

LEVELER

E-Newsletter from the Lake Ontario Riparian Alliance

Issue 31 July 3, 2014

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

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Town of Greece Resolution and Citation of a Supreme Court Precedent-Setting Case

At a Regular Meeting of the Greece Town Board held Tuesday, June 18, 2014 at the Town Hall, One Vince Tofany Boulevard, Rochester, New York there were:

PRESENT:

William D. Reilich	Supervisor
Michael Barry	Councilman
Brett Granville	Councilman
Andrew Conlon	Councilman
Diana Christodaro	Councilman

Cheryl Rozzi, Town Clerk
Brian Marianetti, Town Attorney

Excused:None

#287- Councilwoman Christodaro offered the following resolution and moved its adoption:

WHEREAS, The Greece Town Board of the Town of Greece, New York, understands the concern and desire of the United States and Canada to have a plan of water level control that balances the needs of stakeholders in the Lake Ontario Basin; and

WHEREAS, the Town Board recognizes the impounded waters of the Lake Ontario provide reliable flows to produce inexpensive electricity and support international shipping; and

WHEREAS, the Town Board recognizes the need to plan in both nations to meet the anticipated accelerating increases in urban demand for electricity and support international shipping; and

WHEREAS, the Town Board recognizes the difficulties presented into the International Joint Commission in creating a new lake level management plan that addresses the desires of all stakeholders without causing undue harm; and
WHEREAS, the Town has shoreline and near shoreline properties that may be impacted by any change to the decision making process and current performance of the Board of Control of the IJC; and

WHEREAS, the total assessed value of the 974 privately held parcels in the Town along the shoreline and bays exceed \$227,000,000; and

WHEREAS, the Town Board recognizes this investment in real property has been made with critical evaluations for risk management reliant on the demonstrated lake level management capabilities of the Board of Control since 1960; and
WHEREAS, the Town Board recognizes that the new trigger levels authorizing the release of addition waters from Lake Ontario under Plan 2014 do not adequately protect residents on the south shore; and

WHEREAS, the Town Board recognizes that there are no reliable estimates of the damage these proposed changes in the Lake Ontario water level regulatory regime, thereby leaving south shore residents exposed to unknown damages; and

WHEREAS, there has been a recent Supreme Court Case, Arkansas Game and Fish vs. the United States, which has set a legal precedent that temporary flooding being considered a taking of private property; and

WHEREAS, the Arkansas Game and Fish vs. the United States precedent would expose taxpayers to millions of dollars in taxes reimbursing shoreline residents for damages caused by Plan 2014; and

WHEREAS, these proposed regulations will force many people to move from their present homes because of the increased risks and cost associated with these changes;

NOW, THEREFORE, BE IT

RESOLVED, that the Town Board opposes the changes proposed under Plan 2014 regulating the level of Lake Ontario.

ADOPTED Ayes 5 Reilich, Barry, Granville, Conlon, Christodaro
Nays 0

STATEMENT FROM SENATOR GEORGE MAZIARZ

The International Joint Commission's decision to move forward with Plan 2014 to regulate lake levels is deeply disappointing. Despite proclaiming to want their input, the IJC is ignoring the needs of vocal residents and communities on Lake Ontario's southern shore whose property will be hurt by this plan.

The extreme variations in water levels that may occur with Plan 2014 could have severe long-term ramifications. Where will the IJC be when these property owners need help with erosion mitigation and land restoration? Plan 2014 gives short shrift to the very real and very negative consequences of its implementation and offers no help in these areas. Homeowners and municipalities who are already struggling to get by will be left to fend for themselves.

In their last and final presentation today the IJC also stated that boating interests may have to deal with low summer water levels with Plan 2014. This would have a drastic impact on tourism and boating—key parts of the economy for south shore communities.

In short, the IJC's position shows no concern for the economic fate of our state's people and places.

We need a new balance in protecting our freshwater resources and protecting our real property, but this plan is severely lacking and should be rejected by our federal government.

Letter from NYS Senator Joseph Robach

June 24, 2014

The Honorable John Kerry
Secretary of State
United States Department of State
2201 C Street NW
Washington, DC 20520

Dear Secretary Kerry:

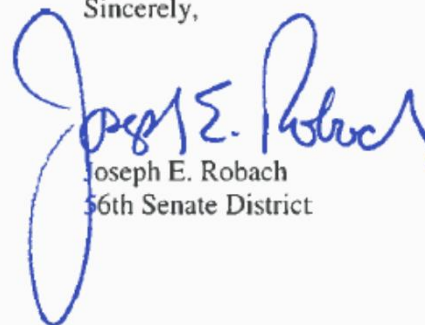
As you may be aware, last week, the International Joint Commission reaffirmed their support for Plan 2014, a proposal for Lake Ontario and St. Lawrence River regulation. In the view of the IJC, Plan 2014 would provide for more natural fluctuations of Lake Ontario water levels and help to restore wetlands throughout the Lake Ontario and the upper St. Lawrence River basin.

However, with this decision, the IJC has chosen to continue with a plan that will result in potentially disastrous higher water levels on Lake Ontario for south shore homeowners, property and infrastructure. Over the past year, I have heard near unanimous concern from residents and lake front communities that with this decision the IJC have placed them in jeopardy from increased flooding and shoreline erosion. The IJC has failed to take into account proper mitigation for the southern shore, as well as dramatic increases in flood insurance rates for residents, the expansion of shoreline flood zones and potential damage to over 10,000 New York State properties assessed at a value of approximately \$3.7 billion with tax revenue of around \$148 million for local municipalities.

I respectfully call on you to reject this plan and protect residents along the south shore of Lake Ontario. The IJC's Plan 2014 has the potential to disastrously and dramatically alter the south shore, jeopardizing the homes and livelihood of New Yorkers and my constituents.

If you wish to discuss this issue further, please do not hesitate to contact me directly at (585) 225-3650.

Sincerely,



Joseph E. Robach
56th Senate District

cc: Senator Schumer
Senator Gillibrand
Congresswoman Slaughter

Statement from the Niagara/Orleans Regional Alliance

Fact . . . The six south shore counties of Lake Ontario that will experience the most damage from Plan 2014 happens to be in the top 18 counties nation-wide that pay the most property taxes. If the IJC, and those who support Plan 2014 get their way, EVERY taxpayer in the six counties will pay for the economic disaster this plan will surely cause.

My name is Legislator David Godfrey from Niagara County, and with me is Legislator Lynne Johnson from Orleans County. Together we represent the Niagara Orleans Regional Alliance and strongly oppose the International Joint Commission's endorsement of Plan 2014's Proposal for Lake Ontario and St. Lawrence River Regulation.

Recently, the International Joint Commission announced its endorsement of their Plan 2014, a water level regulation plan designed to benefit the Moses-Saunders Power Generating Plant and supposedly help aid in the restoration of certain wetlands adjacent to Lake Ontario and the St. Lawrence River.

This plan was created behind closed doors with the environmental interests and no other interests allowed in. We commend the elected representatives of the Province of Quebec for standing up to the IJC and stating that they would not accept any more damages than what occurs to their part of system under the current plan, but we are distraught to think the IJC would uncaringly allow all the resulting damage to fall upon us . . . and without any sign of financial relief.

The current lake-level plan, which has been in place since 1958, and has cost taxpayers millions of dollars to implement, generally keeps levels within an expected range. So why the change? Who really benefits, and who truly will suffer and pay the price?

Legislator Lynne Johnson

Fact . . . The six counties Legislator Godfrey spoke about have approximately 10,025 parcels of land with a total assessed value of \$3.7 billion dollars. If just 10% of properties are damaged due to Plan 2014, this will equal damages amounting to \$370 million. On the other hand, IJC's calculations show a much smaller number because they used old tax data from the year 2000.

It appears that the IJC expects shoreline property owners and recreational boaters to bear the costs associated with implementation of their Plan 2014. At times of extreme high lake levels the damage will be catastrophic with millions of dollars in damage occurring in a single day. The result of lower lake levels will be equally devastating to our \$94 million dollar per year sports fishing industry.

It is also important to consider the shipping industry who will also suffer from more frequent low water conditions. In fact, a number of shipping companies sent letters to the IJC opposing Plan 2014; their big-business voices obviously fell on deaf ears.

Formed in 1909 under the Boundary Water Treaty, the International Joint Commission may be an independent entity, however any actions it proposes may not be taken independently, they require approval from the two governments that created it.

The role of government should not be to harm the very citizens it is charged to protect. This is government at its worst. Therefore, Legislator Godfrey and I plan on meeting face-to-face with our decision makers in Washington, along with Congressman Collins, to make our voices heard, on behalf of our lakeshore property owners, our businesses and municipalities, and ALL the taxpayers of Niagara and Orleans counties. Thank you for being here today.

Thank you Congressman Collins for your strong support.

Congressman Chris Collins and Local Legislators Hold Press Conference in Opposition to Lake Ontario Water Level Plan

LANCASTER, NY- Congressman Chris Collins (NY-27) and local legislators released the following statements today after a press conference concerning the International Joint Commission's (IJC) plans to implement new guidelines regulating the water levels of Lake Ontario.

"As we saw today, I along with many other lawmakers are concerned and opposed to the plan announced by the IJC, which would quicken erosion along already rapidly eroding Lake Ontario shorelines, lower property values for specific homeowners and have a negative impact on the region's economy by limiting recreational and commercial boating," said **Congressman Chris Collins**. "This plan is not in the best interest of homeowners and other stakeholders along the Lake

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Congressman Chris Collins (West of Monroe County to Niagara River)

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Senator Kristen Gillibrand

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The United States, Secretary of State

Address: The Honorable John Kerry
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United States Department of State
2201 C Street NW
Washington, DC 20520

We need everyone on the South Shore to call our representatives and express our outrage about Plan 2014!

For more information: <http://www.loranet.org/>

Past Newsletters: <http://www.loranet.org/levelerarchive/pastissues.htm>