

REVIEW OF THE LAKE ONTARIO-ST. LAWRENCE RIVER ORDER  
OF APPROVAL - PUBLIC HEARING IN KINGSTON, ONTARIO, JUNE  
24<sup>TH</sup>, 2008, 110 MIN.)

HERB GRAY (Chair, Canadian Section, International Joint Commission):  
...now some of you have been to the earlier meetings and you heard the  
introductory remarks. I am going to make similar remarks; if they sound familiar,  
don't worry about it, but I feel we have to present these comments to people  
understand the format of the meeting. So just bear with us as I go through our  
opening statement, and if I could invite everybody to sit down.

Anyway, on behalf of the International Joint Commission, I'd like to  
welcome you to this public hearing, one 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,  
American Chair Irene Brooks, commissioners Jack Blaney and Pierre Trépanier  
from Canada and commissioners Allen Olson and Sam Speck from the United  
States.

We are here to receive your comments on proposed changes to how water  
is released through the Moses-Saunders dam on the Saint Lawrence River  
between Cornwall and Massena. This, as you likely know, 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.

Now, the IJC, I should remind you, 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 1950s, the two 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.

And for nearly 50 years, water through the resulting 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 these 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 has 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, and therefore 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 will make themselves available at the conclusion of this hearing to answer remaining informational questions, and I'd like our experts for this purpose to stand up so people will see who you are and know where you 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 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 go back see our staff at the registration table. You can register to speak at any time during tonight's hearing.

And 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.

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

And 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, but we will hear people who have registered to speak.

Now 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, and our secretaries will help you keep track of time by showing a yellow card when you have 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, in either paper or electronic format, please provide them to the secretaries. They will later be copies for all commissioners and the secretaries will make sure they are included in the official record.

Now 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, but please help us keep within the five minute limit for oral presentation. so we can adjourn at 9 o'clock.

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

Now commissioners are here to listen to you, but they may ask a few questions, particularly if we need clarification. Our questions, and your responses, will not be part of your allotted time.

Now we would ask that there be one spokesperson for each organized group here this evening, if any. 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.

Now following the hearings, we will continue to accept written comments up to July 11<sup>th</sup>. And 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, and I can assure you that anything you send us will be given full consideration and provided to all commissioners.

But I stress we will not make any decision until after we have considered all public comments received. Now 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.

And this concludes my opening introductory statement, and I am now going to be begin calling people to the presenters table to give their comments.

Now I don't see any elected people here except there's a James Marquette, County Administrator of Wayne County in New York, Lyons, New York. If you can come forward, Mr. Marquette, we'd be delighted to hear from you.

JAMES MARQUETTE (County Administrator, Wayne County): Thank you for the opportunity to speak. I am James Marquette, I am the County Administrator of Wayne County, New York.

Wayne County is located on the south shore of Lake Ontario, nearly midway between the urban centres of Rochester and Syracuse, approximately 25 miles to the east of Syracuse, Rochester is 10 miles to the west.

Wayne County's northern boundary consists of nearly 35 miles of Lake Ontario shoreline, which does not take into account the additional waterfront provided by four unique bays.

Great Sodus Bay is the largest enclosed embayment on the south shore of Lake Ontario, with a surface area of approximately 3,200 acres, draining a watershed of over 46 square miles.

Nearly 21 miles of bay shoreline is developed with restaurants and shops, seasonal and year-round homes, public parks, marinas, and marine-related businesses. Recent investments in these businesses, homes, and parks have been made based on existing lake level management.

Given the value of and the investments made in the county waterfront property, Wayne County government would like to respectfully express its

opinion regarding the International Joint Commission's proposed new Order of Approval and Plan 2007.

Wayne County does not support any plan that will permit a modification of the four-foot target range for Lake Ontario level, which is now on Lake Ontario, between 233.3 feet and 247.3 feet, and that is contained in the existing Order of Approval.

It is encouraging that the IJC has affirmed in the proposed new Order of Approval the commitments made by the government as part of the project approvals in the 1950s to protect the shoreline communities.

However, it is not clear that the proposed new Order and operating plan 2007 actually meet those commitments, which years of shoreline development has been based upon.

In particular, the proposed reliance on modelling and economic projections on coastal damages rather than water levels is only a valid and positive step if the modelling and economic analysis are accurate and comprehensive.

The review of the study by the U.S. National Research Council and Royal Academy of Canada indicates that the analysis of coastal processes is not sufficient is not adequate upon which to base decisions.

In addition, the Study Board's own minority report highlights many deficiencies in the analyses and assumptions utilized, including the following that directly affect local governments.

Losses due to erosion of public lands, such as Wayne County's Sodus Bay Park beach, the Bear Harbor, B. Forman Park (?), Beechwood State Park and New York Chimney Blough (?) State Park, were not included in economic damage estimates.

The loss in property value to landowners, many of which are commercial entities, due to increased erosion damages and the direct loss of land area was not included in economic damage estimates.

The drop in property tax revenues to local governments due to property value decreases from erosion and threat of flooding were not included in economic damage estimates.

The 2008 Wayne County tax role indicates that there are approximately 2,120 tax parcels, which is a little over 5 per cent of our number of parcels in the county, and that contains a total assessed value of nearly \$370 million, which represents slightly over 8 per cent of our taxable assessed value for the county. These could be directly affected by lake levels.

The upper end of the four-foot target range for Lake Ontario level as contained in the existing Order of Approval would be exceeded by approximately one foot before any action could even be contemplated to avoid flooding and severe erosion.

This is unacceptable since seawalls, boat launches, docks, and other public infrastructure have been designed in reliance on the target four-foot level range.

It is unclear who will pay for the redesign and reconstruction of these facilities that are both publicly and privately owned.

The losses projected to the recreational boating industry under Plan 2007 will result in severe economic distress to many local communities and businesses, including most associated with Sodus Bay and other similar embayments located in Wayne County. It will also negatively impact local governments through losses of property and sales tax revenues.

Wayne County appreciates the tremendous amount of time and effort that has been placed into bringing the Lake Ontario-Saint Lawrence River study to its current draft. The data obtained will undoubtedly prove to be useful as we continue to do our best to understand and work with this great resource that we have.

However, until the analysis of coastal processes is complete and sufficient, which will include specific economic damage amounts and associated mitigation measures, Wayne County urges the IJC to not adopt the proposed new Order of Approval and Plan 2007. And I thank you for the opportunity to speak.

HERB GRAY: Before you leave the table, please wait until I ask the commissioners if they have any questions they want to pose to you.

JAMES MARQUETTE: I'm sorry.

HERB GRAY: They don't have to, but I mentioned that they may do so. Are there any questions at this point? If not, we want to thank you, Mr. Marquette. Oh...

SAM SPECK (Commissioner, U.S. Section, International Joint Commission): In your experience and position (inaudible)...when we're looking at ways to mitigate the threats that you perceive (inaudible)...would you have any recommendations as to the kind of mitigations (inaudible)...sense?

JAMES MARQUETTE: I think that it's best if I pose that question to some of the people that are advising us and we'll provide a written answer, if that's acceptable.

HERB GRAY: We would welcome any further comments you care to make in writing up to July 11<sup>th</sup>.

JAMES MARQUETTE: Okay, we'll answer that.

SAM SPECK: Thank you.

JAMES MARQUETTE: Thank you.

HERB GRAY: Our next presenter is John Morrison and he is with an organization, CFBKYC, and he'll explain what it is. And on deck, I would ask to get ready, Bud Andres of Save the River, and Elaine Boivin, of the IWLC. So Mr. Morrison, could you give your presentation?

JOHN MORRISON (Canadian Forces Base Kingston Yacht Club): Good evening, commissioners, and thank you very much for the opportunity to make a couple of comments this evening, and I will be very brief. My name is John Morrison, I represent the Canadian Forces Base Kingston Yacht Club, and I represent 100 recreational boaters.

I must add the caveat that this club is a non-public facility, it has nothing to do with the Department of National Defence, and my very brief comment here this evening are from the members of the club. It has nothing to do with the federal government.

We do not support Plan 2007 and we'd like to add our voices to those of Hamilton and Burlington who decry the plan on environmental grounds. We strongly support the Plan B+ option.

Nowhere have we been able to find an explanation as to why Plan B+, resulting from five years of study and costing some \$20 million, has been replaced by this so-called Plan 2007.

The CFB Kingston Yacht Club has two major concerns. We are currently already challenged by low water levels during lift-out in the fall. We are committed to a single haul-out date because of the availability of commercial cranes in the area.

Thus, if the water levels were to be at such a low level, we would not be able to get the boats out in the fall and members would have to make other arrangements at considerable expense and trouble to themselves.

The second major concern that we have is weed growth. We are afraid that low water levels in the spring would encourage weed growth, which we are already challenged with.

Increasing pressure from club members to introduce more chemicals into the lake, which, as we already know, there are too many, and we don't want that to happen. Those are the extent of my remarks. Thank you very much.

HERB GRAY: Okay. Well, now we have time for those who want, among the commissioners, to ask questions, and I am going to ask a question at this point.

You said that B+, which your group supports, was the result of five years of study at a cost of 20 million. Now it's my understanding that the Study Board report actually put forward for consideration three plans, of which B+ was only one of them. They did not recommend to the Commission over others. I'm not speaking disparagingly of B+ or any plan, I'm just trying to ask you if you are aware of this, in the interests of completeness and consideration of the matter.

JOHN MORRISON: Yes, we are aware of the other two options, A+, B+, D+. And in our estimation and in those of other folks that we have spoken with, B+ is our preferred option.

HERB GRAY: Okay. Any other questions from commissioners? If not, I would thank you for your presentation and call forward Bud Andres, and Bud will be followed by Elaine Boivin of the IWLC. Mr. Andres is from Save the River and lives in Landsdowne.

BUD ANDRES (Vice-President, Save the River): Distinguished Chair Gray, commissioners, others at the table, thank you for this opportunity. I have a

prepared statement on behalf of Save the River. I sit as vice-president of that organization.

Save the River urges the IJC to implement Plan B+ as the new regulation plan for Lake Ontario and the Saint Lawrence River. First and foremost, Plan B+ restores the natural cycles of the lake and river and will provide vital benefits to health and diversity of coastal habitats and species.

The improved health and diversity of those habitats and species will improve fishing, hunting, and quality recreational boating, while contributing added benefits to economies on both sides of the border. By quality recreational boating, I emphasize quality boating, in a healthy and diverse restored water environment, not a river trench.

After 50 years of Plan 1958DD, it is time to choose not Plan 2007, as proposed, but the environmental choice of Plan B+. Save the River is not alone in its preferred choice of Plan B+. Many others agree it is time to choose in favour of the environment, for our and future generations' quality of life.

The science community has spoken of the environmental benefit. Save the River believes hydro and shipping interests are aware of the economic benefits as well. Political leaders on both sides of the border have spoken out in favour of Plan B+.

The IJC has indicated it has a strong interest in providing additional environmental benefits at the level provided in Plan B+-based plans, but finds it impossible to do so without unduly reducing benefits and protections currently

accorded to other interests. Legal research provided to Save the River strongly suggests that the Commission may adopt Plan B+ variant without indemnifying property owners.

Representatives of the Commission, the year is 2008, in the 21<sup>st</sup> century. It is the right time, in fact about time to act in favour of our lake and river ecosystems. Reverse a 50-year water level plan that has contributed to their degradation. Remote chance events should not sway the IJC in putting in place a plan that will improve our environment.

We want the most environmentally-friendly plan now, Plan B+, and it will be our children and grandchildren the ones most grateful for you taking the right step at the right time. They deserve it, and in this day and age, have come to expect it. Thank you, Sir.

HERB GRAY: All right, are there any questions from commissioners? Yeah, well, I have a question. You say that you have received research that the Commission can adopt B+ without indemnifying anybody.

Assuming that that is correct – and I just observe, by the way, that we don't have funds to indemnify anybody; that would have to come, if it happened, from governments, not the Commission – but assuming that nobody has to indemnify the people who are damaged, what should they do about damages that may result from Plan B+ or any plan we adopt?

BUD ANDRES: Well, again, I think that has to be considered by many people. The gentleman spoke earlier from the south shore region. Your Commission has to think about those things.

I don't think that's a solution that Save the River has, but we all collectively, I think, have to think about that and get something together, whether it's government-funded, whether it's private-funded, whether it's everybody working together.

I know you have proposed that if mitigation were possible, that it would be considered and seriously looked into. Let's consider it.

HERB GRAY: Okay. Thank you very much. Now, Elaine Boivin of the IWLC. I guess that's the International Water Levels Coalition. And she has come to us all the way from Orleans, Ontario, I presume, outside of Ottawa.

ELAINE BOIVIN (Vice-President, International Water Levels Coalition): Commissioners, I don't have a formal presentation to make. I am the vice-president of the International Water Levels Coalition, and so clearly, I don't think it's any news to you that I strongly support the adoption of Plan B+. And I support the comments made by both previous speakers and very much share in their opinions.

I am also a recreational boater. Last year, thanks to the water levels, I had to haul my boat out in the middle of September. If you implement Plan 2007, I'm probably looking at hauling it out in the middle of August this year.

Now I'm not a millionaire and a big spender. However, I am a member of a yacht club that hosts 100 boats. We were not the only ones stuck in the mud on the bottom, and it took a great deal of effort to get us out of our slip in the middle of September last year.

If you look at 100 boats in this area and the kind of economic benefits and spin-offs that they provide to local businesses, to tourism, you can't dismiss that as being just a few people that want to enjoy their toys.

Plus, our yacht clubs and our marinas also pay taxes to these municipalities. You start cutting short your businesses, you're going to lose a few of them sooner rather than later.

We've damaged this beautiful river of our for 50 years. Isn't it time we stopped? Isn't it time we took responsibility for it and changed the way we're dealing with it? We owe it to ourselves and to future generations.

And yes, there will be damages to mitigate. But you know something? There are organizations that have benefited because of the mismanagement – sorry, I should not say mismanagement – but because of the plan, the water levels management plan that has been in place for over 50 years, have benefited, not least of which was Wayne County, who got, I'm sure, significant taxes out of those nice waterfront properties that probably shouldn't have ever been built in a floodplain.

The point is they have received a lot of taxes over those years. Maybe they should be thinking how they should contribute to the mitigation and give us back our river. Thank you.

HERB GRAY: Do we have questions for Madame Boivin? If not, thank you very much. And now, I'm calling forward Michael Nicoll Griffith of Kingston, followed by Larry Field of Conservation Ontario, who will be followed by Mara Shaw, Cataraqui Region Conservation Authority.

MICHAEL NICOLL GRIFFITH: Good evening. I'm Michael Nicoll Griffith, as Mr. Gray said, and I live in Kingston. I worked mostly in Montreal and I retired to Kingston, and I bought a waterfront property in 1990, and it was my expectation that I could use it as a harbour for my sailboat.

I was prudent in the selection of my site and I found one that was both sheltered and protected. With my experience on Lake Saint Louis, I had expected that the level of Lake Ontario would be generally consistent from one month to the next and that I could expect a full six months of boating at my new place, that is a six-month summer would run from May to November.

However, gradually, this expectation became undermined. About 1998, the water levels started failing me in October. Therefore, I was obliged to find a location further away to get a usable dock.

If IJC is responding to shore property owners who built illegally and now fear that they may suffer from equinoctal storms, what prevents the argument from being extended into June or July?

After some three to five years, the water levels at my dock started to fail me in September. This meant that I had to rent a dock at a yacht club which would have water deep enough into the fall.

Even this proved to be a limited hope. In the last two years, the water level has been too low even in August. No longer can I bring my boat home in August and hope to get it out again. It's not in December, as criterion B of the Order of Approval says, but now in August that somebody pulls the plug and the water disappears.

The net effect is that I can no longer trust the reasonableness in the level of the lake. I cannot go away for fear my boat gets locked in suddenly. The value of my property has been reduced. I am put to additional external expense and I have been cheated in the quality of my retirement.

I am delighted that the IJC has commissioned a subject study. The recommendation of three plans gives appropriate choice for the IJC to make a selection, particularly with the added input from the public at these open meetings.

I do believe that the IJC is morally bound to accept the report and to choose one of the recommendations in it. To institute a plan outside the framework presented could expose the commissioners of the IJC to class action lawsuits. These could seek recovery of lost value and added expense from stakeholders who may have remained silent until now.

Since the environment and its importance will certainly outlive my personal interests, I will submit to the wider good and therefore express my choice for Plan B+. I think the south shore lobby should not attend to the protection that they should have arranged a long time ago. Thank you.

HERB GRAY: First, before you depart, thank you for your very to-the-point written statement. I'd like to ask commissioners if they have any questions. If not, I'd like to ask this gentleman if he is aware that at the time the Study Board report, with the three options put forward, the Commission stated that it was not bound to accept any of the three options. Of course, the moral obligation is a matter to be considered.

And also, are you aware that the International Joint Commission is an international organization created by a treaty, and under the Vienna Convention, is not compellable in the courts in either Canada or the U.S.?

MICHAEL NICOLL GRIFFITH: You're out of that one. (LAUGHS)

HERB GRAY: That doesn't mean we're not sensitive to these issues, but I thought I'd just put this forward, just for the information of all concerned.

JACK BLANEY (Commissioner, Canadian Section, International Joint Commission): I'd also like to ask you, the evidence of your comment that the plan that we chose was outside the framework or beyond the study, on what basis do you make that comment?

MICHAEL NICOLL GRIFFITH: Well, I have been studying the report and the technical side of it, and I understand that the recommendation was for

A+, B+, or D+, or E, or, you know, some variant of that. And I read about the (inaudible)...plan also, and there's a number of plans mentioned.

JACK BLANEY: Yeah, in the report, you will find in the report that the plan recommended just for discussion, 2007, is indeed a variant of D+ and was worked on by the same people who worked on the study. Just for information.

MICHAEL NICOLL GRIFFITH: Oh well...thank you.

HERB GRAY: All right, thank you very much. And now I call forward Larry Field of Conservation Authority...Conservation Ontario, I should say. I think that's the umbrella body of all the conservation authorities of the province. Am I correct?

LARRY FIELD (Conservation Ontario): Yes, it is, Chair Gray. Thank you for the opportunity to present today. My name is Larry Field and I work for the Toronto Region Conservation Authority, but was also a former member of the PIAG on the Study, so that was a great opportunity to participate.

But today, I am bringing forth the position that was adopted in the discussion at Conservation Ontario's council meeting as of yesterday. I also have with me Steve Nekto (?), who is with the Canada (inaudible) Conservation Authority, he is the CAO, he is also part of the Conservation Ontario council. And you have already indicated that Mara Shaw will be making a statement on behalf of the separate conservation authority.

Our comments and recommendations were endorsed by Conservation Ontario council yesterday, and they will be included in a formal written submission to the Commission so you have the full documentation.

In the hand-out I provided, at the second slide, I just give you a quick overview. Conservation Ontario is a non-profit corporation that represents a network of 36 conservation authorities and their common interests at the provincial and federal levels.

In 2006, on the third slide, with the assistance of Dr. Gail Krantzberg, Conservation Ontario developed and endorsed a position statement on Great Lakes sustainability. The full position can be found on our website, but I'll share with you the Conservation Ontario collective mission with regard to Great Lakes.

The collective mission is that Conservation Ontario will work with all orders of government and basin residents as stewards to protect and improve the unique shared Great Lakes and Saint Lawrence ecosystem for present and future generations.

On the next slide, I just provide a map of all conservation authorities and just highlight that 35 of them drain into the Great Lakes system and one, the Matagami, drains into Hudson's Bay, and there are 12 conservation authorities that represent Lake Ontario and the Saint Lawrence River system.

Slide five, I just want to highlight back in...the Study Board's vision was to contribute to the economic, environmental, social sustainability of Lake

Ontario and the Saint Lawrence River system, and I think that goes a long way with supporting our mission statement on the Great Lakes.

And secondly, I'd just like to highlight that the conservation authorities, and in particular to this plan and proposal by the IJC, the 12 conservation authorities bordering Lake Ontario and the Saint Lawrence are major landowners of the natural resources and wetlands and some of the watersheds that drain into the system, but also major resource managers, responsible for this system's health and contribution to a healthy Great Lakes ecosystem.

The authorities are not only protectors, but are also involved in large-scale wetland and habitat rehabilitation or wetland creation projects along that system.

We would like to commend the IJC for the many improvements that you have made, i.e. the separation of the Order and the plan so that the Order can live for a long time and you can tweak the plan as changing conditions occur.

We also commend the commitment to adaptive management that goes a long ways into supporting the conservation authorities' watershed management and recording and monitoring and adjusting our management strategies.

We also note that you do have a desire to go to Plan B+ within two years upon your review, if there is appropriate mitigation in place, and also comment on the commitment for a new board and structure to take some of the secretive nature that may have prevailed in the past and the long-term adjustments that the IJC will have to endorse before the board can make those.

The only issue that we have with the Order is the treatment, the way we read it, in terms of two interests, the recreational boating and environment, relative to the other four. And it took us a bit by surprise, but the Order only says that you will take into account...or takes into account the environment and the recreational boating.

And through the study, we had a little different impression, that they're more on the equal footing. Our council members felt that this approach was unacceptable, it appeared different than the Study Board's process and modelling and evaluation in terms of how they dealt with the interest, and it seems to have skewed, in our terms, the results with the proposed Plan 2007 towards the previous interest in the shoreline owners. And I'll comment a little further on that.

The last slide really summarizes the recommendations that were put forth yesterday. Conservation Ontario does not support Plan 2007, either in the interim or long term. We think it's going to be hard to shift from Plan 2007 – looking at the plan graphs – with the greater protection provided shoreline owners.

It will be hard to shift and we don't think that it'll probably happen. It may, but with that Plan 2007 entrenched, it will be difficult to adjust, and we don't think this is sustainable.

The less variability and the seasonality of water levels are really critical to re-establishing wetlands, and we question whether Plan 2007 in terms of the environment is really the status quo or could potentially lose significant habitats

that we have and frustrate some of the investment that we've made in creating major wetlands, and one that I know of is on the Toronto waterfront, which is a 20-hectare wetland that we...hopefully can maintain those variability and seasonality.

Our proposal for the consideration of the Commission is that Conservation Ontario supports the implementation of Plan B+ now as the basis of regulation. It's better for the environment, it's better for hydro power than Plan 2007, it's better for navigation, as we read the charts, it allows the variability and seasonality that we need and it protects some of those investments.

It's not just that recommendation, it's also that Conservation Ontario recommends that concurrent mitigation plans and implementation be prepared, that they go hand in hand. You just can't implement Plan B+ without moving concurrently on mitigation plans.

And the IJC, if you can adjust the Order or the direction that still maintains the flexibility to consent to board deviations in extreme high water periods to minimize the existing shoreline loss, until the mitigation is in place and hopefully in a timely manner.

And the last point is that we support, as I mentioned previously, the adaptive management program. And Conservation Ontario and the 12 conservation authorities are (inaudible) the system, support...or have data, will be collecting additional data that can be contributed to the new board, who is responsible for that, and hopefully in the future there may be expanded

partnerships where we can help monitor the system and allow you and the board to do its job in any future adjustments to the plan. Thank you very much.

HERB GRAY: Okay, commissioners, do you have any questions for this gentleman?

IRENE BROOKS (Chair, U.S. Section, International Joint Commission): Just a clarification. You said that the environment and recreational boating are not on an equal footing as navigation, hydro power, and municipal and industrial water uses?

LARRY FIELD: Yes, that was our reading in the draft order or the summary document. It was sort of third or fourth on the list. It was fourth on the list in the summary, in the highlights of the proposed new order. The fourth point indicates that it takes, after it complies with all the rules and the previous Boundary Waters Treaty, comparable or greater benefits to the interests, which include, shore property owners, and reduce flooding for the shore property owners, and then it says takes account of environment and recreational boating.

So in our mind, the Order seemed to differentiate somewhat from the other interests versus the environment and recreational boating.

HERB GRAY: Okay, any other questions for this gentleman? If not, I'd like to call forward Mara Shaw, who will be speaking for the Cataraqui Region Conservation Authority, followed by Bruce Bowie of the Canadian Shipowners Association.

MARA SHAW (Watershed Management Coordinator, Cataraqui Region Conservation Authority): Thank you, Mr. Chair and commissioners. I'm Mara Shaw, I'm the Watershed Management Coordinator here at the Cataraqui Region Conservation Authority. Our jurisdiction runs from Napanee to Brockville and encompasses 250 kilometres of Lake Ontario and Saint Lawrence River shoreline.

So we're in a unique position to talk to both lake shoreline and river shoreline interests, and we are in full concurrence with what Larry Field just presented here from Conservation Ontario, so I won't repeat his comments.

But I am speaking specifically to add the local flavour to what Larry has said. In our case, with other 250 kilometres of shoreline, we have over 3,700 hectares of evaluated coastal wetlands, and those have been noticeably degraded by the water level control that is on, with thick mats of cattails, I'm sure you're aware, an invasive species, that could be improved by returning more towards a normal water level regulation.

I would also add that we do recognize and appreciate you have done a very comprehensive analysis, and we appreciate that. And we appreciate the fact that we have made steps here by separating the Order and the plan and allowing that plan to be a living document. I think that's very appreciated no matter where this winds up.

But I would like to say that shoreline erosion concerns certainly do need to be addressed, and we are in the business of natural hazards as well at

conservation authorities. We certainly recognize that, but we also feel that there is a bigger system at play here and that we need to continue to work towards the mitigation measures that I understand were in discussion with the New York State Department of Environmental Conservation.

And if we could get those back rolling and get mitigation back to the table while bringing forward Plan B+, I think there would be more impetus to move forward towards that on all governmental levels.

I would also just mention that in my reading, the current proposal does not identify which threshold water levels could be changed from Plan 2007 to Plan B+. Would you have to have 100 per cent mitigation of everything or would you have 98 per cent? And without that, I fear that we could get stuck into an even more restrictive regime under Plan 2007 than we have now.

So I would much prefer and I think the Conservation Authority would much prefer to see movement to B+ even if it meant that in the most violent fall months, that there was some deviation. We'd prefer to see that than to see 2007 and then move forward.

And I guess my final point would be that I would mention that we are in the business of wetland restoration, and there is no amount of restoration that we could do that would be as big as this decision, as I'm sure you're aware. With one decision, you can be adding a positive or negative effect on, in our case, 3,700 hectares of evaluated wetlands and many, many more unevaluated

wetlands, and that's just our little Conservation Authority. So I thank you very much.

HERB GRAY: Are there any questions from commissioners? Just a minute, excuse me, a question occurred to me. In addition to the wetlands you have mentioned, how many riparians, homeowners, marina operators, business owners and so on, live along the shoreline that your conservation authority is responsible?

MARA SHAW: We do have some historic homes in the wave uprush zone of Lake Ontario. And I think we would also have to be at the table, and I understand Ontario would have to be at the table, at least to talk about mitigation there.

HERB GRAY: And are there any organized municipalities within your conservation authority region?

MARA SHAW: Such as the City of Kingston, or...?

HERB GRAY: I beg your pardon?

MARA SHAW: In which way?

HERB GRAY: No, I mean...conservation authorities are a board made up of people from municipalities, right?

MARA SHAW: Yes, yes.

HERB GRAY: So what are the major municipalities along the shoreline?

MARA SHAW: The Town of Greater Napanee, the City of Kingston, the City of Brockville, the Town of Gananoque, are our largest municipalities along the shoreline, Loyalist Township.

HERB GRAY: Okay, thank you very much. Sorry, Dr. Blaney?

JACK BLANEY: I think I understand you are saying that mitigation should be in place before B+ is implemented.

MARA SHAW: No. I hope that what I said was that mitigation should be ongoing as B+ is implemented, but that we need to start with B+ with mitigation discussions and movement ongoing. But if we stop at 2007, I think that's just a very bad solution. Yeah, thank you very much.

HERB GRAY: Okay, I now call to the table to present Mr. Bruce Bowie of Canadian Shipowners, followed by Richard Corfe, representing the Saint Lawrence Seaway Management Corporation, based in Cornwall, Ontario.

BRUCE BOWIE (Vice-President, Operations, Canadian Shipowners Association): Thank you, Mr. Gray. My name is Bruce Bowie and I am the Vice-President, Operations, of the Canadian Shipowners Association, the CSA. I would certainly like to thank the commissioners of the International Joint Commission for the opportunity to appear before you this evening and provide comments on this important issue of regulating water levels and flows in Lake Ontario and the Saint Lawrence River.

Now the CSA represents the interests of the Canadian companies that own and operate Canadian-flag vessels on the Great Lakes-Saint Lawrence waterway.

The Canadian fleet is comprised of some 68 vessels that carry 75 billion tonne-kilometres of cargo in 2007. The fleet provides Canadian communities and industries with reliable, economic, and environmentally sustainable transportation.

The CSA and its members recognize their responsibility to maintain a marine transportation system that is environmentally sustainable. This is accomplished through the application of an environmental management system of all facets of our operations and management, ensuring the primacy of environmental stewardship.

The shipping industry wants to see a solution that maintains current navigability to the extent possible, with a flexible and responsive mechanism to allow deviations as required if weather does not cooperate with the plan.

Based on the analysis of our operations, there is no question that both Plan 2007 and Plan B+ are much worse for commercial navigation than the current system.

Now as you know, as commissioners, the Boundary Waters Treaty of 1909 provides high precedence for navigational usage, but it is clear to us that the rules and principles of the Treaty are not being respected in the proposed new Order, and we believe that they should be.

The economic analysis of the impact of the various options on commercial navigation does not accurately reflect the significant economic costs that will be

borne by carriers, shippers, and consumers due to light loading which would be caused by low and consistent water levels.

In a very dry year, the potential loss of tonnage carried by Canadian ships alone in the lakes and the seaway would be in the range of hundreds of thousands of tonnes. This represents a loss of tens of millions of dollars in revenue.

More importantly, the reduced marine transportation capability due to the water levels has impacts well beyond just our industry by creating major disruptions among the industries that we supply and the Canadian and U.S. consumers that use their products and services.

Similarly, we feel that the environmental analysis is inadequate. The environmental criteria considered in choosing between the plans are focused mainly on habitat and wildlife conservation. We feel that larger scale environmental impacts such as GHG emissions and air pollutions have not been adequately considered.

We need to consider environmental benefits holistically. If the IJC adopts a plan that decreases the capacity of the marine fleet in the Great Lakes and the seaway, those goods will have to move either by rail or by truck, some other mode of transportation, or not move at all.

If they move by road or rail, we'll be looking a major increases in fuel consumption and emission of air pollutants, more than a ten-fold increase in greenhouse gas emissions alone relative to transportation with the marine mode.

Marine transportation remains the most energy efficient mode of transportation and generates the lowest quantity of greenhouse gas emissions per tonne-kilometre, directly contributing to our quality of life. It is important to ensure therefore that the new plan does not adversely affect safe, reliable, and efficient marine transportation systems.

Another feature of the plans under consideration that gives us concern is the requirement to draw down Lake Ontario for two years in 20. As the proposed plan reads now, at least we read it, a decision to draw the lake down is made early in the calendar year, and from that point on, the plan attempts to do this.

If after a decision is made to draw down the lake and then conditions turn dry, there may not be enough water left in the system to support the full draft navigation for the balance of the year.

The current system of deviations is critical to provide the minimum water levels required for safe and efficient navigation. The deviations enable vessel navigation in the seaway, a seaway draft, but have little effect on the water level on Lake Ontario.

The proposed policy of requiring deviations to be reconciled within one or two weeks is not workable in extended dry spells, and the procedure for longer-term deviations is not likely to produce timely results. Applying the new policy last fall, for example, would have had disastrous consequences for commercial navigation in the system.

Protections required to provide water levels and flows that are safe and acceptable for commercial navigation we feel must be written into the new Order of Approval if the Boundary Waters Treaty is to be properly respected. Water levels at Lac Saint Louis in Montreal and Long Sault need to be maintained at a level suitable for navigation.

In conclusion, then, the shipping industry questions the validity of the economic analysis used to inform the decisions being made. We also caution that a focus on habitat and wildlife conservation above all else turns a blind eye to other potentially more damaging impacts on the environment.

The industry needs to see a flexible and responsive plan in place to provide certainty about water levels required to support commercial navigation and to allow deviations in case of unforeseen difficulties with the weather.

We need guarantees that safe and acceptable conditions for navigation will be maintained in accordance with the priorities of the Boundary Waters Treaty. Thank you very much for your attention.

HERB GRAY: Is there any questions they have at this point? Yes, Dr. Olson.

ALLEN OLSON (Commissioner, U.S. Section, International Joint Commission): This is the eighth of ten hearings. We have heard substantial testimony in favour of B+. I don't think we have heard from consumers or port authorities, other than Montreal, or any of the other interests that you cite as being affected by a change in navigation. Can you explain that?

BRUCE BOWIE: Well, I would just say that the general consumer, you know, isn't necessarily completely knowledgeable about how the commodities actually get to his doorstep. You know, we carry millions of tonnes of cargo on the Great Lakes and the average consumer does not know that that is an issue or if that cargo is not going to move efficiently.

HERB GRAY: Are there other questions? If not, I have a...Sam?

SAM SPECK: According to the report, we are seeing major changes in half of the wetlands in Lake Ontario with the result of a change in the flora and the fauna, and this is something that has the potential for continuing.

Assuming that you, like most business people, have a concern about these kinds of things as well, and have often contributed in their support, how would you approach dealing with it if you're not moving to anything different than we've had, and what we've had has impacted the environment as much as it has? How would you deal with that problem or would you just let it continue?

BRUCE BOWIE: No, I certainly wouldn't say that it should be continued. What we're saying is that we have analyzed the results of these recommendations and they do have a profound impact on commercial navigation.

And for that reason, we do not feel that the economic studies that were done and the environmental studies that were done accurately reflected what we anticipate the results will be.

We think, you know, that the factors that have not been considered in this analysis need to be considered. You can't just look at the habitat; you've got to look at the broader environmental considerations.

You have to look at the impact of water levels of moving commodities and how that's going to, you know, impact the broader economic industrial situation in the Great Lakes region. And we feel that those factors have not been considered. I don't know what the answer is, but we think that those factors need to be brought to bear before a decision is made.

HERB GRAY: You asserted in your presentation that...tell me if I understand this here, are you saying that the proposed Order and plan we have here for consideration are not consistent as they must be with the Boundary Waters Treaty?

BRUCE BOWIE: Well, as we read the Boundary Waters Treaty, navigation, you know, has a second precedence in that, and we feel that, having analyzed the results of the plan, navigation will be adversely impacted by this. So, you know, navigational precedence is not being preserved by the recommendations.

HERB GRAY: I gather you are saying that we do not have the authority to change the Treaty by changing the Order and plan. That's for governments, I presume you would argue.

BRUCE BOWIE: Well, exactly. We feel that the Treaty was put in place in the early 1900s and should be respected in its analysis. I don't think there was

any desire on the behalf of those who undertook the study or the commissioners to derogate from the Boundary Waters Treaty, but I do feel that the analysis that was done does not adequately reflect the implications to navigation that should be respected by that treaty.

HERB GRAY: Okay, if there are no other questions, I'd like to thank this gentleman for his presentation and ask...can we now ask Richard Corfe to take your seat? And Mr. Corfe will be followed by William Campbell of the Bateau Boatworks Inc. of Wolfe Island, who will be followed by Michele Steenbakkers of the Collins Bay Marina.

RICHARD CORFE (Saint Lawrence Seaway Management Corporation): Thank you, commissioners, for the opportunity to speak to you this evening. My name is Richard Corfe and I am the president of the Saint Lawrence Seaway Management Corporation, which is responsible for the safe and efficient movement of marine commerce on the Canadian side of the Seaway.

My objective this evening is to address some aspects of the proposed plan that we believe will result in unintended consequences. The Boundary Waters Treaty of 1909 clearly spells out the order of precedence in which the potential competing interests on the shared resource are to be addressed, but with respect to this proposal, we have found no clear reference as to how the Commission intends doing this.

Since the IJC has also indicated it intends to review the proposed plan within two years and implement a variant of Plan B+, we feel it's essential the

IJC lay out in a transparent manner how these elements will be respected in the decision process and plan implementation.

We have serious concerns with regard to how the economic benefits for the proposed plan were calculated. We note that the seaway section Lake Ontario and Montreal downstream are treated independently for the calculation of economic gains or losses, while in fact, for commercial navigation, it's a continuum, and as such, the lowest common denominator applies to the entire system.

We're also concerned with analysis that was limited to incremental costs for vessel transits, from Becancour to Port Weller, as opposed to the total costs from origin to destination, and one that seemed to ignore a potential modal shift or loss of business as a result of prolonged periods of low levels and high velocities.

Our greatest concern, however, rests on the fact that most of the calculated benefits on the seaway section seem to be derived from a theoretical reduction in delays due to high gradients caused by high velocities. Our records indicate that these are extremely infrequent events, with 1993 being the last recorded (inaudible) in navigation due to high flows. As a result, these economic benefits that have been calculated and allocated in both Plan 2007 and B+ just aren't there.

We examined the proposed plan under high and low flow scenarios and we note that the current plan, 1958D with deviations, performs better downstream of

the Moses-Saunders dam than both plans 2007 and B+. In an extremely dry year like we had in 1964, both Plan 2007 and Plan B+ would have major negative impacts on commercial navigation and significant increase in transportation costs.

Considering this, together with the fact that under proposal, deviations will be more limited, these changes are clearly contrary to the interests of navigation on the Saint Lawrence.

We're also concerned with a feature of Plan 2007 that, as we understand it, would try to lower Lake Ontario levels for the (inaudible) period for two consecutive years once in 20 years, when Lake Erie outflows are low.

Under the current plan and with the present Board of Control, deviations from plan are permitted within limits. Over the years, this has been beneficial to assist vessels in emergency situations and to provide sufficient depth of water during wind events. These are normally short-term events and have little effect on the level of Lake Ontario.

More recently, however, during the fall of 2007, once the seaway had already had to reduced draft due to low water, the Board agreed to overdischarge with respect to the plan for several months to maintain levels on Lake St. Louis at or above minimum level.

Two points here. First, such deviations, possibly over several weeks or months, are critical to navigation, and if deviations over longer periods are not permitted, the delays and loss of carriage capability will have a serious economic impact on the transportation industry.

The second point is that the present order contains references to elevations and the Board has, over time, recognized minimum elevations at key locations. We feel strongly that these minimum levels need to be recognized in the criteria of the orders as they become the backbone for a dependable navigation system.

With respect to environmental considerations, we believe there is a need to take a more global perspective. By focusing on a single area of environmental improvement, wetlands, the IJC ignores impacts on the environment at a macro level.

Adopting a regulation plan that creates lower levels in the seaway and at Montreal Harbour will potentially ship cargos away from the waterway and these will be moved over land, already congested roads, rails, resulting in an increase in greenhouse gas emissions.

Further, the mitigation likely required under this plan to meet the requirements of the Boundary Waters Treaty, extensive dredging and the potential seawall construction, create a far more onerous burden than any perceived environmental gain from Plan 2007.

In conclusion, we consider the current plan, Plan 1958D with deviations, and the present institutional arrangements to be effective and practical in managing water levels and flows to support commercial navigation.

We question the validity of the economic analysis for the proposed plans and reject the economic benefits as indicated, at least as they related to commercial navigation.

The marine industry as a whole needs guarantees that water levels and flows are dependable and, inasmuch as possible are predictable, in accordance with clearly defined parameters. There must be sufficient flexibility to guarantee deviations as required to support commercial navigation, and we do not see this being achieved under the propose plan. I thank you for your attention this evening.

HERB GRAY: Colleagues, do you have some questions, if any, to put to this gentleman from the Saint Lawrence Seaway Management Corporation? First, Chair Brooks, followed by Sam Speck, and then Governor Olson.

IRENE BROOKS: This is a question for, I imagine, Tom or Russ. In the five-year study and the hearings after the study, wasn't shipping and navigation part of the study? I'm a little confused on hearing that our economic figures are incorrect.

UNIDENTIFIED: (inaudible)...

RICHARD CORFE: You can come and take the hot (?) chair if you want.

TOM MCAULEY (Engineering Advisor, Canadian Section, International Joint Commission): Yes, those that were in the study and certainly after the study were aware that the commercial navigation figures did not include trans-Atlantic trips and as such, were not complete.

And it was generally accepted from 2006 onward that the best gauge of benefits and disbenefits to commercial navigation were water levels, particularly

low water levels during the latter late summer, fall, and the latter part of the season.

And since then, we have been, at least for Plan 2007 and the other plans, looking at those levels, including in the 1960s, where we compared 58DD to Plan 2007 and found that they were comparable, the low levels of the 60s.

HERB GRAY: Now, Commissioner Speck?

SAM SPECK: Right, thank you, Mr. Chairman. In making your point that with lower levels, it could lead to light loading and that that could then lead to more being shipped over land, by truck or by rail, if there would not be any additional ships come into play and they all were otherwise fully loaded, I can see clearly why that shift might have to take place.

But with costs rising for trucking and rail as well, you know, what are your assumptions there upon which your generalization is based that this is necessarily going to shift the carriage of these things to rail and to trucking?

RICHARD CORFE: Two things, I think, Commissioner. One, at the moment, there aren't any more vessels available. Mr. Bowie just talked about the Canadian inland fleet; as of today, I believe it is fully booked and there's not much carrying capacity in excess.

So instead of carrying 25,000 or 26,000 tonnes, you carry 20,000 tonnes, the other 6,000 tonnes hasn't got a home at the moment. That's not to say things wouldn't change in the future. So that's one point.

The other point is that the commerce, business, the profitability of carrying cargo, if you take 10 per cent or 15 per cent of the cargo-carrying capacity, suddenly there is no value in being in that business because you've eaten up all the profit.

So who's the say the vessels would actually be able to make a profit carrying light loading over a length of time, and secondly, if they can't make a profit, they're not going to be in the business. So it could be an indicator of the imminent loss of even more vessels. Those are the things we're concerned about.

Obviously, mitigation, additional dredging...but then, additional dredging to protect the water level is something that has a lot of adverse effects as well. So you know, you have a tough problem, I know, but our job is to present how we see commercial navigation being affected by the various outcomes that you've put forth.

HERB GRAY: Mr. Olson, I think, has a question.

ALLEN OLSON: I think I heard you criticize the study for not considering a more global perspective regarding the environment. Am I correct in that?

RICHARD CORFE: I wouldn't use the word criticize. I would say...our reading is that a lot of attention has been paid to wetlands and rightly so, but there's been little thought in our estimation with respect to things like modal change.

ALLEN OLSON: Well, my point would be whether you criticized or not, would be that I don't believe we considered invasive species, and some would suggest are caused by salties who come up the seaway, and a more global perspective regarding environment might have to consider that. How do you respond to that?

RICHARD CORFE: I agree 100 per cent that is something that should be considered, but the level of water...or the different plan you put forward wouldn't change that. But you're right, I mean, there are bigger things at play, and certainly the invasive species issue is one that is on the radar and is being dealt with as best we can. But I don't think it would play in...favour one plan or another plan in this...but I take the job.

HERB GRAY: All right, thank you very much, Mr. Corfe, followed by William Campbell of the Bateau Boatworks Inc., and then Michele Steenbakkers of Collins Bay Marina.

WILLIAM CAMPBELL (Bateau Boatworks Inc.): Mr. Chairman, members of the Commission, thank you for hearing me. I don't have a formal presentation. We operate a small marina on Simcoe Island, which is adjacent here, three miles away, and we probably put away 120 boats in the wintertime.

And last fall was a tough fall because of low water. We can put up with that. But if water levels are made any lower, appreciably, then we're going to be faced with some very severe costs because we'd have to extend our docks, we'd have to do other things which, at the present time, aren't permitted.

Our ramp for hauling out boats is on bedrock. And Oceans and Fisheries, which governs our area, at this present time won't permit blasting to do this.

We can live with what we have now, but I would sincerely suggest that if you're going to change it, go to Plan B+ please because any lower water and I'm afraid we'd be out of business. Thank you very much.

HERB GRAY: Commissioners, do you have questions for this gentleman? If not, we thank you for his presentation. And I am going to interrupt the – thank you – the order I've just mentioned because we have here Mayor Jim Vanden Hoek of the Township of Frontenac Islands, which covers Wolfe Island, and he has to go to another meeting. We usually give mayors and other elected officials some priority over the rest of us mere mortals. (LAUGHS)  
Mr. Mayor...

JIM VANDEN HOEK (Mayor, Township of Frontenac Islands): Thank you very much, Mr. Chair and members of the Commission. I have some very brief comments and they center around development and assessment, and one of the earlier presenters, from Wayne County, has articulated very well some of the same concerns that we have there.

And I'd also like to talk about shorewells and I'd also like to talk about ferries. There are actually seven passenger and vehicle ferries in this area. And I should digress for a second and mention that Frontenac Islands is really the beginning of Thousand Islands that starts here in Lake Ontario and includes about five or six islands and goes towards Gananoque.

So we have...I don't want to exaggerate, but I think 100 miles of shoreline would be fairly accurate assessment of where we're at in terms of where our development is. And historically, over the last 50 years or so, the majority of our development and the majority of our assessment has migrated to the shoreline area. So I'd like to...and that really fits in with the presentation that you heard earlier on from Wayne County.

Just one point on the residential recreational retirement development that we have. There is no municipal water in my jurisdiction, and you can't really successfully drill a well. Most of that shoreline development is serviced by shore wells, and I'm sure you've heard similar concerns from other presenters over time.

The thing that I'd really like to focus on, though, are the ferries. There are seven ferries, starting in Picton, going towards Gananoque, and a significant...I would say we're operating on the margins now in terms of the infrastructure – that's the docks, the piers, and the routings – with the low water that we're experiencing, especially last fall.

Any significant change in that water level is going to mean a change in how we deal with those ferries. And it'll mean not just a change in the docks, it'll mean a change in the routings.

Some of these ferries – actually, the largest ferry, if you were to...I'm not sure if anyone is staying at the Holiday Inn, but there is a ferry that goes from downtown Kingston to Wolfe Island. That goes in a very shallow bay. We're

already moving out of that bay November-December into another port. Any change in the water levels means that that move takes place earlier, and that has an impact on the economic viability of the village in Marysville.

And I'm hearing Plan 2007, I'm hearing Plan B+, and I have to acknowledge that I'm a little bit like a constituent, I'm coming to the table at the 11<sup>th</sup> hour reading this as I go, but I think that we would certainly prefer, our municipality would certainly prefer levels that are more consistent with what we have seen in the past rather than that significant drop in November in December.

It has an impact on us and it'll also have an impact on the province of Ontario as they are an operator of some of these services. I'd like to thank you very much for bringing that matter to your attention.

HERB GRAY: Any questions for the mayor? If not, we thank him for his presentation.

JIM VANDEN HOEK: Thank you.

HERB GRAY: And we invite Michele Steenbakkers of Collins Bay Marina to come forward, followed by James Brown of Clayton, New York. His organization is listed as Save the River.

MICHELE STEENBAKKERS (Collins Bay Marina): Good evening. Thank you to the chairs and commissioners for the opportunity to be heard this evening. My name is Michele Steenbakkers; as you said, I represent Collins Bay Marina, and I am reading a paper written by Hub Steenbakkers.

The IJC has clearly stated that it wants to adopt Plan B+ as the best overall solution to the competing needs of the various affected parties. Due to the apparent threat of litigation from one small segment, the owners of houses built on the south shore floodplains, the IJC is now planning to defer implementation of the correct solution until mitigation measures have been put in place to protect those houses.

The Commission has acquiesced to this delaying tactic, formalizing it as a plan, Plan 2007. It is no such thing. It is an abdication of the essential responsibilities accepted by the Commission and should be labelled a failure to do the right thing.

Plan 2007 has several fatal flaws. It puts the interests of a few above the greater public good as defined and measured by the plan evaluation process. It is radically unbalanced, inflicting enormous costs on a wide range of interests while delivering benefits to a small number of individuals who are profiting from waterfront development and local governments that are collecting greater property taxes.

It encourages this small pressure group to take no action other than to continue to threaten litigation. There are no incentives to cooperate or penalties for failure to act. It is a recipe for paralysis.

Protecting these floodplain builders will exacerbate the problem the Commission is trying to solve by encouraging further floodplain development and the construction of additional structures in these precarious areas.

It is a subversion of the democratic process by substituting the bullying tactics of legal threat for the proper process set up by legislation and international treaties. If a citizen does not agree with the actions of his or her government, redress is achieved through petition to elected representatives or through the ballot box.

It is our strong opinion that homeowners who have deliberately put their residences in peril by building in these areas should find solutions within their own resources or require the assistance of their governments, whether municipal, state or federal.

The only way for the IJC to prompt such action is to adopt Plan B+ today and instruct staff to begin implementation on a clearly-defined timetable, ideally in 2010. No other course of action leads to a solution. Thank you.

HERB GRAY: Okay. I'd like to invite commissioners to pose any questions they have at this stage. Dr. Blaney?

JACK BLANEY: I have to ask, do you feel that we feel bullied? Is it your sense that we feel bullied?

MICHELLE STEENBAKKERS: Yes. We feel that Plan 2007 has been put in place because there's this feeling of being bullied into doing that because there isn't another option or a better option. Is that correct? (LAUGHS)

HERB GRAY: Could you exp...

MICHELLE STEENBAKKERS: That's the impression that some of us have. Whether it's true or not, I don't know.

HERB GRAY: Could you explain how, as an independent group created by an international treaty, we can be bullied? What was said to us that made us cave in, allegedly?

MICHELLE STEENBAKKERS: Well, we've heard threat of litigation. You, I believe, stated earlier that the IJC is not able to be sued by any government from either side, of either country, and that's something that I would like clarified, actually. Is that the case or is litigation a real threat to the IJC?

HERB GRAY: Well, I was going to ask about the issue of a legal threat. What legal threat are you talking about? Bearing in mind that as an international organization created by a treaty, out of the Vienna Convention, we're not subject to any legal process in either country.

MICHELLE STEENBAKKERS: Okay, thank you for clarifying that. We thought there was threat of litigation from shoreowners.

HERB GRAY: Well, all I'm saying is that it's been the understanding of the Commission for 100 years that it can't be sued.

MICHELLE STEENBAKKERS: Okay. Well, I would just state then, if that's the case, then why, if Plan 2007 is the way to protect these properties that are built in floodplains, that perhaps it's looking at one minute portion, not the big greater good.

HERB GRAY: Well, can I ask...I recognize myself to ask another question. You heard people speaking before you on behalf of shipowners and the

seaway. Are they connected with the homeowners on the south shore of New York State?

MICHELLE STEENBAKKERS: I found what they said tonight to be interesting. I hadn't heard their opinions prior to tonight. Certainly, I think they have a stakeholding position in this, it's very important as well.

HERB GRAY: Okay, thank you very much.

MICHELLE STEENBAKKERS: Thank you. (APPLAUSE)

HERB GRAY: Now I want to recognize the next person, James Brown, of Clayton, New York, and his organization is listed as Save the River. I'd like to know if he is speaking on behalf of Save the River because we have already had a spokesperson on behalf of that group.

JAMES BROWN: I am a member of Save the River but I am an independent taxpayer of the federal government of the United States and only speaking in that reserve.

I have spent 65 years on the Saint Lawrence River from New York State. My companion over here has spent all her life on the Canadian side; we're an international friend.

I would like to kind of be embarrassed that I am a New York State resident after I hear the gentleman from Wayne County talking only about money. There's more to this plan than money, and all I've heard from the south shore is that it's going to affect their pocketbook. I have been accused, as many others in the United States, as only thinking about money, and that one kind of hit home.

The Commission asked for a study of the Saint Lawrence River, spent \$20 million on it, and threw it out because I guess they spent more money on their own study, but I'll bet they didn't. I'll bet they know nothing about B1, B+.

I have yet to hear why the south shore of Lake Ontario does not like B+. I've not heard one thing except that they're worried about their houses that were built too close to Lake Ontario to begin with.

I guess what I don't understand...I guess I don't understand geography. I haven't heard anything from the north shore of Lake Ontario, so apparently Lake Ontario tips to the south. (LAUGHS)

I would just like to keep saying that I know none of the Commission members have spent the amount of time that I have on the river. I don't believe any of you are from anywhere near here, as I do my research. It's fairly clear right now that it's not Lake Ontario against the river; it's the south shore against the river.

It's amazing to me that two countries, Canada and the United States, everything I hear up and down the Saint Lawrence River is we're in totally agreement. And I don't believe the Commission can throw that whole thing out because of a few people that were allowed to build too close to Lake Ontario and the south shore.

I can't really say much more, but I hope the Commission listens to this because everybody I've heard here, except for mostly Wayne County, is that Plan

B works, B+, and I haven't heard anybody say that it didn't. Wayne County hasn't said anything about B+. That's all I've got to say. Okay?

HERB GRAY: Any questions or comments? (APPLAUSE) I'd just like to state for the record that I am from Windsor, Ontario, I have spent my life on the water of the Great Lakes. So I can't say I'm an expert on this area, but I am connected throughout my life with the Great Lakes basin.

Now I want to hear from Desmond O'Meara, Kingston Power and Sail Squadron, followed by Chris Hargreaves, Kingston Field Naturalists. Would you proceed? Thank you.

DESMOND O'MEARA (Kingston Power and Sail Squadron): Mr. Chairman, my name is Desmond O'Meara and I'm representing the Kingston Power and Sail Squadron, which has about 400 members. Our interests are in recreational boating and in training people for that.

We have discussed in council at length the reports and have come to the conclusion that the best option is B+ and that the best strategy is to move towards it as quickly as possible.

We recognize that there are problems, but from the point of view of various groups, pleasure boaters, riparian owners and so on, that that is the best alternative. And that's all I have to say.

HERB GRAY: Okay, thank you. Are there any questions to put to this gentleman from commissioners? If not, we thank Mr. O'Meara for his comments and we invite - I guess I got mixed up here - Chris Hargreaves from the Kingston

Field Naturalists to come forward (inaudible)...of the Algonquin Adirondacks Conservation Association of Landsdowne, Ontario. So Mr. Hargreaves, will you present your views please?

CHRIS HARGREAVES (Chair, Conservation Committee, Kingston Field Naturalists): Good evening. My name is Chris Hargreaves. I am the Chair of the Conservation Committee of the Kingston Field Naturalists.

On behalf of the Kingston Field Naturalists, I'd like to welcome you all to Kingston. I hope you enjoy our city as much as we do. We have, for many years now, been enjoying both the advantages of the Saint Lawrence seaway and some of its disadvantages.

As naturalists, we are very please that the impact of the Saint Lawrence seaway on wildlife is one of the parameters which is now going to be used in developing the management plan for the Saint Lawrence seaway.

We are also very that in preparing your report, you were able to develop a plan, B+, which meets these objectives of improving the environment. And not only does this support wildlife, it has been endorsed by both our local Cataraqui Region Conservation Authority and Conservation Ontario, which are both groups that represent many different users of water and the area around Kingston.

We are pleased that this has even been endorsed by the Ontario Ministry of Natural Resources, which also represents a lot of very diverse interests. And we very much hope and I would encourage you to endorse Plan B+ too. Thank you.

HERB GRAY: Okay. Before you leave the table, I'd like to know if other commissioners have any comments to bring forward. If not, we thank you for your presentation and we want to hear next from Emily Conger. If I'm mispronouncing your name, please correct me.

EMILY CONGER (President, Algonquin to Adirondacks Conservation Association): Thank you to the commissioners for allowing me to speak this evening. My name is Emily Conger, I am President of A2A, or the Algonquin to Adirondacks Conservation Association.

The goal of our organization is to protect, enhance, and connect wildlife habitat between Eastern North America's two largest parks, Algonquin Park in Ontario and Adirondack State Park in New York. We are a big landscape initiative and we're an international. We cover an area the size of New Brunswick.

The A2A effort is to an extent dependent on the condition of habitat along the Saint Lawrence River. That is a major coastal area which has been degraded in the past 50 years as a result of the seaway and its operation.

The A2A region is home to a vast variety of different plants and animals, including many that are vulnerable and endangered. Preserving and connecting their habitat is critical to their survival.

Preserving, enhancing, and connecting wildlife habitat is the goal of A2A. We believe that this goal is best achieved by working respectfully with landowners, partnering organizations, and governments at all levels.

A2A is incorporated in Ontario. Its directors and advisors are farmers, trappers, environmentalists, business people, hunters, trappers, landowners, as well as representatives from a wide variety of community organizations, including the Mohawk First Nation of Akwesasne and Ontario Stewardship Council, a county government, Parks Canada, Eastern Ontario Model Forests, a conservation authority, and the United Nations Biosphere Reserve.

A2A's position is that Plan B+ is the best regulation plan for the Saint Lawrence since it will enhance wildlife habitat. Natural water flows must be restored to provide vital benefits to the health and diversity of coastal wetlands, which support a host of endangered birds, fish, amphibians, and reptiles.

One of the tenets of the A2A initiative is that the wild and the civilized can and should coexist. We support Plan B+ because it supports the restoration and maintenance of natural flow regimes to the greatest extent possible compatible with human uses. It will enhance fishing, trapping, and hunting opportunities, and therefore enhance tourism opportunities as well and the businesses that depend on them.

Maintaining ecosystem integrity and genetic diversity are essential, in our view, to preparing the A2A region for the challenges we can anticipate with global warming. Plan B strives to achieve ecosystem integrity.

We strongly support a science-based decision-making scheme about species and ecosystems that occur naturally in watersheds when decisions are

being made about water levels and how dams are operated, allowing for adjustments as required by changes in ecological systems.

A2A recognizes that there may be some coastal erosion as a result of implementing Plan B+ and we urge that there be mitigation and fair and prompt compensation to affected landowners where necessary, and that that compensation be covered by general tax revenues from both countries because all people in Eastern North America will benefit from the implementation of Plan B+. Thank you very much for the opportunity to address you this evening.

HERB GRAY: Do we have questions from the commissioners? I want to ask you a question which is not directly on topic. But I read a lot about the A2A concept, that's the Algonquin to...

EMILY CONGER: Adirondacks.

HERB GRAY: Adirondacks?

EMILY CONGER: Yes.

HERB GRAY: It's sort of like a wildlife corridor...

EMILY CONGER: Yes...

HERB GRAY: With wildlife coexisting with us humans.

EMILY CONGER: That's right.

HERB GRAY: So how is the wildlife supposed to get across the Saint Lawrence?

EMILY CONGER: It does so quite happily on the ice in the wintertime. Some of it swims across and some of it swims from island to island. They use the islands of the Saint Lawrence as stepping stones.

HERB GRAY: Okay. Any other questions from colleagues? Thank you and my colleagues for allowing me to learn a bit more about A2A.

EMILY CONGER: You're very welcome.

HERB GRAY: Thank you very much. Now we're next going to hear Ralph Alan Shaw. Can you hear me right at the back, or...maybe I wasn't loud enough before. But we want to hear Ralph Alan Shaw of the Kingston Yacht Club. Mr. Shaw, please.

RALPH ALAN SHAW (Kingston Yacht Club): Good evening, commissioners. Thank you for the opportunity to speak before you. Commodore Robert Caldwell of the Kingston Yacht Club sends his regards and his regrets that he cannot be here this evening. My name is Ralph Shaw, I am the junior past commodore, I speak in his stead.

I've come to speak on behalf of the members and the board of directors of the Kingston Yacht Club to respond to your request for comments on the draft new Order.

The Kingston Yacht Club was founded in 1896. Its current location is on the shores of Lake Ontario and currently consists of 600 members and 87 wet moorings.

We are a social and recreational club. Our members range from ages less than one year to 90 years plus. We host the fourth largest sailing school for junior sailors in North America. We have four Olympians among our membership.

We are a business, we are taxpayers. We are what might be considered consumers of Lake Ontario waterfront. We operate a gas dock, and a pump-out facility, and a marine railway. We are members of the Canadian Yachting Association, Ontario Sailing, and the Eastern Yachting Circuit.

Members of our club have been tracking water level on Lake Ontario on a monthly basis since 1861 - that's right, before Canadian Confederation and sine the start of the Civil War in the United States, or the war between the States – for a total of 147 years.

Since 1958, there has been a pronounced tendency to reduce water levels in Lake Ontario. Between 1861 and 1857, water levels were above 247 feet 24 years and fell below 244 feet only two years. Since 1958, water levels have been above 247 feet seven years and water levels below 244 feet for 17 years.

When the water on Lake Ontario is lowered below 244 feet above sea level, it has a severe negative impact on our operations. Our marine railway is rendered inoperable, deeper draft vessels cannot use our gas dock, and most of our members' boats have to be hauled out to eliminate risk of them grounding while tied up at their dock or mooring, and therefore denying them access and use of their investment.

Because our mooring basin and docks are located over limestone bedrock, dredging is not an option.

We strongly oppose Plan 2007, which would result in lowering the water level then experienced under Plan 1958 and do so sooner in the year and support Plan B+. The potential to shorten the season in Plan 2007 places the continued viability of the Kingston Yacht Club in jeopardy. Thank you.

HERB GRAY: Thank you. Before you leave the table, I invite the commissioners to pose any questions they have at this stage. Well, thank you very much.

RALPH ALAN SHAW: Thank you, Sir.

HERB GRAY: And I now have the last person who has asked to speak, Peter Macklem, of the Thousand Islands Area Residents Association, and he is based on Landsdowne, Ontario.

PETER MACKLEM (Thousand Islands Area Residents Association): Thank you, Mr. Chairman and commissioners. My name is Peter Macklem. I am president of TIARA, the Thousand Islands Area Residents Association, which is the Canadian counterpart of Save the River.

TIARA's position is that all decisions affecting the environment today need to be taken in the context of the grave threat posed by global warming to the world's biosphere. By the world's biosphere, I mean all the interdependent forms of life on the Earth's surface.

It is only by protecting the environment that the biosphere can be also protected and preserved, but there is no doubt that global warming is going to have a very adverse effect on the world's biosphere.

Now global warming was caused by human intelligence. Human intelligence also burnt holes in the ozone layer, responsible for overfishing, for extinction of many species, for air and water pollution. So one might even make the case that human intelligence is an evolutionary mistake. (LAUGHS) And this being the case, we must use our intelligence to be environmentally friendly.

Now with regard to water levels of the Saint Lawrence River and Lake Ontario, there's no doubt that the construction of the Moses-Saunders dam and the Saint Lawrence seaway has been detrimental to the biosphere along the Saint Lawrence River.

About 50 per cent of the wetlands have been destroyed, biodiversity has been reduced, to say nothing about the instruction about zebra mussels, lamprey eels, and spiny water fleas.

As a result, the U.S. has named the Saint Lawrence River among the ten most severely damaged rivers in the United States. This being the case, from our point of view, only an environmentally friendly decision with regard to water levels in Lake Ontario and the Saint Lawrence River is acceptable. This will protect the environment and improve the biosphere.

For this reason, we are opposed to Plan 2007 and strongly urge you to accept Plan B+. Thank you.

HERB GRAY: All right, thank you very much. Now I'd like to ask commissioners if they have any questions they wish to pose at this time. If not, thank you very much for your very interesting presentation.

And I want to say that this concludes our list of those who registered to speak. I have to thank you for your attending and providing us with your views. Remember, we'll continue to accept comments up to July 11<sup>th</sup>, and will make our decision only after considering all comments and in consultation with the two national governments, whose concurrence we must seek on the final Order and plan.

Now, as mentioned earlier, lead staff will remain available at the back of the room for a while to answer any informational questions, and feel free to stay for a while and interact with one another, and perhaps commissioners may want to chat with you informally for a while.

And having said that, I think that it's wonderful that we're meeting in this historic chamber over some very important issues for ourselves and our grandchildren. So thank you for coming and good night.

And we may see some of you in Alexandria Bay and Oswego, as the concluding ten hearings that we're having. So we're not inviting you all necessarily to travel to Alexandria Bay and Oswego, but I just wanted to tell you what our next steps will be. Thank you very much.

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