

LEVELER

E-Newsletter from the Lake Ontario Riparian Alliance

Issue 10 May 25, 2012

**Grassroots Public Advocacy for the Protection, Restoration and Conservation
of Lake Ontario Beaches and Riparian Property**

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Online petition

LORA along with the Save Our Sodus (SOS) organization has created an online petition @

<http://www.STOPplanBV7.com> . Please sign our petition! Send it to your friends and ask them to sign.

We, the undersigned, are opposed to Plan BV7 currently being promoted by the International Joint Commission for the following summary reasons:

As communicated by the IJC, the principal purpose for the proposed implementation of Plan BV7 is to restore / improve the quality of the wetlands. There has been no update of any data since the last reported data of the Lake Ontario-St. Lawrence River (LOSLR) Study (2000-2006).

The IJC has stated that the damages and benefits for the proposed BV7 are based upon the results of the LOSLR Study, completed in 2006. However, the IJC has not addressed the significant and serious deficiencies in the analyses and conclusions of that Study.

Estimates of shoreline damage are substantially underestimated; nor are there any provisions for reparations. Economic impacts to businesses and homes in bay communities, like Sodus Bay, Port Bay, Sandy Ponds, etc., are not taken into consideration.

Impacts on public infrastructure, sewers and septic systems in particular, are not taken into consideration. During high water levels (247' and above), sewer systems from the Niagara River to Greece, through Sodus Point and up to Watertown, will be flooded and cease functioning - - a health and environmental issue of major proportions.

Plan BV7 is apparently based on the LOSLR Study Plan B+ originally presented, in 2006. However, Plan BV7 increases damages to Lake Ontario coastal communities, while decreasing them to other interests when compared to Plan B+.

Plan B+ was rejected by the IJC in 2007, due to, the high damages that would have resulted from its implementation and the lack of resources for mitigation and compensation for these damages.

Plan BV7 will have a harmful effect on Lake Ontario boating. BV7 will cause an estimated annual damage of over \$1.3 million per year.

Plan BV7 will have an adverse effect on marine infrastructure built to the current regulation plan operating range. During Plan BV7 high water periods, fuel docks and other fixed structures will be flooded. During low water periods, water access will be limited. Increased dredging will be necessary.

- 1) If you have multiple family members, have them sign the petition individually.
 - 2) Please tell your friends and neighbors that this is not just a shoreline issue. Email them the link.
 - 3) Ask your friends who are boaters, fishermen and marina owners to sign the petition.
 - 4) Inform your friends who do not live near the Lake that their parks, beaches, and water, sewer and other utilities could be affected by BV7.
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Appropriations Committee Weighs in on Plan BV7

Washington, DC - Today, the Fiscal Year 2013 State, Foreign Operations, and Related Programs Appropriations Act was voted out of committee and will be considered by the full House in the coming weeks. Language pertaining to the International Joint Commission (IJC) was included in the report at Representative Ann Marie Buerkle's (NY-25) request.

"The International Joint Commission is currently considering a proposal known as Plan BV7 which will set water releases and levels for the St. Lawrence River and Lake Ontario. The implementation of this proposal could have significant consequences for the people who live, operate businesses, and recreate along the river and lake. We must ensure the IJC has appropriately examined all potential economic outcomes that Plan BV7 has on stakeholders and that is what this report language urges the Secretary to do," said Rep. Buerkle.

The following language was included in the FY2013 State, Foreign Operations, and Related Programs Appropriations Act:

The Committee understands the International Joint Commission is in the process of updating water regulation levels and releases for the St. Lawrence River and Lake Ontario. The Committee urges the Secretary of State to ensure that any new regulatory plan approved by the Commission is based upon clear, current, and in-depth study, including a thorough examination of the economic impact on stakeholders of the final plan.

The northwestern portion of Representative Buerkle's 25th Congressional District borders Lake Ontario. In January of this year, Buerkle hosted a listening session regarding Plan BV7 and has been actively engaged in ensuring the concerns of those living in the areas where the plan will be implemented are heard.

Muskrats or Eagle, Heron and Bird Nesting



LORA has recently received a report that, while the IJC states that their new plan will benefit Muskrat increases (more on this in following article), they have neglected other species. The recent Lake Ontario storms, when combined with water levels of about a foot above average in February and March, has destroyed Avian (Eagle and other) nesting sites on the south shore of Lake Ontario.

More on Muskrats and Black Terns from the LORA Research Division

Much taxpayer money has been spent on studying Muskrats and Black Terns as indicators of the health of lake and river wetlands. Since the Study ended 6 years ago, a number of articles have appeared that raise questions as to the validity of the use of these species as indicators.



Muskrats

How can increasing the fluctuation of water levels be good for muskrats? Higher levels would flood their dens in the wetlands, and lower levels would open them up for predation. **If there is has been a decline, has the NYSDEC or IJC ruled out other causes?** The Pennsylvania Game Commission has ventured to postulate that the decline could be due to increased predation or contamination of water by pharmaceuticals. Pharmaceuticals in waterways have impacted other species reproduction. (Pocono Record, August 28, 2011)

If the number of muskrats in wetlands is the problem, why does NYS have a “no bag limit” on the number of muskrats that can be taken by trappers every year? According to Andrew J. MacDuff, senior biologist for the NYS DEC, “They’re easy to catch, they’re not hard to fool, and there are lots of them.” (Watertown Daily Times, January 22, 2012)



Black Terns

Black Terns were listed as an endangered species in New York State in 2000 and have been used as an indicator species by the LOSLR as an indicator of wetland health. In other states and Canadian provinces, it is not listed as endangered.

In looking into information about this bird, we have come across a number of questions, which we feel the IJC has neglected to investigate.

- The first question concerns the change in the birds range in North America. Black Terns have a Holarctic distribution, breeding throughout the northern hemisphere. **Could the bird’s range have changed, such that it has led to the bird population decline in NYS?** Sirois and Fournier (1993) suggested that a possible recent range extension northward into the Northwest Territories could be connected to increases in the ice-free season related to global warming. The range contraction within New York State parallels a wider regional contraction on the species' range margin in the northeastern U.S. and Canada.
- A review of the International Union for Conservation of Nature (IUCN), Red List of Threatened Species reveals some conflicting information when compared to the IJC data. The first major point in opposition is that, due to the

bird's extremely wide range, the IUCN considers the Black Tern in the "Least Concerned" category, which is two levels above "endangered". The bird's breeding habitat shows a preference for well-vegetated areas with emergent vegetation (e.g., *Typha* spp. **{Is this not cattails?}**, sedges and reeds). Its breeding diet is insects, small fish and amphibians (e.g., tadpoles and frogs). **Has there not been a loss of frogs due to water contamination from pesticides, and is there a correlation between the two?**

- **Could there be other causes of the decline?** According to the IUCN, the major threats to the Black Tern are the eutrophication of water which reduces the number of insects, acidification of lakes, pesticide pollution and, when breeding, fluctuation of water levels and human disturbances (e.g., recreational boat wakes).
Ref: Birdlife International 2009, *Chlidonias niger*, In: IUCN 2011, IUCN Red List of Threatened Species, Version 2011.2 (www.iucnredlist.org)
- Since 1989, the state-wide population has been monitored semi-annually (Mazzocchi and Roggie 2004), and has declined at an annual rate of 2.2. Nevertheless, the overall number of breeding pairs throughout the state apparently bottomed out around 2000, and by 2007 had climbed to over 200 pairs for the first time since the late 1990s. The question that needs to be answered is: **What happened in 2007 that created the changed?** We extrapolate that, based on data presented, in the LOSLR Minority Report that the increase could be due to the decrease in recreational boating caused by the increase in gasoline costs that occurred at about that same time.
- **What have the effects of agriculture been on the Black Terns?** The highly intensive agricultural practices (i.e., large monocultures needing heavy inputs of synthetic chemicals and use of heavy machinery), adopted especially since the 1980s, have been implicated not only in the severe decline of Black Terns in Europe (Bientema 1997), but also in the general decline of a whole suite of agricultural and wetland birds in the St. Lawrence Valley (Jobin et al. 1996), as well as in the entire central and eastern U.S. In addition to diminishing the insect and fish prey base and causing dietary problems for Black Terns (Bientema 1997), chemical contaminants, including organochlorines (PCBs, DDT, DDE, Dieldrin), have been detected in Black Tern eggs in Canada (Weseloh et al. 1996) and the U.S. Severe contaminant concentrations and very poor reproductive success at a site in Monroe County were reported by Firstencel (1987).
- **Could industrialization of nearby areas have caused the decline?** Strong circumstantial evidence suggests that the high levels of contamination reported by Firstencel (1987) in Western New York may be at least partially responsible for the complete elimination of Black Terns from this (more industrialized) region of the State. The loss of the pre-migratory staging area at the mouth of the Niagara River, another highly polluted waterway, also lends some support to the deleterious role that chemical contamination has played in the severe decline of the Black Tern in New York. The levels of contaminants found were about two times higher than in Black Tern eggs in Ontario and Quebec (Weseloh et al. 1996), likely causing decreases in eggshell thickness and nest failure. Because contaminant concentrations in sediments were low, Firstencel suggested that the high levels of contaminants were coming from fish (greater bioaccumulation than insects) that the terns feed to their young. Because many banned pesticides are still used in South America, where the birds spend most of the year feeding on fish, exposure on the wintering grounds must also be considered to be high.

(<http://www.acris.nynhp.org/guide.php?id=6925>) <http://www.iucnredlist.org/apps/redlist/details/106003292/0>
<http://www.dec.nys.gov/animal/60683.html>

New Questions for the International Joint Commission

- According to an Army Corps of Engineers report: The natural regime of the outlet of Lake Ontario, the St. Lawrence River, has undergone changes since **1825**. These changes, which include channel modifications and structures, were constructed for navigation and power generation. (Feasibility Study of Shoreline Protection and Lake Level Regulation for Lake Ontario, Nov 1981, page 23.) This begs the question: **what is the true pre-project condition?**
- According to the same US Army Corps of Engineers report: The removal of upland habitat for development and agriculture may also affect wetlands by altering runoff rates, so that water temperatures change and stream bank erosion and sedimentation increases. Additionally, disturbances to upland and shoreline areas may silt fishery

spawning habitats. Stream bank erosion and alterations of stream vegetation are very critical to the salmonid fishery, especially in eastern Lake Ontario. Lake erosion is also detrimental to aquatic habitat. High lake levels allow larger waves in the littoral zone, causing increased bottom scour and loss of valuable fish habitat. Erosion can also affect barrier beaches, which protect wetlands. (Feasibility Study of Shoreline Protection and Lake Level Regulation for Lake Ontario, Nov 1981, page 40.) According to LOSL documents, **this effect was never evaluated by the Environmental Technical Working Group (ETWG). Why was this allowed to happen? Was the ETWG determined to say that only lake levels affected wetlands?**

Upcoming Public Information Meetings by IJC Working Group

At the public information sessions, presentations by IJC staff and technical experts will be followed by questions and comments from the audience. Participants are asked to limit prepared comments to two minutes so as many as possible have an opportunity to speak. Written comments and other documents may be submitted at the sessions or [online](#). Thank you!

Tuesday, May 29, 2012 Massena, New York 7:00 PM Louisville Volunteer Fire Department 14818 State Highway 37	Wednesday, May 30, 2012 Clayton, New York 7:00 PM Clayton Opera House 405 Riverside Drive	Thursday, May 31, 2012 Oswego, New York 7:00 PM Campus Center Auditorium SUNY Oswego, 7060 Route 104
Tuesday, June 5, 2012 Olcott, New York 7:00 PM Olcott Fire Company 1691 Lockport-Olcott Road	Wednesday, June 6, 2012 Hilton, New York 7:00 PM Quest Elementary School Auditorium 225 West Avenue	Thursday, June 7, 2012 Williamson, New York 7:00 PM Williamson High School Auditorium 5891 Route 21

IJC Public Hearings

Before making a decision, the IJC will hold formal public hearings on a proposal that will include a revised order of approval, regulation plan, adaptive management plan and a governance structure. Comments received by June 15, 2012, will be considered in developing the proposal. The schedule for this round of public hearings has not been set.
