

REVIEW OF THE LAKE ONTARIO-ST. LAWRENCE RIVER ORDER
OF APPROVAL - PUBLIC HEARING IN BELLEVILLE, ONTARIO, JUNE
23RD, 2008, 44 MIN.)

HERB GRAY (Chair, Canadian Section, International Joint Commission):
...can your hear me? Can everybody hear me right at the back? I haven't broken
anybody's eardrums yet?

Okay, it's 7:15. There are two minutes to go. Our colleague
Commissioner Olson and our American Secretary General are still on the 401;
hopefully they won't overshoot and go to Gananoque or something.

But I want to begin with an opening statement which sets out the
parameters for our gathering this evening.

Now on behalf of the IJC, I'd like to welcome you to this public hearing,
the first of ten we have been holding this month around Lake Ontario and the
Saint Lawrence.

As you may have guessed, I am Herb Gray, Canadian Chair of the
Commission. And with me tonight are my colleagues on the Commission, with
the exception of Commissioner Allen Olson: U.S. Chair Irene Brooks on my left,
and we have commissioners Jack Blaney and Pierre Trépanier from Canada and
Sam Speck from the United States. It's not seated Americans on one side and
Canadians on the other, it's an international group, we work together as a team.

Anyway, we are here to receive your comments on proposed changes to
how water is released through the Moses-Saunders dam on the Saint Lawrence

River between Cornwall and Massena. And this affects water levels and flows on Lake Ontario and on the Saint Lawrence as far downstream as Trois-Rivières. These draft proposals were released by the IJC for public comment last March, March of this year.

Now, the IJC, the International Joint Commission was created under the Boundary Waters Treaty of 1909 to help prevent and resolve disputes over the use of the fresh waters forming 40 per cent of the Canada-U.S. boundary.

And in the 1930s, or I should say, 1950s, in the 1950s, the national governments asked the Commission to approve a major dam in the international section of the Saint Lawrence. They also asked the Commission to determine how flows through that dam could be managed to achieve certain objectives, and then approved criteria offered by the Commission to meet those objectives. Now they included reducing shoreline damage on Lake Ontario, in addition to enabling hydroelectric power generation and commercial navigation.

So for nearly 50 years, waters through the resulting Moses-Saunders dam has been released in accordance with requirements set by the Commission in an order and a regulation plan issued in 1956, before the project was first built and began to be operated in 1960.

The Commission is now proposing changes to those requirements. It has 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.

Now 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 its contents. We are not here tonight to cover that ground again.

The purpose of tonight's hearing is for us to hear your comments about our proposal. However, our lead staff – if you'll stand up please so people will know who you are - will make themselves available during breaks and will stay at the conclusion of this hearing to answer remaining informational questions you may have.

Now, I'd like to explain the procedure we'll be following this evening. Note that this is an international meeting in every respect. Whether you are from Canada or the U.S., we welcome your comments to help ensure that all relevant matters are taken into account.

If you wish to comment and did not so indicate in writing when you registered, please see our staff at the registration table just at the entrance of the room. You can register to speak at any time during tonight's hearing.

Other than providing elected officials who are here with the courtesy of speaking first if they wish, we will turn to those speaking to us for the first time on a first-come, first-served basis.

Now anyone who has already made a presentation, either in this hearing or a previous one, may provide additional comments after others have had their first opportunity to speak.

I'll announce whose turn it is to speak and will also identify the next person or two at bat so they can be prepared. Our intent is to try to adjourn at 9 pm, as advertised, although we will accommodate all who wish to be heard.

When you speak, please state your name and let us know whether you are speaking as an individual or on behalf of an organization. We ask you to limit your oral comments to five minutes. Our secretaries will help you keep track of time by showing a yellow card when you have a half a minute left and a red card when your time is done.

If you want to submit written statements or presentations in addition to your oral presentation or to expand on it, either in paper or electronic format, please provide them to the secretaries. They will later provide a copy to all of the commissioners and will make sure they are included in the official record. If you have paper copies with you here tonight, secretaries can distribute them to commissioners now and you can refer to them as you speak.

We are recording the hearing and all comments tonight will be part of a transcribed official record. Please use the microphone when you speak so that your comments can be included in the transcript. And transcripts from all ten hearings will be posted to the Commission's website once available.

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

We would appreciate one spokesperson for each organized group here this evening. Others in the group can make their own comments. However, in the interests of time, if you find that presenters before you have already made your points, please consider simply stating that you also support those points.

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

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

This concludes my opening remarks. I again repeat, if anybody would like to make a submission, even an informal oral one, please go back to the back of the room and fill out a card so we'll be able to call you up in order. And I'd like to begin with your Member of Parliament, Daryl Kramp.

DARYL KRAMP (Member of Parliament for Prince-Edward-Hastings):
Distinguished co-chairs, distinguished panel, staff, and ladies and gentlemen

gathered tonight, a number of whom I recognized and a number of people from whom I've heard comments. How are we doing now? Do we have a sound on now? Okay, thank you very kindly.

I am here tonight in a two-fold position. Obviously as the federal Member of Parliament for Prince-Edward-Hastings, it is my delight to welcome you here on behalf of not only the citizens of our area, constituents of mine, but certainly on behalf of the Canadian government and the Canadian people for those who would be visitors.

For those who are natives, I follow maybe a little quotation from Helen Steiner Rice when she simply stated "strangers are friends we have not met". So here, once we've met, friends we are.

I just have a number of comments that I would like to make. And I'm certainly not going to elaborate at great length when I know that there is testimony coming from constituents and other people that have been affected in one way or another by the responsibilities of the IJC.

But to me, and I know certainly our local people and government as well, it seems fitting that the study really has started and continues to be a Joint Commission. I think that's a magnificent level of cooperation.

Because, of course, here in Canada, the Saint Lawrence has always been a meeting place, for trade, cultural exchange, and a place historically where all of the different governments, be they aboriginal, French, British, Canadian, chose to reside. And of course, on the other hand, Lake Ontario joins most of southern

Ontario, actually in its entirety, to their family and friends on the other side of the border.

So as a representative of the Canadian government, you can be assured that we support in totality the IJC's current public consultations. We think it's important, it's crucial, and we thank you very kindly for taking your time to reach out to the people that really matter, the people on the ground.

So there are proposals for regulating the Saint Lawrence and Lake Ontario, the system. We are thankful – and really, why wouldn't we be? –because this body of water is absolutely crucial to bilateral trade, bilateral crime prevention, homeland security, serious mutual environmental concerns, shipping, and many, many other interests (?).

This commission really will give the public an opportunity to provide important input to this process of signing a new Order of Approval and regulation. And again, I ask, why shouldn't they? Because of the stakeholders on the ground.

Many, many people here tonight, and on both sides of the border, they know that the American and the Canadian governments need to get the policies and the legislation right. That requires expertise. And that's why I'm delighted that we have an expert panel obviously on this commission that is not only familiar but seems to take the interest very personally, at heart. So we welcome you here tonight to listen to the individuals who I know have concerns.

And I can advise all gathered here tonight that I certainly know I speak for the Government of Canada when I say that we will not and have not developed policies from any lone individual sitting in an office behind a desk, but rather we will do exactly what you are doing, we will listen to those who know the water best and we'll seriously consider in its entirety the recommendations of the IJC. Your opinions do matter and we're thankful for your work.

It's important because in this world of everything from war, genocide, devastation, honestly, our two countries have really shown a shining example of what negotiation and compromise can achieve when we work together, when we have equal concerns at stake.

If I can just diverge just for a second, one Canadian individual and an American individual, one in 1967, the Canadian songwriting legend Leonard Cohen, he penned and recorded a piece of music called Suzanne, in which in it he states, and I will quote, "I will take you down to the river".

Of course, not knowing exactly where that would go on that, because with Leonard Cohen, everything was subjective. That could have meant, back in the '60s, everything from inner peace of love to wherever, you know, beauty in the eye of the beholder.

But of course, when I was discussing this with my assistant, the young lady, a bit more in the now generation, she reminded me that the American band named R.E.M., of course they were inspired by Cohen's song, and in 1998, they wrote their own version of that, but they called it "Hope".

So I think once again, we see that on both of the border, Lake Ontario, the Saint Lawrence River systems, joins us together as Americans and as Canadians and economic partners and even to those music lovers.

But we're not here for that tonight, we're here to hear serious deliberation, serious comment from people who have a serious vested interest. And we thank you for taking the time and coming to Belleville and providing us with the opportunity to give you courteous, respectful input. Thank you.

HERB GRAY: Thank you, Mr. Kramp, for your very inspiring remarks. And I'd like to announce that the sixth commissioner has arrived, Allen Olson.

ALLEN OLSON (Commissioner, U.S. Section, International Joint Commission): Apologies, apologies.

HERB GRAY: Well, you arrived in time to hear the local Member of Parliament's inspiring remarks. And this leads to the next speaker, Dr. Manfred Koechlin, and he is representing the Quinte Watershed Cleanup. And if you'd come forward, please.

MANFRED KOECHLIN (Quinte Watershed Cleanup): Dear commissioners, Quinte Watershed Cleanup Inc. is a Quinte region environmental organization as well as the Public Advisory Committee on the Bay of Quinte Remedial Action Plan Restoration Council. We are also coalition members of Great Lakes United, as well as being represented on its board of directors.

Quinte Watershed Cleanup agrees with Great Lakes United's position on the International Joint Commission's Plan 2007. IJC's Plan 2007 fails to

guarantee substantial improvements to the Lake Ontario and Saint Lawrence River ecosystem.

Plan 2007 does not provide for sufficient seasonal and year-to-year fluctuations in water levels to restore coastal waterlands (sic) which are critical as breeding grounds, nurseries, and feeding habitats for a very wide range of fish and wildlife.

The IJC states that it hopes to be able to revise the plan at some point on the road to become Plan B+, the environmentally preferred plan. There is no assurance that this upgrading will happen, however. We feel that inequitable Plan 2007 could become the plan for the long term.

The IJC lists positive and negative results for a range of environmental factors and for economic factors. We believe that the priority should be placed on enhancement of environmental indicators, despite the economic cost that may be involved.

This is a critical adjustment that must be made because for the past 50 years, the overwhelming, dominating factors in making decisions about levels and flows in the Lake Ontario and Saint Lawrence River systems have been in favour of the economic interests of shoreline owners, hydro power investments, and commercial navigation. It is time now to start to make the adjustments needed to enhance the ecosystems before it is further and irreparably destroyed.

The IJC estimates that the economic impact from adoption of Plan B+ would be less than \$5 million a year. This is not an unreasonable expense to

incur to restore and protect the Lake Ontario and Saint Lawrence River systems. It is important to note that some economic interests would financially gain from the adoption of Plan B+, and this detail is mentioned in our submission.

Our concerns are shared by several government agencies, for example the New York State, the province of Ontario, the Great Lakes Fishery Commission, and the Council of Great Lakes Fishery Agencies, which is made up of the natural resources agencies for each of the federal, provincial, and state governments in the Great Lakes basin and some of the tribal agencies have each already stated their preference for Plan B+.

Therefore, we recommend that the IJC immediately adopt Plan B+ as its new Order of Approval to guide decisions on flows so the Moses-Saunders hydro power dam.

In terms of economic costs, the main impacts for the Saint Lawrence River from Plan B+, in comparison with the current control plan, are as follows. Recreational boating gains below the dam, except for at Lac Saint Pierre, where it is neutral in its impact; it improves recreational boating around Montreal.

Hydro power. Hydro-Québec gains substantially from Plan B+. Commercial navigation. The seaway gains dramatically from Plan B+. Commercial navigation is seen as possibly slightly negative for Montreal, but well below what is considered statistically significant. Is defined as significant a change in this item is 0.02.

In terms of shoreline protection and flooding for the upper Saint Lawrence River, flooding potential is slightly negative, but again below the level of statistical significance.

The economic impacts for Lake Ontario human users from Plan B+ in comparison with the current control plan are as follows. Recreational boating impacts are positive. Hydro power. Ontario Power Generation and New York Power authorities gain substantially from Plan B+.

Commercial navigation. On Lake Ontario, commercial navigation may experience some negative impacts, but is at levels that are not statistically significant in terms of only 0.01.

In terms of shoreline protection, there are substantial negative impacts on Lake Ontario. Erosion of unprotected shoreline and flooding has a reasonable, small negative impact, respectively. The main negative impact for shoreline protection maintenance is \$2.16 million.

In order to address the main negative items just listed for Lake Ontario and the Saint Lawrence River, we recommend that immediately, mitigation plans be developed and implemented.

These mitigation plans should be meshed with the intention to encourage natural fluctuations and flows to enhance the condition of the ecosystem. This means that we may have to adjust our human expectations in order to live as responsible members of the ecosystem rather than as disruptive members.

Quinte Watershed Cleanup supports Great Lakes United's recommendation that mitigation plans immediately be developed and implemented. These plans should be one that contribute to enhancement of the natural ecosystem.

The IJC's proposed Plan 2007 contains provisions for short-term discretionary deviations from the plan. This could be used as a protective tool if an emergency should arise until the mitigation plan has been implemented.

There should however be strict limitations on how frequently and for how long this power can be used so that it does not just become part of the ongoing mitigation plan and a mechanism to bypass the intention of Plan B+ to enhance the ecosystem.

Quinte Watershed Cleanup supports Great Lakes United's recommendation that short-term discretionary deviations from Plan B+ be allowed in emergency situations until the mitigation plan has been implemented, provided they do not have an ongoing impact on the intended Plan B+.

As part of its Plan 2007, the IJC proposes to strive towards adoption of commands (?) of Plan B+. We have recommended instead that Plan B+ be adopted immediately.

The IJC's Study Board final report includes a Plan E, which they call the natural flow plan. The environmental technical workgroup, which developed this plan for the IJC study, described this plan as the best possible plan for the environment.

This was not one of the final three options that the Study Board recommended to the IJC because they recognized that because of historical economic development, there are considerable adverse economic impacts associated with Plan E.

Nevertheless, the Study Board's final report stated that many Study Board members believed that the environmental objective of Plan E should be considered a long-term management goal for the system.

Quinte Watershed Cleanup supports Great Lakes United's recommendation that Plan E, the natural flow plan, remain on the table and be reviewed periodically by the IJC as part of its adaptive management process to determine when it is appropriate to adopt additional components of that plan.

The IJC recommends changes to the board that makes decisions regarding flows through the dam. These include placing some non-governmental people on the new Lake Ontario-Saint Lawrence River Board, forming a group of public advisors, and having a monitoring and adaptive management committee.

Quinte Watershed Cleanup supports Great Lakes United in the changes that the IJC is proposing for the management structure and process. The structure must not however become one that is simply a debating forum for competing interests.

It must always be remembered that the ecosystem is not an interest competing with the others. Enhancement of the ecosystem must remain in the foreground of the deliberations of this board.

Quinte Watershed Cleanup would like to thank the Commission for having provided this community the opportunity to critique Plan 2007 and to express our opinions and expectation on this important document and the issues it represents. Thank you very much.

HERB GRAY: Okay, I'd like to ask the commissioners if they have any questions to offer to this gentleman. Mr. Koechlin, don't go away, sit down. (LAUGHS) Unless you want to, we're not forcing you...

MANFRED KOECHLIN: I have a hearing impairment.

HERB GRAY: We're not forcing you to stay, but I have to invite the commissioners to ask any questions they have, if they have any at this point, even though we're here primarily to listen to people rather than dialogue. Are there questions?

PIERRE TRÉPANIÉ (Commissioner, Canadian Section, International Joint Commission): No, I'm fine. I appreciate your recommendations. I think it's a good (inaudible).

HERB GRAY: Okay, I have a question.

JACK BLANEY (Commissioner, Canadian Section, International Joint Commission): It was a very clear statement.

PIERRE TRÉPANIÉ: Yeah.

HERB GRAY: A very quick question. You ask us to adopt B+ immediately, but you seem to be saying this should be done without a mitigation

plan and funding for it to be implementing it in place. Is that what you are recommending?

MANFRED KOECHLIN: No. I stated that in the interim...I stated that in the interim of implementing B+ that there be allowances made to take care of that transitional process.

HERB GRAY: Okay, thank you.

PIERRE TRÉPANIÉ: Thank you, Sir.

MANFRED KOECHLIN: You're welcome.

HERB GRAY: Now I also would like to apologize to your MP. I didn't ask my colleagues if they had any questions for him.

PIERRE TRÉPANIÉ: No, it's okay.

HERB GRAY: All right, thank you.

PIERRE TRÉPANIÉ: Thank you, Sir.

MANFRED KOECHLIN: Thank you.

HERB GRAY: Our next presenter is Eben James, I think it's the Trenton Cold Storage Ltd. Eben James?

EBEN JAMES (Trenton Cold Storage Ltd.): I would like to say to the Chairman that you have given a lifetime of service to this country and it's wonderful to see here this evening. I've followed your career for many years.

I appeared before the IJC when General McNaughton was the Chairman, back when the water levels were being set in the early '50s, and

McNaughton...he had his agenda and he let you know that, so it didn't matter what you thought or what you said, it didn't really carry anything.

But I'm the second member of a family that's been running a business for 102 years which is located at the harbour in Trenton, and I can remember when the water levels were being brought in, the new criteria.

We tried to get General McNaughton to lower the level from the criteria that he had established at that time. Our concerns were, of course, the sewage system within the community. As far as we were concerned, we had a plant that had been rebuilt in the 1930s, but it was important that we had to raise our floors three feet in order to accommodate the levels or the fluctuation in the levels of lo.

We also have owned property on Lake Ontario for close to 100 years, and I can say to you that we have lost probably in the range of 100 feet off that property, and most of it has been lost since 1950. We, along with our neighbours and many other people, have spent hundreds of thousands of dollars trying to protect that property.

It doesn't matter what you do, you're not going to satisfy everybody. You've got the down...I've been to meetings in Syracuse and when the people on the Saint Lawrence had Hillary Clinton, who is their member, to come up, and they wanted to have the levels higher, and of course, they fluctuated much, they couldn't get their boats in and out and those things took place.

But you have to – and I appreciate this very much – you have to accommodate everybody. And this spring - Lake Ontario level was very low last

fall – this spring, Lake Ontario level came up, came up to probably 12 inches of the highest that I remember it. Your records would show that.

And I wanted to express my appreciation because I wrote my member, talked to him on the phone, talked to a fellow I think by the name of McGillivray, and I was getting to a point that if we'd had heavy rains – and I've seen Lake Ontario rise 12 inches in one week – if we'd had heavy rains, we would have been in trouble this spring.

Fortunately, nature cooperated, and I also believe the IJC probably let more water out. I don't know. I used to get a...I'm in my 80s, so a lot of the things that I got involved with years ago I've been away from, but I used to get a report that used to tell me how many cubic feet were being let out all the time, and I don't get that report anymore.

But I wanted to say how appreciative we were that the levels that...you stopped it from appearing from going up, and it could have been nature. And it's now going down. If I had any concerns right now, it's going down a little faster than I would like to see it at the B (?), because we're not at the end of June yet and water levels usually peak some time in the month of June.

But Lake Ontario now is on its way down, and I think probably within the last three or four weeks, it's probably dropped six or eight inches. We watch this very carefully. But I came to offer our appreciation on that.

I can remember when the – I don't know the year right now – when the water levels got so high that the town sewage system – and the manholes are

located on Fraser Marina, and the Chairman would remember Fraser back in the early days of the House – where the manholes, they had to sandbag around the manholes because the sewage was coming up and flowing into the river.

But whatever you do, I hope that you keep the system in a situation where if it starts to rise, that you have the ability in the criteria to let out the maximum in order to get order those particular high spots. And I don't think anybody who makes a presentation to you, either here or on the American side, would object to that.

And I well remember being in the American side when one of the senators came forward and pointed out, when down river, people wanted the water higher, that he had to deal with thousands of property along Lake Ontario who were having a lot of trouble, losing their property.

So it's a difficult situation, but I appreciate the opportunity that you are giving the public, that you are making changes, and I hope those changes give you the latitude that you can move when necessary, and whether it's to hold the water back or whether it's to let the water out. And I appreciate time coming (inaudible)...

HERB GRAY: Thank you. Just before you go...

EBEN JAMES: Yep?

HERB GRAY: I'd like to invite my colleagues to pose any questions they have of this gentleman, who has a very interesting historical perspective.

EBEN JAMES: Herb, you and I go back a long way. (LAUGHS) Thank you very much.

HERB GRAY: Thank you. Well, you know, this exhausts the list of speakers we have at this point. I don't want to rush things at all. I invite again anybody who would like to make comments at the table to feel free to come forward. You don't have to have a written brief. Just as Mr. James spoke eloquently based on his experience and insights, any of you here are also eligible to also do the same. So going once, going twice, going three times...

So if that's the case, then I have to make some concluding remarks. You don't get away that easily. I've said this concludes our list of those who registered to speak. I want to thank you for your attending and providing us with your views.

We will continue to accept comments through July 11th, and we will make our decision only after considering all comments and in consultation with the two national governments. And this is a special requirement in this matter: we are seeking the concurrence of these two national governments on the final Order and plan.

Now, as mentioned earlier, our lead staff will remain available in the room to answer any informational questions, and they're at the front. There's Tom McAuley and Mr. Trowbridge. So I'd like to adjourn the meeting. And we'll stay for a while as well, feel free to talk...

UNIDENTIFIED: Chair?

HERB GRAY: Mr. Speck?

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

HERB GRAY: Go ahead, sure, of course.

SAM SPECK: This question is a risky question to ask, particularly with the testimony that you gave, Mr. (inaudible). But anybody else...you acknowledged that maybe there needed to be some mitigation, but you favour Plan B+, but maybe it would cause some problems with some of the folks along the lake and river, and consequently there probably needed to be some mitigation.

What, from your perspective, would be a reasonable approach to mitigation? And I'd be interesting in hearing any others that would like to contribute or are looking at that difficult issue.

MANFRED KOECHLIN: Well, as far as (inaudible)...is concerned...

UNIDENTIFIED: Sir? Sir, can you use the microphone (inaudible)...

MANFRED KOECHLIN: In order to meet the principal objective in terms of how to go about this, there was a recommendation from the IJC that there be a public advisory group added to the...

HERB GRAY: The Control Board.

MANFRED KOECHLIN: (inaudible)...planning...looking for the name here. And I think that there is a great selection of people from the general public and NGOs who...because the environment is basically the primary objective of B+, and that's why the environmental organizations around Lake Ontario

particularly and the Saint Lawrence River have gotten together and basically found that B+ seems to be the most ideal solution and policy structure.

But in order to deal with the realities, there is a time period necessary for mitigation, and I think that consultation with NGOs...and over the years, I would suggest to you that I remember in the '80s and early '90s, in the early days of when we were dealing with areas of concern and public advisory committees, there was incredible protests made to identify problems and how to solve them.

And I think that that kind of an approach could be very useful to put together...to work with the institution, work with government agencies, both federally, state, provincially, to put this B+ plan into reality, to make it reality and completely based on the fact that the environment is a primary objective and yet we all recognize that socio-economic factors are also important and have to be recognized. That's my answer to your question.

HERB GRAY: Okay, thank you. Well, I'd like to now adjourn the meeting, but I'd like people to stay and we can carry on informally. We have Mr. Trowbridge and Mr. McAuley ready to answer technical questions or any questions that they feel they can deal with, and we won't rush away, either. Thank you very much. Thank you for coming.
