

LEVELER

E-Newsletter from the Lake Ontario Riparian Alliance

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

In this issue:

1. "Understanding the Effects of BV7 on Various Interests...You Might Be Surprised"
 2. Online Petition
-

"Understanding the Effects of BV7 on Various Interests...

You Might Be Surprised"

The International Joint Commission commissioned a Working Group to develop a new regulation plan for the Lake Ontario-St. Lawrence River System. The new proposed plan is called BV7. The BV7 issue can be a difficult one to understand, and many people are trying to figure out the question, "What will it mean to me?"

The purpose of this article to try to give those who will be affected if this plan is implemented simplified explanation in terms that everyone will understand. We will break this article into three sections: The IJC Working Group, Effects of High Water and Effects of Low Water.

The IJC Working Group:

This group is composed of representatives from the United States and Canada. The members on the US side primarily represent governmental environmental interests. We are aware of no other representatives for any of the interests which thatl be negatively affected or damaged.

High Water Effects:

Some environmentalists believe that wetlands -- in particular, the meadow marsh portion between the water and the solid dry land -- are being damaged because the level of Lake Ontario is being regulated within a four-foot range (between 243.3 and 247.3 feet above sea level). The meadow marsh is important, as it is part of the near-shore habitat that creates and maintains diversity, and some believe it is being squeezed out by other plants. These environmentalists feel that current regulation levels allow woody, land-based plants to grow lake-ward and intrude into the meadow marsh area. On the other side (water side) of the meadow marsh, they observe, the aquatic cattail is growing landward into it. In a nutshell, environmentalists believe we need to stop woody plants from moving lake-ward and cattails from moving landward.

The IJC has had Professor Doug Wilcox studying the wetland problem. He has postulated to the IJC a possible solution to the problem. Dr. Wilcox has stated, in numerous newspaper, radio and television interviews, that stopping the woody plants can be done by having a high water level "once every 30 years".

Based on information, we have discovered though, it may take a number of years or at least many months to cause the death of woody plants in the meadow marsh area.¹ Some species of trees are better able than others to adapt to flooded conditions. Trees that have evolved in a floodplain ecosystem have mechanisms to cope with the periodic flooding that may occur and are better able to handle flooding.²

¹ <http://www.extension.umn.edu/distribution/naturalresources/m1289.html>

² Flood Damage Effects On Trees, Janna Beckerman, Extension Plant Pathologist, Yard & Garden Line News, Vol. 3, no. 5. University of Minnesota Extension. 1 p.

As for invasion of cattails from the water side of the meadow marsh, Professor Wilcox states the following in his report entitled, "THE EFFECTS OF WATER-LEVEL FLUCTUATIONS ON VEGETATION IN A LAKE HURON WETLAND"³
"Extreme low water levels expose deeper near shore areas to the air and kill the competitive submersed plant species; emergent plants grow from the exposed seed bank."

Thus, while it is indicated that the woody plants can be controlled with high water once every thirty years, it is also noted that extreme low water is needed to take care of the cattail intrusion.

Since we have seen what many would consider high water six times in the last thirty years, one needs to ask what "High Water Once Every 30 Years" means, from a levels and duration standpoint. Apparently, the levels which caused major damage in 1986, 1993, 1997, 2003, 2008 and 2011, must not be considered high levels by Dr. Wilcox.

Low Water Effects:

Similar notation might be made as to low water over the past fifty years. There have been many times over those years when boaters in the bays, ponds and rivers of the South Shore, and the St. Lawrence River, have not had enough water to enjoy a full boating season. Yet, once again, those low levels are not considered low enough by Dr. Wilcox to solve the cattail intrusion. So, what does "Extreme Low Water Levels" mean, from a levels and duration standpoint?

Other Environmental Considerations:

Duration is important, as environmental groups want a "natural flow." Once the extreme high or low levels occur, environmentalists might suggest that we need to wait for "Mother Nature" to correct the problem, on her own timeline, rather than use the dam, built specifically for those situations, to provide relief.

This is not, however, how the government has acted in other situations. In events such as Hurricane Katrina, Mississippi River floods, California wildfires, and tornadoes, for example, the government has done everything deemed possible to help damaged citizens. In the case of Lake Ontario water levels, government policy, not "Mother Nature", arguably becomes the cause of the damages.

Through that causation, the once-every-thirty-year high levels could last for months, a year, or several years in a row. The more frequent and just-as-extreme low levels could last in the same way.

It is possible that property owners on the lake might be wrong in fearing high water from Plan BV7. It may be that boaters who see BV7 as a solution to low water could also be wrong. And, of course, Mr. Wilcox's theory could be wrong.

It is certain, however, that under Plan BV7, more often and for longer periods of time than we have ever experienced, we will have damaging high water and damaging low water at higher and lower than we have ever seen.

Environmentalists boil the problem down to four concerns. These are the only aspects they bring forward that might have a 10% or greater increase in benefit from the new BV7 plan: Meadow Marsh; Muskrats; Northern Pike; and, Black Terns.

Yet there are alternative ways of benefiting these four concerns, without causing four to five million dollars in damages each year to property owners and boaters.

ALTERNATIVE regarding cattails:

Plan BV7 depends on Mother Nature to lower levels to control cattails, and, as we know, "she" rarely cooperates. Why can't we instead "manage" cattails by harvesting them as a local source of bio-fuel? There are numerous facts, figures and studies that suggest that cattails are an excellent source of bio-mass.^{4,5} Who wouldn't be in favor of a renewable energy source that not only creates local jobs but helps the wetlands and, as an added benefit, does not cause four to five million dollars in damages every year to property owners and boaters?

It may also be noted that the New York State Department of Environmental Conservation feels that cattails are so important to the environment that an Article 24 Wetlands Permit requires that anyone who destroys cattails must mitigate

³ Wilcox, Douglas and Nichols, S.Jerrine, The Effects of Water-Level Fluctuations on Vegetation in a Lake Huron Wetland, *Wetlands*, Vol 28, No 2, June 2008, pp 487-501

⁴ <http://www.biofuelswiki.org/Home/Cattail>

⁵ THE POTENTIAL OF CATTAILS AS AN ENERGY SOURCE, Final Report to the Minnesota Energy Agency, D. C. Pratt, V. Bonnewell, N. J. Andrews and J. H. Kim, February 1980 <http://archive.leg.state.mn.us/docs/2009/other/091102.pdf>

the damage by creating “twice” that amount of new cattails. One NYSDEC department wants to eliminate cattails because they are so bad, and another NYSDEC department says to protect them because they are so good.

We really do need to study whether or not all of the beneficial aspects of cattails, such as water filtration, pollution absorption, wildlife food and habitat, even non-animal carbohydrate and protein provision for humans, are true benefits without unknown future damage to the environment.

If “Mother Nature” does not perform certain fairly prescribed tasks in a fairly prescribed order, BV7 seems to have a slim chance of actually achieving its goal of eliminating cattails. Scenarios can be foreseen to indicate that BV7 could actually make the problem it attempts to correct much worse.

Cattails can be controlled through managed harvesting that could create kayak and canoe paths through the marsh, as well as new areas for fishing, bird watching, protected migratory rest stops, public access and viewing, and, again, that would not cause four to five million dollars in annual damages to property owners and boaters.

ALTERNATIVE regarding muskrats:

Since the NYSDEC has no limit on the number of muskrats one can kill, a good place to start their population recovery would be to limit or even stop their trapping. This would cost the State nothing and would cause no damages to shoreline, fishing or boating, and, again, would not cause four to five million dollars in annual damages to property owners and boaters.

ALTERNATIVE regarding Northern Pike:

The alternative solution regarding Northern Pike would be quite similar. The NYSDEC’s season for Northern Pike is almost year-round. Why not limit the season to six months for a few years and/or reduce the per-day-catch limit? The money derived from permits could be spent to clean up the water, so that, when one catches a Pike, it is actually safe to eat. This approach would make more sense as a starting point, and, again, would not cause four to five million dollars in annual damages to property owners and boaters.

ALTERNATIVE pertaining to Black Terns.

The population of Black Terns is declining all over North America, and nobody really knows why. Some studies suggest that it is simply a change in migration to cooler Canadian climates -- that maybe there is really no shortage, but that the Black Terns have just gone elsewhere. Why don’t we get the experts to create the most ideal habitats possible in our many South Shore wetlands, to see if we can attract the Black Terns? Once again, this approach would not cause four to five million dollars in annual damages to property owners and boaters.

Summary

We would like to ask the various environmental groups, such as The Nature Conservancy, Save the River, Citizens Campaign for the Environment, and even the IJC, which appears quite confused in their role and to have become simply a part of the environmental lobby, why our suggested alternative solutions aren’t better than causing widespread damage to property owners, boaters, fishermen, tourism and other interests. When did we lose the right to live without fear of damage from government policies and extreme environmental agendas?

The IJC and the environmental lobbies have been working through the most recent rounds regarding water level issues for almost thirteen years. While they have not stated the total cost, we do know that in the first “five years” of The Lake Ontario - St. Lawrence River Study, the IJC spent over twenty million dollars in taxpayer money. If one does the math, one might conclude that the price tag could now be in the fifty to sixty million dollar range.

Possibly to avoid future embarrassment for the decision-makers, Plan BV7 has a clause that would allow the IJC to engage in “Adaptive Management”. “Adaptive Management” might just mean that they will be able to manipulate the plan in the future without any public involvement.

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.

As of this week, Governor Cuomo will also be receiving notification of anyone signing our petition. For those who already signed the petition, your effort has been sent to the Governor.

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 with respect 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's 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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