'd like to make is that when you look at this chart that compares the A+/B+ plans, if you look at the reproductive indexes for these birds, you see that it's really only about a 10 per cent change. I mean, we're talking about a marginal change, an incremental change in the reproductive success of these birds.

I mean, we're not talking about destroying a wetland or destroying a rain forest or destroying some kind of habitat. We're talking about really a marginal, marginal difference here in the quality of the habitat for this wetland and these fish species and bird species.

So I oppose Plan B. I don't oppose it on behalf of any organization, I oppose it on my own behalf. And I am going to say something now that's going to make me real popular, and that is, you know, Senator Maziarz, I come down on the same side as Senator Maziarz tonight, but it also says in here that this plan has been five years in the making, and you know, why is it all of a sudden this is so egregious, according to Senator Maziarz?

Re-licensing took ten years in the making, and now, all of a sudden that's another one of his targets. You know, where was he when George Pataki was running this state?

And I understand this is not really under the purview of the IJC, that you really have to put up with all of us tonight with our rallying against the State government, but I sincerely believe that if we give Governor Patterson a chance, things will get better and we'll be listened to more closely. Thank you.

IRENE BROOKS: Thank you, James. (APPLAUSE) This concludes the list of people who have registered to speak.

I would point out that our website, which is [ijc.org](http://ijc.org), has all the information on it, probably more information than you really want, but it is all there. The testimony from our hearings will be posted on our website once they have been completed and transcribed.

We will be accepting comments until July 11<sup>th</sup>. We welcome any and all. And after considering all of the comments that we hear from the public and in consultation with the two national governments, whose concurrence we will seek on a final plan and order, as I said before, we are not making a decision until we have heard everyone speak on this issue.

We thank you very much for coming tonight and being so patient and we appreciate your comments. Our staff will be here for a while, as will some of the commissioners. And again, we thank you very much. (APPLAUSE)

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