

REVIEW OF THE LAKE ONTARIO-ST. LAWRENCE RIVER ORDER
OF APPROVAL - PUBLIC HEARING IN MASSENA, NEW YORK, JUNE
19TH, 2008, 84 MIN.)

IRENE BROOKS (Chair, U.S. Section, International Joint Commission):
I believe we're ready to start. I'll wait for (inaudible). Good evening, everyone.
On behalf of the International Joint Commission, I would like to welcome you to
this public hearing. This is one of ten we are holding around Lake Ontario and
the Saint Lawrence River. We express our appreciation for your attendance
tonight.

I'm Irene Brooks, I'm the Chair of the United States section of the
Commission. With me tonight are my colleagues on the Commission, Canadian
Chair Herb Gray, commissioners Jack Blaney and Pierre Trépanier of Canada,
and commissioners Allen Olson and Sam Speck of the United States.

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

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

e-mail notices and notified elected officials so that as many people as possible could be aware of the ten public hearings.

The International Joint Commission was created under the Boundary Waters Treaty of 1909 to help prevent and resolve disputes over the use of water along the Canadian-U.S. boundary. In the 1950s, the 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 those objectives. These objectives include reducing shoreline damage on Lake Ontario, in addition to enabling hydroelectric power generation and commercial navigation.

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

The Commission is now proposing changes to those requirements. It issued for public comment a proposed new Order of Approval and 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 going over that ground again.

The purpose of tonight's hearing is for us to hear your comments about our proposal, and we'd like to leave as much time for that as possible. However, our lead staff will make themselves available during breaks and at the conclusion of this hearing for any additional informational questions that you might have. And I might ask that the staff identify themselves...here they are.

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

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

Anyone who has already made a presentation, either at this hearing or at another hearing, may provide additional comments after others have had their first opportunity to speak. I'll announce your name when it's your turn.

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

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

Our secretaries – and actually, there is a little box on that table, the light will come on when you have half a minute left, and then a red light will come on when your time is done.

If you want to submit written statements or presentations in addition to your oral presentation, in either paper or electronic format, please provide them to our two secretaries sitting at this table over here. They in turn will make sure that all commissioners get copies of everything you submit and that your documents will be made part of the official record.

We are recording tonight's hearing and all comments tonight will be part of an official transcript. Please use the microphone when you speak so all comments can be included in that transcript. Transcripts from all ten hearings will be posted on 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 time allotted.

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

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

We will not make any decisions until after we have considered all public comments received. We have been consulting with the U.S. and Canadian federal governments through the Department of State and the Department of 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 plan.

And that concludes my opening remarks. And our first speaker is Laurie Crane, and Laurie is the Supervisor of the Town of Huron.

LAURIE CRANE (Supervisor, Town of Huron): Good evening. My name is Laurie Crane; I am the Town of Huron's Supervisor. Our town is on the northeast end of Wayne County.

We border Lake Ontario and have three bays - Sodus Bay, Port Bay, and East Bay – in our town. Our three bays equal approximately 14 miles of shoreline, excluding wetlands, in the Town of Huron. This does not include the bay shorelines in the towns of Olcott, Sodus, nor Village of Sodus Point. We

have approximately seven miles of Lake Ontario shoreline. Over 10 per cent of our town is owned by New York State.

I was in a meeting held in Greece, Monroe County, and heard a lot about the property damage due to high water levels. I agree with these comments. The economic damages are astronomical when you consider the losses to accelerated erosion of public, private, and commercial land, (inaudible) property value to landowners, direct loss of land area, tax revenues to local governments, and the threats of flooding.

Many people that spoke in Greece emphasized that the state and federal government do a comprehensive shoreline protection plan. I don't think anyone who mentioned this has dealt with government agencies before, because if they had, they would know it would never happen in our lifetime.

If it were implemented, who do you think would pay for it? I know my property taxes and other taxes are already more than enough. Wayne County pays the highest property taxes in the country.

I would also like to bring to your attention the ill effects of low water. I can't emphasize enough that going without water either for drinking or bathing or any regular household use can be a significant health risk and detriment to those affected.

If the lake level reaches below the level of 243.3, this is a major catastrophe and will continue to be for many of the towns along Lake Ontario who get their water from the lake.

Hundreds of people in the towns of Huron, Olcott, Sodus, and Williamson will be totally without water. The inlets that the water comes into for these towns will be inoperable. The people in these areas depend on this water supply.

I understand the catastrophe of property damage and land value, but I feel that hundreds, even thousands of people without water is a substantial health risk and a major detriment to these rural communities and the people residing in them.

In conclusion, we are in favour of Plan 2007 with deviations to keep lake levels within the high of 247.3 and the low remaining 243.3. Thank you for your attention this evening.

IRENE BROOKS: Thank you, Laurie. Next we have...

UNIDENTIFIED: Two more electeds.

IRENE BROOKS: Oh, two more electeds. We have two more elected officials who would like to speak. Jim Brownell, from the Government of Ontario.

JIM BROWNELL (MPP, Stormont-Dundas and South Glengarry): Thank you very much, Madam Chair, and it's a pleasure to be here this evening. And although I have not been out to meetings, the meeting that was held here some time ago where many of my constituents had attended, I certainly have been kept apprised of their concerns.

I do want to say that I am the Member of Provincial Parliament for the riding of Stormont-Dundas and South Glengarry. Certainly, Dundas and

Stormont County, being very much part of Lake Saint Lawrence, a man-made lake that this year having been created 50 years ago.

I just want to say that I am here in support of Plan B+ for...I have heard from the constituents of my riding who are deeply concerned about opportunities, their opportunities, waterfront property owners, especially the residents of Ault Island, that you see behind me, who have come out here with the...very identifiable.

They're quite concerned about the tourism opportunities along there, their waterfront properties, where they certainly have access to the water, and they feel that Plan B+ will keep things and certainly allow them to continue to enjoy a lake that was, through no fault of ours, was created because of the power dam and because of a need for a Great Lakes-Saint Lawrence seaway.

So I just want to say that my presence here this evening is to support those people who have encouraged me to speak for them and certainly to support the comments of the Honourable Donna Cansfield, the Minister of Natural Resources, in February at a conference in Toronto, made comments about her support and her Ministry's support of Plan B.

She understands the concerns down here on Lake Saint Lawrence and she feels that Plan B+, which has been presented and which these folks behind me are very much in favour of, is what she expressed at that conference in Toronto.

And I just want to say that I hope that the folks that I represent and those folks who are here this evening, who will be speaking – unfortunately, I have to

leave, I have some constituent issues back in the riding – but I do want to say that just to have this opportunity to say a few words in support of Plan B.

I am also the parliamentary Minister of Tourism, and I am gravely concerned about a marina that the Saint Lawrence Parks Commission, an agency of the provincial government, near Upper Canada Village. If we don't, if we have other than the Plan B+, I don't know what will happen in the fall of every year with boating opportunities and for that marina to continue to exist is probably not possible. And certainly, if it does, it's a great expense to Ontarians to make modifications to that marina.

But I just think that the folks who have approached me feel that Plan B is the natural way, the way that will cause the least hindrance to their opportunities on that man-made lake, which they have enjoyed for 50 years now. So thank you very much. (APPLAUSE)

IRENE BROOKS: Thank you. Mr. Speck?

SAM SPECK (Commissioner, U.S. Section, International Joint Commission): I appreciated receiving your testimony. And I think it's a fair generalization to make that the Commission sees some real positive values in B+ and moving toward that.

One of the issues that has been raised has been the issue of mitigation for some damage that could conceivably be related to that over a period of time, with some of the things it attempts to address over a period of time in terms of wetlands, etc.

Do you have any thoughts, any suggestions you would like to share with the Commission in how to address that problem of mitigation if the decision was made to move toward B-B+?

JIM BROWNELL: Well, Sir, I really haven't given it a whole lot of personal thought. And in speaking with Minister Cansfield, with the Minister of Natural Resources, she hasn't given me the detail with regards to it. And I didn't come here with the thought of mitigation and the assistance in that regard.

But you know, I am sure something in some way, by all minds sitting down and working together, we can come up with opportunities and certainly help to overcome those obstacles that are in the way of having this Plan B+ in place. So I really don't have anything to offer at this point, I'm sorry. That's all I can say.

IRENE BROOKS: Thank you very much.

SAM SPECK: Thank you.

IRENE BROOKS: The next speaker is Sam Burns, Saint Lawrence County Legislator.

SAM BURNS (Saint Lawrence County Legislator): Thank you, and welcome to Saint Lawrence County.

IRENE BROOKS: Thank you.

SAM BURNS: And my name is Sam Burns, I represent Saint Lawrence County Legislative District 1, City of Ogdensburg. I'd like to start out by thanking you for holding this hearing in Saint Lawrence County. It is only fitting

that those of us that live on the river, who will be most affected by this proposed Plan 2007, have been given a public forum in our backyard.

My county legislative district's northern border is the Saint Lawrence River. Within my legislative district is the Port of Ogdensburg, the Assegotti River (?), and the ice boom that is placed across the river each winter.

I remember the river before invasive species, before wide swings in the water level, and before the experts told us what was best for the Great Lakes and the Saint Lawrence, all of this before several species of native fish have died or had some rare disease, before spawning ground access has been denied, before our camp and homeowners could not use their docks to provide access to their boats because too much water had been taken out of the river.

How can it be the right proposal if Plan 2007 continues the same problems that have plagued our region for so long?

The 1956 Order of Approval was to protect the resiliency of the wetlands and biodiversity on the Saint Lawrence River, to maintain safe velocities for navigation, and to minimize spills at the hydro plants and provide consistent flows so as to benefit recreational boating. Plan 2007 does not do that, in my opinion.

What do I tell my grandchildren when they ask why there are such strange swings in the water levels of the river? How do I answer them when they ask why the hydro power dams produce less electricity? And why we must import needed energy to power our homes and businesses?

What do I say to the local fishermen and environmentalists when native species die in the wetlands and tributaries of the Saint Lawrence because of Plan 2007?

I have taken an oath of office to represent the residents of County Legislative District 1, which is in the City of Ogdensburg and all of Saint Lawrence County. I now speak for them and urge the members of the Commission to drop Plan 2007 and adopt Plan B+.

The residents of the river shores in Saint Lawrence County will not stand by for another 50 years while the life of our river is taken away from us. If Plan 2007 is enacted, I will be forced to author a resolution to Saint Lawrence County Legislature that we take legal action to stop the implementation of such a disastrous regulation. Our river must be protected. Thank you. (APPLAUSE)

IRENE BROOKS: Thank you. Thank you, Sam. Next we have Pat McKeown.

PAT MCKEOWN (Executive Director, Saint Lawrence County Chamber of Commerce): Hello, members of the Commission. I am Pat McKeown, I am the Executive Director of the Saint Lawrence County Chamber of Commerce. I'd like to offer remarks in favour of Plan B+ and I'd like also offer my written remarks to your secretary for your file.

IRENE BROOKS: Thank you.

PAT MCKEOWN: I will repeat the previous speaker's welcome to Saint Lawrence County and for allowing all of us present to give you testimony as you finalize plans for water level regulation.

I represent the Saint Lawrence County Chamber of Commerce which, in turn, represents over 700 member businesses, all located in Saint Lawrence County, many in communities along the Saint Lawrence River.

The Chamber is also the designated tourism promotion agent in Saint Lawrence County, charged by the Legislature with helping member business create attractive and profitable tourism destinations along the waterway and throughout the rest of the County.

We understand that the International Joint Commission is examining two plans to regulate future water levels on the Saint Lawrence River. One of these plans is known as Plan 2007, the other is Plan B+.

Both plans have been carefully studied by our members. Information on both has been sought by all of us in order that we make an intelligent recommendation to you as you move forward in your deliberations.

Calls, e-mails, letters from and conversations with Chamber members and others indicate that unless the IJC adopts what is known as Plan B+, both the river's ecosystem as well as business and recreation interests throughout the north country will be adversely impacted.

The Chamber understands that there is pressure on this Commission to protect the financial interests of homeowners elsewhere. But as Executive

Director of the Chamber of Commerce, I submit to you that it is our members' livelihoods that are at stake, not just damaged seawalls and soggy front lawns.

We are concerned about our members' ability to make a living on the river, whether as fishing guides or by attracting tourists to destination points in the region. The per capita income of Saint Lawrence County is under \$17,000 a year. Every dollar counts here for our people and their families.

The Saint Lawrence River has been a welcome asset to our business and social community for decades, longer than the existence of the seaway, longer than the existence of the Commission.

Our members are terrified that unless Plan B+ is adopted, north country communities will be left high and dry during the summer months, our peak and only season to make a living on the water. Such an event would be catastrophic to the already burdened budgets of our people.

In addition, the Saint Lawrence County Chamber of Commerce is concerned about the environmental impact of not just high water and low water, but the benefits of restoring the river as close to its natural flux as possible.

We are the ones whose communities lie under water. We are the ones whose international rapids have disappeared. We are the ones who struggle to make a living in an isolated but beautiful land.

We have already seen the negative impact of capricious water levels on the ecology of the region. The environment and economics go hand in hand in this

north country. What's good for the river is good for our economy. We cannot and will not take another hit.

Therefore, the Saint Lawrence County Chamber of Commerce urges the International Joint Commission to adopt Plan B for water regulation on the Saint Lawrence River. I thank you very much for your attention. (APPLAUSE)

IRENE BROOKS: Thank you. Next we have Robert Graham.

ROBERT GRAHAM: Thank you, Madam Chairman. I wish good evening to the honourable commissioners. My name is Bob Graham. My wife Betty and I are boating enthusiasts and, interestingly, which we just discovered, although we hail from this side of the border, we dock our boat in fact in the very marina referred to by the Honourable Member of Provincial Parliament from Stormont-South-Dundas. And I promise to be brief.

Recently, I saw a movie in which 300 Spartans held out for days against a Persian army that vastly outnumbered them. Naively, I assumed that those Spartans, or perhaps our own Special Forces or Navy Seals, constituted the most formidable force the world has ever seen, but I now realize I was wrong.

In their apparent ability to hold 12,000,000 people hostage, to intimidate an august binational regulatory agency and to remain obdurately indifferent to environmental damage in other areas than their own, the property owners on the south shore of Lake Ontario seem unquestionably superior.

While I understand that the IJC favours Plan B+ over the retrograde pandering Plan 2007, I cannot believe that an initial period under Plan 2007 will prompt creation of mitigations followed by implementation of B+.

Why would those lakeshore folks, fresh from their successful bullying of the IJC and pleased with Plan 2007, have the slightest interest in mitigations? In their place, would you?

We earnestly hope, and respectfully, of course, that the commissioners will resist the pressure of an overbearing minority and act in the interests of a clearly identified majority and in the interests of our environment. Thank you.

(APPLAUSE)

IRENE BROOKS: Next, Nancy Foster. Good to see you again, Nancy.

NANCY FOSTER: My name is Nancy Foster and I live in Wilson Hill Island on the Saint Lawrence River and I am speaking for myself. I'll let Dalton speak for the IWLC.

And I'd like to preface my remarks by saying first of all, they're not personal, they're not meant to be personal attacks on you, but they do represent a frustration that I think all of us here feel.

At the conclusion of the Lake Ontario-Saint Lawrence River Study, the comments on your website show that there was more support for Plan B+ than for plans A+, D+, and the current plan combined, but you chose to ignore the overwhelming support for Plan B+ and develop, in a non-public manner, Plan 2007.

Plan 2007 will cause disproportionate losses to areas other than the south shore of Lake Ontario and is not acceptable.

Your current literature states that Plan 2007 is an improvement with respect to the environment. Since the environment was never a consideration in the original Order of Approval, any effort, no matter how miniscule, would be an improvement.

Plan B+ is favoured by the great majority of environmental groups, including the New York State Department of Environmental Conservation. According to a March 27 article in the Watertown Times, DEC said that we are concerned that the IJC is preparing to soon release a plan that could be as harmful as the current protocol or even worse, and complained that it was left out of key discussions with the IJC.

Your literature and your staff indicate that once mitigation is complete, we can move seamlessly into Plan B+. However, your staff also stated that the IJC does not have the money to fund mitigation. You cannot assure the public that anyone will seek mitigation, nor can you ensure that both the U.S. and Canadian governments will fund mitigation.

You have basically passed the buck by attaching a mitigation caveat to the adoption of Plan B+ that you know may prevent it from ever going into effect. Excuse me here.

According to your staff, you have no plans for an external scientific review of Plan 2007. You are lawyers and politicians. Not a single one of you has a

formal scientific background. Yet you are proposing a plan that will affect millions of citizens that live in and around the basin without the benefit of a qualified external scientific review. That is unconscionable.

I recognize that the Lake Ontario-Saint Lawrence River system is complex and that it is impossible to satisfy all interests completely, but Plan 2007 certainly seems designed to satisfy the interests of the south shore of Lake Ontario as much as humanly possible.

While Plan 2007 is palatable for the south shore of Lake Ontario, it will cause harm to other areas such as Lake Saint Lawrence. Plan 2007 will cause excessive shoreline erosion 47 out of 101 years in Lake Saint Lawrence, with near-flooding conditions between April and June. Plan 2007 will cause low water conditions about 40 out of 101 years by the end of August, in 69 out of 101 years by the end of September.

Plan 2007 mandates the lowering of the Iroquois gates during May and June 44 out of 101 years. Recreational boaters will be forced to go through the locks at a cost of \$20 each way. That is detrimental to a depressed area that relies on the river for much of its economic health.

Nowhere in the Boundary Waters Treaty of 1909 is all interests defined as just the south shore of Lake Ontario. Nor do the 1952 or 1956 orders of approval define riparians as only those along the south shore of Lake Ontario.

Not only do you seem willing to completely ignore the harm that Plan 2007 will cause to Saint Lawrence County, you also seem to be perfectly content

to ignore the environmental degradation to the entire Lake Ontario-Saint Lawrence River system, and that's just not acceptable.

You violated Article 8 of the Treaty when you increased outflows in November 1997 to lower Lake Ontario for the south shore. The result was you cut off the municipal water supply to Ingleside, Ontario.

One has to wonder why you found it acceptable to violate the Treaty and cut off a municipal water supply in favour of a small group of riparians who built in a flood-prone area subject to severe northeast storms which exacerbate their shoreline erosion.

The taxpayers of the United States and Canada funded this \$20 million study and we deserve some honest answers. Why did you choose to develop a new plan in a non-public manner? Why are you choosing one riparian interest over another? Why are you willing to allow this area to suffer excessive shoreline erosion and disproportionate loss for the sake of the south shore?

Why are you choosing a plan that will have a negative impact on the millions of citizens that live in an around the Lake Ontario-Saint Lawrence River basin and sacrificing the environmental health of the lake and river? Why are you choosing to ignore the overwhelming support for Plan B+? What is the hidden agenda?

Plan B+ is more equitable, environmentally beneficial, and has received overwhelming support. I would urge you to adopt Plan B+ as the water levels

regulation plan for Lake Ontario and the Saint Lawrence River. Thank you.

(APPLAUSE)

IRENE BROOKS: Okay, thanks. Thank you, Nancy. Next, Foster Dalton. Two for one. (LAUGHS)

FOSTER DALTON (International Water Levels Coalition and Wilson Hill Association): Yes. Welcome to our north country and to the beautiful Saint Lawrence River.

During the IJC information meeting here in Massena on May 8th of this year, it was explained that it was necessary to implement Plan 2007 instead of Plan B+ due to the provisions in Article 8 of the Boundary Waters Treaty of 1909 and the 1956 amendment of the orders of approval of 1952. This is reiterated in your proposed new Order.

Article 8 of the Treaty states in part “in cases involving the elevation of natural level of waters on either side of the line”, and it goes on farther to say “the Commission shall require as a condition of its approval thereof that suitable and adequate provision approved by it by made for the protection and indemnity of all interests on the other side of the line which may be injured thereby.”

The cases involving the elevation of natural water levels are not necessarily the equivalent of raising them. The orders of approval of 1952 and the amendments of '56 to the orders constantly use the term elevation to describe both high and low specific levels, such as elevations to 47.3 feet.

We know that the seaway power project both raised and lowered water elevations in various sections of the system. Ergo, under those conditions, suitable and adequate provision should be made for the protection and indemnity of those injured thereby.

Injury is not solely a result of high water levels, but low water levels as well. The key phrase in Article is the natural level of waters.

If we examine what happened as a result of the regulation of Lake Ontario, it is clear that the levels did change dramatically from the natural levels, not rising, but falling. The natural pre-project average level for Lake Ontario is 246 feet. The overall average for Lake Ontario level under the current plan or Plan 2007 would be 245.2 feet, just a little over nine inches lower.

But more importantly, the pattern of the water levels has changed. The July levels for Plan 2007 would be only a little over four inches lower, but the April levels would be 10 inches lower and the November levels some 11 inches lower.

These levels are not the natural levels of Lake Ontario. They're the unnatural levels. Article 8 of the Treaty does not address changes in unnatural levels.

We all know that lowering the natural levels of Lake Ontario was really done to placate shoreline owners along the south shore. We have a history of that, it's well documented.

This action was successful and did protect them, but caused injuries to many others within the system such as shortening the recreational boating and tourism seasons and, of course, 50 years of continuing environmental degradation.

No suitable or adequate provisions for the protection and indemnity for these latter interests were made in 1956 and, more importantly, are not being offered today in 2008. Why the preferential treatment for one interest at the expense of much broader interests throughout the basin?

Plan 2007 will also cause increased injuries in the local area here of the system Lake Saint Lawrence. This is a section that the IJC new orders still refer to as the International Rapids section. This may be news to the IJC, but the rapids have been gone for some 50 years now.

Maybe the IJC feels that by denying the existence of Lake Saint Lawrence, it can excuse the inequitable injuries to this area, such as greater incidence of high and shoreline eroding water levels and the further shortening of boating and tourism season that would be imposed by the adoption of Plan 2007.

The water levels that we would have in the mid-November under Plan B+ are only achieved...is the same as 2007 would give us in the third week of August. So that's the difference: August under 2007, November under Plan B+.

Finally, the IJC has commented that Plan 2007 will provide some environmental improvement over the current plan. That's like saying...like a baseball player with a batting average of .100 has just improved his average all

the way up to .101. He's still a lousy hitter, and Plan 2007 is still a lousy environmental plan.

I strongly urge the IJC to forego its consideration of Plan 2007 and implement a more equitable and environmentally sound Plan B+. Thank you.

(APPLAUSE)

IRENE BROOKS: Next we have Skip Shoemaker.

SKIP SHOEMAKER (New York State Department of Environmental Conservation Region 6): I'm Skip Shoemaker, the regional engineer for New York State Department of Environmental Conservation Region 6.

I'd like to extend our gratitude to the commissioners of the International Joint Commission for this opportunity to offer brief comments on the IJC's proposed water regulation plan for Lake Ontario and the Saint Lawrence River referred to as Plan 2007.

Last Wednesday, at a hearing in Greece, New York, Donzell Asney (?), the DEC Great Lakes Coordinator, commented on the proposed regulation plan on behalf of the Department. Following his comments, the commissioners asking a number of questions seeking clarification on his statement. The Department wishes to further clarify that testimony as follows.

The DEC acknowledges substantial environmental damage that has resulted from the current regulation plan 1958DD, and in particular, the degradation of coastal wetlands that provide feeding, breeding, and nursery habitat for a host of fish and wildlife species.

I've attached to my testimony a copy of a letter which DEC Assistant Commissioner James Tuney recently sent to Mr. Russ Trowbridge of the U.S. Section of the IJC articulating DEC's concerns with the scientific analysis used in the development of Plan 2007.

This letter expresses of the concerns of many scientists who disputed IJC's claim that Plan 2007 provides overall environmental benefits. DEC and a number of the Great Lakes environmental scientists view the proposed Plan 2007 as potentially more damaging to the environment than Plan 1958DD.

The contention of these scientists is based on document evidence that supports the findings that in order to reverse the damaging environmental effects of the current plan, regulatory changes must occur in several areas.

In addition, Plan 2007 fails to provide sufficiently low water levels favourable for restoring beaches and dunes and provides little, if any, additional relief for shoreline property losses. In short, Plan 2007 largely mirrors the status quo.

Therefore, DEC supports the implementation of Plan B+, which is the only candidate plan that effectively moves toward restoration of a more natural range of seasonal and annual water levels.

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 permit restoration of beach and dune habitats.

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

DEC recognizes that Plan B+ will require New York State, in conjunction with the United States Government, to develop and implement projects to restore coastal habitats and, just as importantly, cooperate with private property owners on the protection of private property. Similar actions would be needed in the provinces of Ontario and Quebec.

We are committed to undertaking these projects necessary to restore the environment and protect the public health and safety. A critical element of this effort will be for the IJC to clearly articulate the actions that will meet its criteria for implementing Plan B+.

We hope the IJC will provide this information to the DEC in the very near future since any action that the State takes to restore and protect the Lake Ontario-Saint Lawrence River coastline will be most effective if taken in concert with the IJC's action to regulate water levels.

In summary, DEC urges the IJC to implement Plan B+ and work in concert with New York State, the United States and Canadian governments, provincial agencies, and our constituents to collaboratively implement a comprehensive coastal zone restoration strategy and adaptive management plan.

DEC believes we can achieve this win-win solution. To not take advantage of this opportunity would be tragic. We look forward to continuing

our discussions with the IJC relative to resolution of outstanding issues with the implementation of Plan B+. Again, thank you for the opportunity to share our concerns. (APPLAUSE)

IRENE BROOKS: Any questions? Mr. Speck has a question for you.

SAM SPECK: As a new member of the IJC, although one who has been involved in Great Lakes issues for some time, I wonder if you could shed additional light on your statement of what you would like to receive from the IJC.

I know there have been discussions that have gone on between the IJC, or at least representatives of the federal government, to be maybe more precise, and the DEC, and it would be helpful to me and maybe other members of the Commission to hear a little more of your thinking in that regard.

SKIP SHOEMAKER: Right now, the guidance we're working under is to develop a plan which mitigates coastal damages and minimizes other damages associated with Plan B+, and we have a team, a multi-agency team trying to work on strategies that would actually do that.

The problem is they're really kind of flying blind. They're trying to establish something that will achieve an undefined goal. And what we really need to know is - the IJC has indicated they'd be willing to go with Plan B+ if the mitigation measures in place - to what extent or what precisely are the mitigation measures that the IJC would say are adequate.

And does everybody have...can there be no damages? Who has to be protected? Is it broad stretches or is it each individual, impacted individual? Is it

just coastal? Is it coastal and recreational? Is it just the United States or does it also involve the Canadian provinces?

SAM SPECK: And I would presume that you would want to have a voice in defining that, too?

SKIP SHOEMAKER: Oh yes.

SAM SPECK: I would hope so.

HERB GRAY (Chair, Canadian Section, International Joint Commission): I'd like to ask (inaudible)...you're saying that B+ without mitigation (inaudible)...damages of various kinds. That is to say (inaudible)...support B+ is conditional on an appropriate mitigation plan be developed, implemented, and funded. Do I understand you correctly?

SKIP SHOEMAKER: We're not necessarily establishing that as a condition, but we're offering that. We would like to see you go to B+ right away and we think going in conjunction with an environmental restoration plan, a coastal restoration plan, would make it that much better.

HERB GRAY: If I can ask you a supplementary question, the reason I'm asking that is...where do you stand on having B+ without mitigation, your department?

SKIP SHOEMAKER: We would accept B+ without mitigation, and the commissioners don't have to make that...I suspect that if B+ was implemented, the Department and the State on its own would do its own investigation to

determine if any mitigation is appropriate. But we wouldn't in any way say that the IJC should not move forward with B+.

HERB GRAY: So you seemed to be saying earlier in presentation that B+, to be properly implemented, required associated mitigation measures.

SKIP SHOEMAKER: I don't think it's necessarily required. I mean, you could clearly implement B+ right away and there would be some damages to some interests. In order to get to that win-win situation, which would benefit both the coastal and the environmental interests, some form of restoration plan would have to go into effect.

IRENE BROOKS: Any other questions? Thank you. (APPLAUSE)
Next is James Wason. James Wason?

JAMES WASON: I'm James Wason. I had the privilege of meeting you people when you were here the last time, when you put in the last plan. Let's see. I remember I started it off, welcome to the beautiful Saint Lawrence Valley, now the mud flats of northern New York. The only reason it's different now is not from anything you people have done, but you came at a different time of year.

Now what I can't understand, hearing all of these people talk - I'm not here representing anyone but myself - but what gets me the most is there's a small group that seems to be controlling this other plan instead of B+.

Why is that getting all the attention? What did they give to the nation, to who, to what, to get all of this, to have everything swung away from where it

would help everybody to help a few? That's the only question that I think you people should think about. And that's all that I have to say. Thank you.

IRENE BROOKS: Thank you, James. Next is Cliff Steinburg.

CLIFF STEINBURG (President, Ault Island Community Association):
Yes, good evening.

IRENE BROOKS: Good evening.

CLIFF STEINBURG: My name is, as you said, Cliff Steinburg. I am the president of Ault Island Community Association. I am representing about 67 homes on Ault Island now. And it's situated right beside the bird sanctuary, obviously between the Cornwall dam and the Iroquois dam.

I want to start off by saying thank you for giving me the opportunity to get up and share my concerns and express my support, of course, for Plan B. I guess I have a few concerns. One, when I hear some of the questions coming out, like the one you asked Jim Brownell a little while ago, and it kind of scares me somewhat.

When I consider, when I look back – and I have been involved with most of the meetings for the last few years and listened to all the conversations around the \$20 million study that took place and the conclusion of the study, coming up with the three different plans – I would hope that coming out of that, that you people would be in a better position to answer those questions than what we are.

I am certainly no expert, and most of the people here - with the exception of maybe Dalton here, who would be considered in my books maybe an expert –

but most of us aren't experts on this, and so we're also looking for guidance from you.

But to get back on track, coming out of the study, what concerns me is I think we all agreed, at every meeting I attended, we all agreed that Plan B+ seemed to be the preferred choice.

And out of the blue, I get this mailing at my home out of the blue, we've come up with a brand new plan, Plan 2007. We seem to totally ignore our \$20 million study, we seem to totally ignore what the public had to say, and without any indication of this coming, it's like being in a ballgame and have a curveball sent that hits you right between the eyes, and this was a huge surprise for a lot of us.

And the big thing for the community of Ault Island, like you've heard from most, is the fact that the high water levels in the spring is going to create tremendous shore erosion. It's also going to hinder our bird sanctuary, which we're extremely proud of. And we're in an area where a tremendous amount of tourism...where we depend on the tourism, which is also going to hinder this as well.

And then, of course, later in the year, as the water level drops, you can imagine that's going to force us to take our boats out of the water, it's going to stop the tour boats from being able to get into the marinas, so it's going to affect our tourism. And this, again, is a huge concern for not just the community of

Ault Island, but total South Stormont and this total area, on both sides of the border.

And from my perspective, I think we need to look to you guys. You guys really should be the experts here. We need you to tell us. We don't want to see other communities, you know, be sacrificed, but we don't want to be sacrificed either.

So there shouldn't be a trade-off, and that seems what's happening here. It seems to be a trade-off for the south shore of Lake Ontario for our community, and that's not fair. It's not right and it's not fair.

And I think it's time - and I think this is why everyone's here tonight - it's time that we stand up and we need to fix the problem on the south shore of Lake Ontario, no question. And by implementing and giving them what they want with Plan 2007, this is not going to take place. You know that and I know that. It's just common sense, really.

So somehow, some way, we've got to figure out a way to work together to be able to implement the best plan that we know that's best for everyone, and that, at this time, IJC said to us Plan B was really the plan that was best in every area. I've heard it over and over again.

So to sum this all up, my hope from you is that we get some direction that can accommodate both scenarios, but primarily we need to get Plan B in place, and that's really what this is all about. Thank you very, very much for your time.

(APPLAUSE)

IRENE BROOKS: Thank you, Cliff. Next is Donald Lucas.

DONALD LUCAS (Saint Lawrence County Fish Advisory Board): Good evening. My name is Donald Lucas, I'm a local charter boat operator. I'm on the Saint Lawrence County Fish Advisory Board and I have been a lifelong resident, enjoying the Saint Lawrence River.

I have to reiterate a lot of the things that have already been said, but one of the things that's most important here is the quality of life issues. This area doesn't have a lot of concert halls, theme parks, major sports stadiums. Hunting, fishing, boating, and other water sports are major components of the quality of life in this area.

I am a supporter of Plan B+. It's my belief that Plan 2000 (sic) decreases the quality of life for those on both sides of the river, of the Saint Lawrence.

Some of the other cliffs notes that I have here is that I'm also a member of the Remediation Action Plan and Committee, which was a mandate of the International Joint Commission to address the industrial contaminants in this Area of Concern.

This mandate came down upon both governments of the United States and Canada, and after many years of work, we have actually gotten industries to a zero point source of discharge of contaminants to the environment.

But in the meantime, there has been many, many, many dollars by the industries, many contractors up here are putting in years of work, volunteers on

the various boards, the citizens advisory board, the Remediation Action Plan and Committee, and other various groups.

Canada is coming to the point where they have gotten their mercury discharges in hand and they're actually in the process of delisting. Over here in the United States, we have got...our issue isn't mercury, it's PCBs, and we have got a multitude of issues with this problem, as the IJC knows because they put down the mandate to deal with these issues.

Some of the things that we've had to deal with are...excuse me a minute. These drawdowns expose contaminants. One of the things I picked up in the last presentation was the gentleman that said he had to work in the settlements themselves to take his docks out.

And the lady sitting next to me kind of inquired, was this gentleman wearing boots? And I said, well, you know, they'd have to be pretty high ones, there's a lot of settlement out there. And her concern was actually when he walked up on his back property, what was he spreading for contaminants?

The lowering of the water is actually exposing these contaminants that you had the two governments address years ago. Keeping the water levels up is actually a way of containing this and keeping it out of the food chain.

Some of the other issues that we have had to deal with have been the use impairments. Some identified such as fish consumption advisories, fish and wildlife habitat degradation, fish and wildlife population degradation, degradation

of the benthos in the community, as well as on top of that, we're dealing with the invasive species.

A lot has been put into trying to address the problems that have damaged beyond repair our ecosystem of our rivers. Our fish habitat, fish population is not actually foraging on what used to be historically significant in this river.

Plan 2000...or excuse me, Plan B+ would go a long ways towards helping us repair the damages that have been created by industrial contamination, along with the development of the seaway and the New York Power Authority.

Another thing that has been brought to my attention in the citizens advisory board and the Remedial Action Planning Committee is during the re-licensing of the New York Power Authority, as part of their re-licensing agreement, there was a mandate to do studies on trying to correct the wrongs in the environment.

Right now, Clarkson University, starting a few years ago, they were doing studies on phytoplankton, and I have witnessed numerous occasions when the research vessel that was getting paid big dollars to do their research couldn't even get their boat off their trailers because of low water.

That does not help us fix the problem. We've got to find out the extent of the problem and then we've got to get out there and address it.

Now, in previous meetings, there has been talks of this same research vessel going out and doing studies on phosphorous, dissolved silicate, chlorophyll, coloured dissolved organic matter, and these studies are going to

take place in the international section of the Saint Lawrence in June, July, August, and October. So you might as well figure half of those studies are going to be wiped right out if that boat can't get into the water.

Water quality for Lake Saint Francis is going to take place in June, August, September, and April. So once again, half of your studies are going to be wiped out.

If we go to this Plan 2007, we're not going to be able to do what the IJC told us back in 1989, look at the problems and fix it. We need Plan B+ to help us do what you told us to do, clean up the river and bring the ecology back to where it used to be.

When I hear you ask the question of what would be suggested...

IRENE BROOKS: I think your time is almost...is up.

DONALD LUCAS: ...as far as solutions...okay. You have the Army Corps of Engineers at your disposal. Use engineering controls to fix this problem. Thank you. (APPLAUSE)

IRENE BROOKS: Thank you very much.

(GAP IN RECORDING – CHANGE IN RECORDED AUDIO CDs)

JON MONTAN (Saint Lawrence County): ...changes of greater than two feet represent impacts to riparian species and spawning habitats. The stretch between Ogdensburg and the Moses-Saunders dam has been the most seriously impacted area of the river since the seaway and power project was built. Plan B+

is superior to Plan 2007 with regard to reducing the frequency of these fluctuations.

So in summary, Plan B+ is clearly superior to 2007 for the Saint Lawrence River from Ogdensburg to the Moses-Saunders/Long Sault dams for recreational boating and tourism, shoreline erosion, future residential development, hydro power, commercial navigation, and the environment.

Failure to enact Plan B+ will mean failure to correct disproportionate losses of the past to this stretch of the river and will subject river users to more of the same into the indefinite future.

Saint Lawrence County is cognizant of the challenges of adopting a single plan that will attempt to address all of the issues for all stakeholders under all flow conditions.

In our opinion, Plan B+ comes closest to meeting this ideal, but will take close cooperation between New York State, Canadian agencies, elected representatives at the federal level, and a variety of associations to estimate costs and put in place those improvements that will protect Lake Ontario shoreline stakeholders from the rare high water events that would be a consequence of Plan B+.

Saint Lawrence County is please that our congressional representatives have been making efforts to achieve these ends and we are hopeful that these efforts will remove obstacles to a timely implementation of Plan B+. Thank you for the opportunity to comment. (APPLAUSE)

IRENE BROOKS: Thank you very much. Next, Elaine Kennedy.

ELAINE KENNEDY (Cornwall and District Environmental Committee):
Hi. Good evening and thank you to the commissioners for this opportunity to speak to you. I am speaking to you as the Chair of the Cornwall and District Environmental Committee.

The Cornwall and District Environmental Committee is a group of volunteers, some of whom are members of the Public Advisory Committee of the Saint Lawrence-Cornwall Remedial Action Plan. While involved in the RAP process, the members acquired a comprehensive knowledge about the issues in this Area of Concern.

CDEC's mandate encourages responsible environmental protection and restoration by citizens, industries, governments, through communication, education, lobbying, and community involvement.

The Cornwall and District Environmental Committee is in favour of the implementation of Plan B+ as soon as possible, but does understand the problems that the Commission faces and the reasons that Plan 2007 is being suggested at this time.

The Cornwall and District Environmental Committee believes that the International Joint Commission must have meaningful discussions with the five governments – the federal governments of Canada and the United States and the governments of the provinces of Ontario, Quebec, and the State of New York –

concerning the timely funding of both adaptive management and mitigation measures.

Since the Lake Ontario-Saint Lawrence River Board will need funding to have the staff and resources for monitoring the operation of the new plan, the implementation of adaptive management and mitigation measures, it is important that the International Joint Commission urge the governments in the strongest terms that there must be sufficient and ongoing support to make the process work to the benefit of all stakeholders.

It is also the responsibility of each of us that want B+ implemented to lobby for sufficient funds to ensure all of these programs are funded sufficiently to make them viable, transparent, and believable.

Since the commissioners are appearing so close to our community, the Cornwall and District Environmental Committee wanted to make an initial short statement. However, the CDEC will make a more complete submission to the Commission before the deadline. Thank you for your attention tonight.

(APPLAUSE)

IRENE BROOKS: Okay, thank you, Elaine. Next is Chuck Raiti.

CHUCK RAITI (Member, Town Council, Town of Massena): Good evening.

IRENE BROOKS: Good evening.

CHUCK RAITI: Thank you for coming to the wonderful Saint Lawrence River Valley. I am member of the Town Council of the Town of Massena and...excuse me, let me put my glasses on.

July 27th, 2005, we resolved simply, and I'll put it very short, that we support Plan B and urge the International Joint Commission to accept Plan B when deciding procedures and plans to regulate water levels in the Saint Lawrence River.

I will re-submit this next week, we are having our monthly town board meeting, and I will present a motion to our Town Council to add B+ to this resolution, and you will receive unanimously a resolution from our town board, okay?

That's me as a town councillor. As a personal citizen of this area and a young man who grew up on the south shore of Lake Ontario and the southeast shore of Lake Ontario, I'm going to tell you from personal observations what happened.

The question I asked your technical team that was here a few weeks ago was have you checked and seen why buildings were allowed to be built where they were built? I personally have seen damage done to buildings that were in zones that were flood zones. And I don't know if the IJC has checked into that or anything, but I know that as a personal observation. I was there not only as a young man, and as a young boy.

Secondly, I also asked your technical advisors have they done any exploration onto why Lake Ontario, the south shore and the southeast shore has lost its protection from the ice banks that used to build up down there when I was a boy?

My observation is the nuclear plants that were built in Oswego. The water temperature that is put back into that lake in January-February is much warmer than what Lake Ontario is during this natural time of the year.

Therefore, those ice barriers that we used to see build up to protect the shorelines of the south shore and the southeast shore are no longer there. They are gone. I saw this in the early spring of '75-'76, my mother's home was on Lake Ontario, and we lost substantial amounts of property. Thank God they hadn't built their home right on top of the banks because the banks were wiped out. We had no protection from the ice.

Those are two things that as a young man, I had the opportunity to see as a young man and as an adult, that I have seen personally, and I think that your Commission ought to take into consideration.

Finally, I'll go back to being a politician, I'll put my political hat back on. This is politics, it deals with people on the south shore. They've got the money, the power, the moxie, and they're pushing it. Well, I think you're getting the sense tonight from the people up here that maybe we're going to start pushing and pushing hard.

We thank you for coming to the north country and we certainly hope we can solve this thing together as Canadian and American citizens. Thank you very much. (APPLAUSE)

IRENE BROOKS: Thank you. Next we have Bernard Hazelton.

BERNARD HAZELTON: Good evening. As you said, my name is Bernard Hazelton. I am a camp owner and I represent 13 other camps that are on Brandy Brook, it's a tributary into the Saint Lawrence near Waddington.

I guess what my comments are are exactly the same as what's been said, you know, all evening. I'm in favour of Plan B+. But I do want to say, as is being reported, I don't think the people on the south shore of Lake Ontario are necessarily...you know, we're almost characterizing them as evil. They're not. I know they're concerned. They have the same concerns that we do. They own property, and so do I and so do many people in this room.

We're just looking for a fair and equitable solution, and Plan 2007 is not it. Plan B+ seems to be the best possible solution at this present time, and I would just urge this committee to please, you know, reconsider the decision and choose Plan B+. And basically that's all I've got to say. Thank you very much. (APPLAUSE)

IRENE BROOKS: Thank you, Bernard. Next is Pete Skomsky. I know I butchered that name. (LAUGHS) Now I'm anxious to hear what it is.

PETE SKOMSKY: It's Skomsky.

IRENE BROOKS: Skomsky.

PETE SKOMSKY: Pete Skomsky.

IRENE BROOKS: I was close.

PETE SKOMSKY: Thanks for coming. I may not be as politically correct as the rest of them. I've been involved in environmental issues, both locally, state, and on a county-wide level, but I am here as a citizen.

I'd like to say that I support Plan B+. And shame on you, all of you. Lake Saint Lawrence is a significant...is a sacrificial lamb on the Great Lakes. We have been written off by the IJC, in my opinion. Massena, Louisville, Waddington, and Lisbon are most affected by the project, yet water level data was taken in Ogdensburg.

Most of my feelings have been...I support what most people have said here. B+ is the plan to go with. Beyond that, I feel that we need, in order to go forward, U.S. Geological Survey real-time stream data for both above and below the dam. There's a serious lack of data.

The data collected through the Lake Saint Lawrence region was taken in Ogdensburg, almost totally unaffected by the fluctuations within the Great Lakes. In my opinion, the data is flawed.

We need to list physical disturbances caused to the significant coastal habitat and mitigate them. This was identified in stage 1 of the Area of Concern. The Remedial Action Plan identifies it, and yet for 50 years, this has not been addressed.

We have 12 miles of dikes here. They're rock piles which used to be significant coastal habitat. This needs to be addressed. We also need funding or a coordinator for the Massena-Cornwall Area of Concern. Throw us a bone.

Poor science in is poor science out. And that's all I have to say. Thank you. (APPLAUSE)

UNIDENTIFIED: Yeah, Pete.

IRENE BROOKS: Thank you. Next is Jessica Jock.

JESSICA JOCK (Saint Lawrence River Walleye Association Inc.): Greetings. I am here tonight on behalf of the Saint Lawrence River Walleye Association Inc. Our board of directors' president, Mike Gagne (?), had hoped to come tonight, but unfortunately he received bad news about the health of his mother and is making travel arrangements to take care of those issues.

The Saint Lawrence River Walleye Association Inc. is a representative group of more than 100 anglers and residents interested in protection of the fisheries of the Saint Lawrence River. The majority of our members are avid anglers that utilize over 70 river miles of fishing and recreation in the Saint Lawrence River.

Our mission is to protect our fisheries and related natural resources, as well as encourage awareness of invasive species and promote river-related tourism in our area.

The historic water levels management over the past 50 years has caused the impairment of thousands of acres of wetlands in the upper Saint Lawrence

River, thus impacting habitat of fish species of interest of the Saint Lawrence River Walleye Association members.

By implementing a new water levels management plan that encourages rejuvenation of wetlands and fish habitat, long-term sustainability of fish abundance, diversity and health will be promoted.

Because our mission is to protect the fisheries and related natural resources of the Saint Lawrence River, the Saint Lawrence River Walleye Association supports the implementation of a long-term ecologically sustainable plan.

The Saint Lawrence River Walleye Association encourages IJC to endorse Plan B+. Thank you very much. (APPLAUSE)

IRENE BROOKS: Thank you, Jessica. Well, that concludes our list of those who registered to speak. We thank you all for attending and providing us with your views.

We will continue to accept comment through July 11th, and as I mentioned before, there are many forms in which we can receive it, and all commissioners will receive anything that you send to us to review.

We will only make our decision only after considering all comments and in consultation with the two national governments, whose concurrence we will seek on a final order and plan.

As mentioned earlier, our staff will remain after this meeting if anyone would like additional information on technical issues or have additional questions that they might answer.

I did say that we were going to post the transcript of all of the hearings, it's ten hearings, so you'll everything we heard, you'll see it. As soon as it's available, we will post it.

Again, I thank you very much for coming. Excuse me?

UNIDENTIFIED: Are you open to any additional comments?

IRENE BROOKS: Tonight?

UNIDENTIFIED: Yes.

IRENE BROOKS: I believe you spoke, but we're certainly here to hear people.

UNIDENTIFIED: (inaudible)...B+, please come back next spring and let us know (inaudible)...let us let you know how it's turned out.

IRENE BROOKS: Okay. I think that's it. Thank you very much.
