

LEVELER

E-Newsletter from the Lake Ontario Riparian Alliance

Issue 25 August 27, 2013

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

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Call To Action

**Little Time Remains to Voice Your Concerns about the IJC's Lake Ontario
Water Level "PLAN 2014".**

You Must Submit Comments before Aug 30th.

**The IJC's Water Level "PLAN 2014" Will Cause Damages to Recreational Boaters, Waterfront
Properties & Businesses.**

WHAT CAN I DO?

- If you want to protect your property, please go the IJC Plan 2014 Comments Page and voice your concerns about this plan. http://www.ijc.org/en/_losl/Submit_a_Comment **Comment to the IJC, "NO, I do not support Plan 2014."**
 - Call the Governor's office and demand that he come to the south shore to view the area before making any decision on this plan. His telephone number is: **(518) 474-8390**.
 - Call your elected representatives. A list of contacts for the NYS Representatives is listed on the LORA web site: <http://www.loranet.org/officials.htm> . Ask them to call the Governor.
 - Our friends in Sodus Point, New York, have put together another letter that homeowners and recreational boaters may adapt to their own use to send to NYS Governor Andrew Cuomo. The letter is attached to this newsletter separately.
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Letters

My name is Henry S. Stewart. I reside between Cranberry Pond and Long Pond, in the Town of Greece, Monroe County. I have a cottage on the Crescent Beach Sand Bar, between Lake Ontario and Sodus Bay, in the Town of Huron in Wayne County. For several years, I have been the President of the Lake Ontario South Shore Council, and I am one of the Directors of the Lake Ontario Riparian Alliance. During the period of the IJC's Lake Ontario - St. Lawrence River Study, beginning in the year 2000, and through to 2006, I served on the IJC's Public Interest Advisory Group, known as the PIAG.

In that regard, I wish to comment on the process by which the IJC came to the point of proposing Plan BV7 and has now come to the point of proposing Plan 2014. Particularly, I am obliged to observe how much in contradiction that process seems to the stated intentions of the Lake Ontario - St. Lawrence River Study, that was designed to formulate an appropriate plan for regulating the Lake and the St. Lawrence River.

As prior efforts to enact a new regulation plan had met with public outcry and disapproval, the IJC confirmed, with its planned five-year study beginning in the year 2000, that it would involve the public throughout every phase of the process. The IJC designated and appointed the members of the Public Interest Advisory Group to be the conduits of information, needs and desires from the public to the Study Board, and of information and outreach from the Study Board to the public. Throughout the Study's process, many members of the PIAG endeavored to look beyond our own parochial interests and to bridge a consensus to work together to help promote a plan that could honor, respect, assist and protect the interests of each stakeholder group, without unfairly undermining the interests of any others. Although Plan 2007 was not a perfect plan, it represented a compromise quite fair to the various interests, such that, if regulation under Plan 1958DD was to end, the result would not be destruction and devastation.

For certain reasons, certain interests fought against that plan, and the IJC returned to the drawing board, and more than once. The trouble was that the IJC abandoned the public and assembled a privileged, non-representative group that went into deliberations behind closed doors. The IJC included in that group representatives of the environmental lobby. It completely left out representation of property owners along the lakeshore. While it has been suggested that that process was in secret, the IJC has disputed that that was so.

For several years now, we understand that the IJC's Working Group has worked behind its closed doors, apparently with the intention to promote a plan that aids and saves endangered species within the ecosystem, but that would flood out, destroy and eliminate properties built, improved, paid for, lived in and upon, loved and cherished by lakeshore residents and inhabitants.

It is quite fair to observe that most lakeshore residents care about the environment and are indeed environmentalists. We would not live along the lakeshore if we did not respect and value nature, and love the water and recreational boating. We are lakeshore residents, recreational boaters, environmentalists, users of municipal water intake and discharge systems, and consumers of electricity. We respect and observe the importance of each of the interests and each of the stakeholder groups that are most concerned about such interests.

While it might not be true about anyone in this room, it would appear that many environmentalists, who do not own property along the lakeshore and who are propounding Plan 2014, do not respect or care about the interests that we have as lakeshore property owners.

Since the year 2000, when the International Lake Ontario – St. Lawrence River Study began, there have been at least four plans brought forward to the public: Plan 2007, Plan B +, Plan BV7, and now Plan 2014.

Lakeshore residents and property owners have not shared a part in the process, since the years of the Study ended, until points such as now, occurring after an announcement of the proposal of a particular plan. Certainly, lakeshore property owners have not been a part of the working group meetings behind closed doors.

Since the start of the Study, a period of almost fourteen years now past, lakeshore residents and property owners have remained, to a large degree, in place as residents and property owners.

While we have remained largely constant throughout the proposal of at least four plans, different players have come and gone at the helm of the IJC. While we may be greatly appreciative that you, as Commissioners, have shown up to hear us, all of you as Commissioners are different individuals than those who were in place during the Study and in most of the years since then.

For almost 25 years, I have been a lakeshore resident examining the shore on which I live. In that time, I have observed that the natural boundaries of Lake Ontario at my property have ebbed and flowed but remain quite close to their topography of 25 years ago. One might suggest that those observed circumstances have been quite in touch with the realities of nature.

For almost 34 years, I have been an attorney. I do not mention this as some great credential; for 34 years as an attorney often feels like 33 years too long. I mention it only as I have observed a few things about the law in that third of a century.

One of those things is the aspect of the various elements of criminal activity.

It seems fair to say that most crimes involve the element of intent – specific intent, or general intent.

One might consider various crimes involving destruction of property: arson; breaking and entering; vandalism; malicious destruction of property.

Hand-in-hand with a criminal's intent is his or her awareness of what he or she is doing in the process of wrongdoing.

I realize that it would be unfair to suggest that anyone here has or would have any propensity to commit a crime.

But I wish to note that, when the IJC considers the shoreline of Lake Ontario, it is considering, in many instances, our homes and our properties.

To many of us, it seems that the IJC and its working groups just keep coming at us, from behind their closed doors, trying harder and harder to destroy our homes and our properties. Surely they are aware of the havoc that their actions could wreak.

If any among us, with awareness of what we were doing and with intent to do so, were to damage or destroy the home or property of a decision-maker in this process, such actions would be criminal.

I respectfully suggest that, if the decision-makers in this process wish, intend or proceed to act to damage, destroy or undermine our properties and our homes, with awareness that, by their decisions and/or actions, they would be doing so, so too would their actions be criminal.

There may be immunity to prevent prosecution, but that would not take away the true criminality of the intent, the decisions and the actions.

I respectfully ask that the IJC cease and desist from enabling its decision-makers to work in secret or behind closed doors, and to the detriment of the public, and stop rewarding stakeholders in this process who promote only their own agenda without regard for its impacts on the interests of everyone else.

I respectfully ask that the IJC fully consider the expressions of viewpoints stated at these sessions, and that they "return to the drawing board" to develop a plan that fairly addresses the concerns and needs expressed by members of the public at these sessions.

Thank you very much for this opportunity to voice my views and concerns.

Henry S. Stewart
July 16, 2013

To the Editor

8/21/13

Jaegun Lee's article of 8/20/13 was right on, in at least one aspect. "The clock is ticking" to the inevitable, largest and most costly confiscation of property, public and private, in NY's history; beyond even 1958DD's consequences. Plan 2014, without any Riparian input in its formulation, without mitigation or compensation included, and the minimization of storm surge damage on top of absurd high Spring level "triggers", makes eventual catastrophic damages a matter of time. The upper trigger level in the Spring is almost a foot higher than the level at the time of the 1973 storm, that caused TENS OF MILLIONS \$\$\$\$ destruction of infrastructure and public/private property around the Lake shoreline; especially in NY.

As with prior 2014 proponents, Mr. Foster's comments are disingenuous, built on unsubstantiated figures and guesstimates, and plain inane. "The existing regulation plan..." was created and manipulated by the IJC, creating very mixed, expensive results to the citizenry around the Lake Ontario shore. I would love to have seen "our share" of the "...billions of dollars.." in beneficence bestowed on our local economies. The only "billions of dollars at other peoples' expense", were those that Montreal (Quebec), NYPA, and Great Lakes Shipping gained. 2014 will continue that generous "tradition", ironically, equaling or exceeding the transfer of lost value and assets from the Lake shore to the BIG THREE, and for another 50+ yrs ???

IJC doctrine and actions destroyed and inundated hundreds of miles of Lake Ontario shoreline. This disrupted habitat, ecologies, and the holy grail, wetlands. It will take generations for even 75% recovery or conversion of swamps, fens and shoreline ponds, to "properly" diversified wetland habitats.

The IJC has manipulated Lake Ontario as a reservoir for 50+ yrs, including the "Lake" level on a seasonal basis, that only seems to amount to a "designed advantage" to the Big Three. Lana Pollack's denial of "designed advantages" (\$\$) granted to the Big Three is also disingenuous, if not contemptuous on her part. Cost of repair and maintenance has not decreased, it has multiplied many times over for private and business properties along the shore, without help or responsibility from the perpetrators. Haven't seen Mr. Foster's "billions of dollars" as yet.

Flood insurance increases and cancelations will come from the 2012 Biggert-Waters legislation from Congress. It will mean shoreline property owners will face 100-1000% increases on policy premiums, for those that can afford it. Once again, the necessity will be dictated by the historical incompetence of IJC administration of 1958DD Lake level agreement, with 2014 putting even higher levels into the equation.

The newest gimmick from the IJC is the concept of "trigger levels" (monthly basis) where they would begin to react to high levels (or low). They are rendered meaningless and impossible to react to in a timely manner, as it takes a week to lower the "Lake" an inch. At 248 ft. March trigger level it would take 3 months to drop the Lake to the 1973 "danger level", that the IJC itself declared. That would be assuming that Montreal is not a flood stage from the Ottawa River, which would stop the IJC from draining water from the "Lake" to lower it. That 3-4 months of high levels leaves the entire NY shoreline vulnerable to very expensive and destructive effects of 3-day blows and occasional hurricane effects, once again at the cost of individual property owners. That cost will be 90-95% of the total as per the IJC guesstimates; ?? balanced ?? I don't think so.

While ridiculously low cost estimates for the shoreline prop. owners continue to be espoused, the cost to towns, counties, and municipalities has been ignored, and these costs will be astronomical for infrastructure; roads, water treatment plants, sewerage treatment plants, and water and electric distribution systems. As properties are lost along the shore, assessments and tax revenues will also have to be made up by the general population; that will impact local school systems. The domino effects and unintended consequences are very real threats for localities.

Mr. Foster's IJC/Plan 2014 "Wonderland" is not an improvement from the people who gave us 1958DD. Here on planet Earth "...it's a step forward" over a cliff of very ugly, inevitable consequences, intended and not. Plan 2014 is still not good enough, or fair and balanced. If done properly, the shoreline of NY State on "Lake" Ontario must be represented in the planning stages, and on the commission. Politically appointed hacks have proven to be failures for the last 50+ years, let's really change course and be representative of all stakeholder groups.

Hope all readers will contact their representatives on this issue; local, State and Federal. Note that NY will have to agree to this "treaty" with Canada (Ontario and Quebec too), so state reps and the Governor must be contacted with your concerns.

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Re: Lake Ontario Water Level Management "Plan 2014"

Dear IJC Commissioners:

We are writing to express our concern and anger about the new "Plan 2014" which has been proposed by the International Joint Commission (IJC) to manage the water levels of Lake Ontario and the St. Lawrence Seaway. This plan is just a remake of Plan Bv7 which had already drawn the ire of lakefront homeowners, businesses, and municipalities. If

this plan is adopted, the potential damage to shoreline properties, businesses, waterfront parks and historic sites, and public infrastructure would increase dramatically, since Plan 2014 will allow higher water levels in the spring and lower water levels in the fall and winter.

The methodology that was utilized to develop this plan is flawed. For example, the conclusions drawn by the IJC working groups are based on data that is outdated and inaccurate. Property values are much higher now than the figures upon which the damage estimates are based, and some properties were ignored altogether. The public meetings held by the IJC to hear the concerns of stakeholders were scheduled in such a way that most homeowners would not be able to attend, either in remote locations or during daytime hours when most homeowners are working. We believe that this was done purposely to minimize the public outcry against this plan.

We purchased our waterfront home in the Town of Greece, New York nearly thirty years ago with the understanding that Lake Ontario water levels would continue to be managed within the targeted range established by both the U.S. and Canadian governments many years ago. When the Moses-Saunders Dam and St. Lawrence Seaway project was constructed in the 1950's, one of its primary purposes was to control water levels in Lake Ontario to significantly reduce the flooding conditions that had previously occurred. To the extent possible, this has been successful. After paying a premium to own a water front home, we have since spent well over \$200,000 in improvements on our property over the years, based on our expectation that the lake levels would continue to be managed as in the past. We obviously are not alone – hundreds, if not thousands of homeowners and businesses have spent millions, if not billions of dollars on water front improvements.

It is unconscionable that the IJC would now consider changing previous agreements on water levels and thus place our properties in peril of significant erosion and property loss. It appears to us that a few environmentalist extremists have been able to convince the IJC through their lobbying efforts to seriously consider this new plan. By its own study, the IJC admits that there will be millions of dollars in additional damages sustained by water front homes and businesses under Plan 2014. We are convinced that these estimates (approximately \$3 million annual average) are substantially underestimated, especially in years where there is above average run off in the spring caused by above average snowfalls in the winter or a rainy spring. In the past, even with the existing water level management plan, many lakefront homes and businesses have experienced some property damage during such years. If Plan 2014 is approved, this damage will increase significantly. Most water front homes have basements. Higher water levels result in more water infiltration into basements, causing basement flooding and mold formation.

We are not only water front homeowners – we are also boating enthusiasts. We, as have just about every other water front homeowner, have invested additional tens of thousands of dollars in boats, docks, and other boating equipment. There are dozens of marinas, water front restaurants, and other businesses that have invested millions in docking facilities which will be in jeopardy if Plan 2014 plan is adopted. In addition, our already short boating season will be shortened further if Plan 2014 is adopted, since there will not be enough water in late summer to navigate many of the lake's tributaries and there will be too much water in the spring to navigate under many bridges. Docks will be under water or water levels will be too low to be utilized, thus causing financial harm to those businesses that rely on boaters for their livelihood.

What are the supposed benefits of Plan 2014? Environmentalists apparently believe that it will be beneficial to coastal wetlands, blaming the current status of coastal wetlands on artificially controlled water levels. There are many factors affecting wetlands, not just water levels. Climate change, pollution, invasive species, fertilizer and pesticide runoff, and the natural evolution of the wetlands are all factors that are not addressed in Plan 2014. Wetlands experts have stated that the science of wetlands is still in its infancy, with little historic background available on wetlands restoration, because it is an incredibly complex and lengthy process. Some wetlands are difficult or impossible to restore. The idea that merely changing water level management practices by the IJC will magically transform coastal wetlands back to some ideal condition envisioned by environmentalists is merely theory. Plan 2014 is therefore an experiment on a huge scale. Considering the resulting damages and costs that Plan 2014 will create, an experiment of this magnitude is totally irresponsible.

The environmentalists have often cited Buck Pond, located in the Town of Greece, as an example of the problems created by the current water level management plan. They say that the pond is being taken over by cattails and that the fish population, including northern pike, has decreased significantly over the past several years. Supposedly, higher and lower lake levels periodically would solve this problem. That assessment is incorrect. Buck Pond is indeed being taken over by plant life, not so much by cattails but instead by the invasive species Eurasian phragmites australis and Eurasian milfoil. One of the consequences of these plants taking over the pond is a significant decrease in suitable spawning sites for fish, thus reducing fish populations. Gobies, an invasive fish species, also feed on fish eggs and the young of northern pike and other fish. In addition, as we write this letter, Buck Pond is completely blocked off from Lake Ontario, due to sand taking over the mouth of the outlet - this at a time when Lake Ontario is at or near its peak water level for the year. This occurs every year. Therefore, if the pond has no way to drain into Lake Ontario for much of the year, how would

lower water levels ever impact the pond and wetland ecology as Plan 2014 suggests? Plan 2014 will not help this problem! We are sure that similar situations exist in many of the other coastal wetlands.

As mentioned, the primary problem in Buck Pond is a result of invasive species. What brought hundreds of environmentally destructive invasive species (such as zebra mussels, quagga mussels, sea lamprey, gobies, alewife, fish diseases, etc.) into Lake Ontario and its tributaries? Shipping, through the release of ballast water in our waterways, is a primary cause. Invasive species have seriously damaged recreational and commercial fisheries, increased costs for natural resource management, severely impacted businesses dependent on recreation, clogged water intake systems, and fundamentally altered the food webs in most of the Great Lakes. This has been a known problem for decades, but with the exception of some half hearted efforts to control ballast water release, it continues to be a threat to the ecology of our lakes and tributaries. It seems to us that the environmentalists and the IJC should be concentrating their efforts on this more pressing problem, including keeping Asian carp out of the Great Lakes, instead of campaigning for Plan 2014. It is incredulous to us that Plan 2014 is actually designed to help shipping interests, one of the biggest causes of environmental damage on the face of the Earth.

There are also other ways to deal with the issues that environmentalists continue to raise about wetlands. Cattail populations can be managed by harvesting them, perhaps as a local source of bio-fuel. The NYSDEC could discontinue or adjust its cattail protection policy if cattails are so bad. If there is concern about muskrat populations, why are there no limits on the number of muskrats one can kill in season? Adjust the policy. To increase the population of pike and other fish, adjust the fishing seasons for affected species and/or reduce the per day catch limit. Most of these common sense solutions would not cost anything and millions of dollars in property damage could be avoided.

We have experienced plenty of wildlife growth over the decades that we have lived on Lake Ontario and the Long Pond channel, with species now prevalent in our neighborhoods that previously were not present, such as swans, otters, beavers, mink, new fish species, etc. The current water level management plan is therefore already working to the benefit of wildlife.

We urge you to abandon Plan 2014 and to continue the current water level management plan.

Sincerely,

*Richard & Suzanne Albright
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