



**Public Hearing Lockport, NY
International Joint Commission, Canadian Section - LOSL Hearing
Proposal for Lake Ontario St. Lawrence River Regulation
July 14th, 2013**

Lana Pollack: Good evening; thank you very much for coming out tonight to give us an opportunity to hear your views on a subject that is very important to everybody in this room and to thousands of other people who are not here. My name is Lana Pollack and I am one of 6 of the International Joint Commission appointees...Commissioners. We have 3 Canadians and 3 Americans. I'm joined today by U.S Commissioner Dereth Glance.

Dereth Glance: Good evening and thanks for coming out everybody.

Lana Pollack: And Rich Moy on my right.

Rich Moy: Good evening.

Lana Pollack: And Chair of the Canada Section Joe Comuzzi from Thunder Bay. We have 2 newly appointed Commissioners by Prime Minister Harper, although one doesn't qualify quite as being so new. We have Commissioner Gordon Walker who served as a commissioner in the 90's and is coming back to help us out with his wisdom. And Commissioner Benoît Bouchard who is a man of great experience and wisdom having served in government over many years as well. We are here to receive your comments for a proposal for managing water levels and flows on Lake Ontario and on the St. Lawrence River. We do so to help continue to contribute to the economic health of the communities throughout the basin while improving the long-term ecological health of Lake Ontario and on the upper St. Lawrence River.

Let me give you just a little bit of background on the Commission before we begin; the International Joint Commission was established by a treaty between the United States and Canada in 1909. We are charged with preventing and resolving disputes on the waters that we share, not just in the Great Lakes but all along the boundary from the Atlantic to the Pacific, and including the Yukon and Alaska boundary as well...thousands of miles of shared waters.

In the 1950's, the International Joint Commission approved construction of the International Hydro Power Project located in the St. Lawrence River at Cornwall, Ontario and Massena, New York. When the IJC approves a project, we ensure that the terms of the treaty are fully fulfilled. The treaty stipulates certain things that we must do; our authority comes only from the two governments. We have the authority that those two governments have granted us under the treaty and that's it. In some cases we can make up straight up decisions and other cases, we advise the governments and they make the final decisions. In making our decisions, we must always be aware to ensure that the order of priorities for water uses are followed and that all interests in both countries are protected from injury and also that everybody has a convenient opportunity to be heard...that's in the treaty. We need to give the public that is impacted a convenient opportunity to be heard.

So that's what we're doing here tonight; and let me pause to say, in the handout you have I believe there's listings of other hearings. We're having a dozen hearings; some of those are technical hearings where people who represent larger groups of people beyond themselves are asked to speak and they get 10 minutes to speak and we will engage in a dialogue. But those are also open to the public. In both Canada and the United States, there are several other hearings this week. If you know somebody who couldn't make it tonight, we'll be back in the area, they'll have to drive an hour. But we'll be back on Tuesday on this side of the border tomorrow in Canada. Also, there's a telephone Town Hall; the date is listed here for people who can't come out for one of these. You may also encourage people or yourself to put anything in writing and we will be accepting written comments until the 30th of August. So we have really made a big effort to give everybody a convenient opportunity to be heard, and we will listen and read carefully and consider carefully everything that is submitted before we make any decision.

Going back to the particular Project at hand, the governments of the United States and Canada who are the applicants for the Project in the 50's asked the IJC whether after due consideration was given to all interests the flows through the project could be regulated to reduce the range of levels on Lake Ontario. The IJC then recommended and the governments approved an operating plan that has been followed since 1956.

The question before the IJC now is how we are going to meet our responsibilities under the Boundary Waters Treaty in light of the changed conditions. We live in a dynamic environment, a dynamic climate and on dynamic lakes. We've seen some differences, we've tracked some differences and we understand better the change in the water, the climate and the weather. So now we have better information.

Although water levels and flows are primarily determined precipitation and snow pack and storms, water flow management has provided substantial benefits to the region. These include: reduced flooding and erosion on Lake Ontario shoreline; that is compared as if the

Dam weren't there at all at Cornwall/ Massena. So if the Dam weren't there, there would have been more flooding, more erosion than having the Dam in place; reduced flooding downstream, and providing more favourable conditions on the lake and river for water intakes, recreational boating, commercial navigation and hydro-electric power production. However, extensive research shows the policies developed in the 1950's have restricted water levels to the extent of degrading coastal wetlands on Lake Ontario and the Upper St. Lawrence River. This degradation impacts the health of native plants, birds, fish, other animals and to some extent the economies that depend on those elements.

In light of these findings, the IJC is proposing to manage water levels with fewer environmental impacts on Lake Ontario and the Upper St. Lawrence River. The proposal would continue to reduce extreme high and low water levels, would allow somewhat more natural water level patterns on Lake Ontario and would retain benefits downstream. This is expected to result in a modest reduction in shoreline protection while improving wetland health on Lake Ontario and the Upper St. Lawrence River on a scale larger than any restoration actions taken to date. After, and the word is after fully considering all the comments that we have been receiving and will receive tonight and the weeks ahead as well, the Commissioners will make recommendations to the governments of Canada and the United States. The two governments are the signatories to the Boundary Waters Treaty Act; we will seek their concurrence before implementing any changes if we implement any changes to the current order and the Regulation Plan. We have a 10-minute presentation and then we'll just lay out how we'll proceed and then we will proceed to hear from you. I think we should just step aside here so we're not in the way.

(PRESENTATION IN PROGRESS)

Lana Pollack: I hope that's helpful, and you can see it again and again. There's the magic of going to our website and there's a lot more information there as well. We're almost ready for your comments, which is why we are here. Let's just talk a bit about procedures: we want to be able to hear from everybody who has a card. What we're asking is that you limit your comments to 3 minutes so that way we can hear from 45 people and if there's more time we can hear from you again or more people. Three (3) minutes is not very long at all so you want to make your most important points. I want to make sure you give everybody a chance to be heard this evening without having to wait too long. Let's go to 4 minutes instead of 3 minutes if you'd like. You don't have to talk that long. We have people with ping pong paddles. If we show you the green that means you only have a minute left. On the fourth minute you get the red paddle. Remember that you can submit written comments and they count every bit as much as your spoken comments. Also, your spoken comments

are being recorded and they will be a part of the official record, they will be transcribed and they will go on our website because this is an official hearing. If you have written comments with you tonight, either you can leave it with staff or you can also leave your written comments in one of these. Make sure to use the microphone when you speak so that everybody can hear you. And also, please start with your name and whether or not you represent a particular organization. Does that sound good? A courtesy that I was taught and we'll recognize to hear from the Elected Officials first because in the parades they have to walk down the middle of the street and you can't sit on the curb. So for that, they get to go first. We'll hear first tonight from New York State Senator George Maziarz.

(Applause)

George Maziarz: Thank you very much Madam Chairman. I appreciate the courtesy and the opportunity and welcome to New York State, to Western New York, to Niagara County and to the town of Lockport. I know that you have travelled far and wide to be here from the Midwest, from the Canadian provinces and we appreciate it very much. I do want to give a special recognition to Commissioner Glance who visited me in my office personally to talk about this particular proposal. I appreciate all the information; she didn't change my mind at all but I appreciate the information anyway.

Commissioners and I think Madam Chairperson what you said earlier was very important; that you want to hear the opinion of people who are most directly affected by this proposed 2014 Plan. People who live on the Shore of Lake Ontario, people who do recreational boating, people who own businesses, sports fishermen, people who are most directly impacted by this decision; quite honestly and frankly, in reviewing the information that the IJC has posted on its website regarding Plan 2014, what we, and I do want to recognize some of my colleagues who are represented here today, we have Josh Jensen. Josh represents Senator Joseph Robach from the Rochester area Monroe County who you will be hearing from on Tuesday at that meeting. Also, Gerry Farnham who is representing Assemblywoman Jane Corwin who represents this district and also representative from Assemblyman Steve Hawley's office...

Getting back to my prepared remarks, we think that Plan 2014 is actually the same as Plan Bv7 that was put forth last year. Plan Bv7 was rejected by every community and every elected representative along the South and Eastern Shores of Lake Ontario. I do want to add that you're going to be hearing from several elected local representatives who represent the towns, the counties along the South Shore of Lake Ontario. The only difference between the two plans is the amount of disproportionate damage to the South Shore of Lake Ontario. The damage has been slightly reduced from \$4.5 million to \$3 million dollars per year on average. We think that this estimate is woefully inadequate; it does not take into consideration according to an analysis that I will get to in a minute, the

damage to municipal governments and entities: sewer systems, local water systems, the State parks that are numerous along the South Shore of Lake Ontario in particular.

The Lake Ontario Riparian Alliance which is going to be addressing this Commission on Tuesday in Rochester has as its representative Dan Barletta who I know has testified before this Commission in the past and also Dr. Frank Sciremammano who has done an analysis both of Plan Bv7 and 2014. Quite frankly, directly and honestly Commissioners, this Plan will hurt those people who live on the South Shore, particularly of Lake Ontario. They have seen and I have seen and my colleagues in elective office here in the towns and counties have seen literally the shoreline homes washed away into the lake because of high levels. We have also seen and you will hear from representatives of various yachting clubs and recreational boating clubs where they have been unable to get safe access to Lake Ontario because of unusually low water levels. We have a local representative here who will be addressing...his name is Mr. Anthony McKenna and he's a licenced engineer here in the State of New York and has for many years. Mr. McKenna has represented the New York State Great Lakes Basin Advisory Commission under the administrations of Governor George Pataki, Governor Eliot Spitzer, Governor David Paterson, and most recently under Governor Andrew Cuomo. Mr. McKenna is very knowledgeable; he has done an excellent analysis and he will explain to you in scientific and technical terms, much like Dr. Frank Sciremammano will on Tuesday; how bad this Plan is for the people who reside, for the people who recreate particularly on the South Shore of Lake Ontario.

We're asking you yet again to have your professional staff. We appreciate very much the attention that you have given to this issue. We appreciate your dedication of serving in public office. All of us know as Commissioner Pollack pointed out earlier, elective office is not a very easy thing to do. But your professional staff can do a lot better than this. They can listen to people like Dan Barletta, Dr. Sciremammano and Anthony McKenna. This has a great effect on the quality of life for people who live in this community here in Niagara, Orleans and Monroe counties particularly. And I say those because those are the areas that I represent and Assemblywoman Corwin, Assemblyman Hawley and Senator Robach represent. But most importantly, listen to the Elected Officials: people like Supervisor Dan Engert and Supervisor Tim Horanburg who are here today, the county Legislators. These are the most direct routes that these residents here talk to on a regular basis. You are going to hear from people today, I am sure, very well-meaning people who will speak in favor of this Plan. I think as you pointed out Madam Chairperson, we should take into consideration every point of view. But I think most importantly the point of view of those people who live, who own property on the shoreline; those elderly people who quite frankly are living on a limited fixed income. I've been out to their house: Supervisor Horanburg, Supervisor Engert, County Legislator Lynn Johnson, County Legislator David Godfrey, County

Legislator John Syracuse have been out to their homes where their homes are right at the water's edge ready to be washed away. This is not a good Plan.

Lastly, I do want to submit to the Commission a letter from Old Fort Niagara. I'm not sure if any of the Commissioners here are familiar with Old Fort Niagara. It is a jewel on Lake Ontario and the Niagara River. I'd like to say that in Niagara County Old Fort Niagara is the second most beautiful product of Mother Nature, obviously Niagara Falls being the first. Fort Niagara is almost 300 years old; it's a priceless property with buildings dating back to the early eighteen century. The oldest structure, the 1726 French Castle stands just within a few feet of the Lake Ontario Shore. This historic treasure is the oldest building in the entire Great Lakes basin. It is owned by the people of the State of New York yet people from all over the world visit it every year. In 2012, almost 100 000 people visited this site. It is ironic that the Fort has withstood battles and ravages of time but now faces its most menacing force from this water level proposal by the International Joint Commission. The idea that raising and lowering lake levels to higher highs and lower lows will theoretically enhance Lake Ontario and the St. Lawrence River marshland is interesting but totally impractical as it endangers almost the entire length of the Lake Ontario shoreline; not only the priceless artifacts like Fort Niagara but millions of dollars of private municipal and state properties will be put in danger. I sincerely urge you to abandon this Plan. But again, I do want to thank you very much. I would tell you that I have been in public office for a long, long time. My constituents back there know that. I don't think I have ever attended a hearing on a Sunday afternoon in July when it's 90 degrees outside. So you have made a particular special effort to be here and I thank you very much for that. I will submit my remarks Madam Chairperson thank you. Any questions by any of the Commissioners or any comments? Thank you.

(Applause)

Lana Pollack: Thank you. Next up is Michael Kracker representing Congressman Chris Collins. After that I'm going to say who's on deck here so you can come up and take those seats in the interest of moving things forward; and after that, Tony McKenna representing County Legislative Chair Bill (William) Ross followed by Lynn Johnson, Orleans County Legislature. So that's the order. Thank you very much.

Michael Kracker: Thank you again my name is Michael Kracker and I represent Congressman Chris Collins who proudly represents the Lake Shore of Niagara, Orleans and parts of Monroe County. On behalf of the Congressman I wanted to thank everyone for coming out to voice their positions on this important issue. The towns along the South Shore of Lake of Ontario are incredible assets for Western New York. They bring with it tourists every year who come out and enjoy the Shore and the festivals all along the lake and it's a critical component of attracting folks and it drives the economy of these

communities. We must do what we can to protect these communities from the extreme highs and extreme lows on the lake levels that are damaging properties, grounding boats and costing municipalities millions. The constituents along the Lake Shore have expressed their concern to the Congressman on a regular basis and have asked him to take action. I'm certainly proud to work with our colleagues and State Government Senator George Maziarz who brought this issue to our attention right after we took office, Senator Joe Robach, Assemblywoman Corwin and Assemblyman Steve Hawley, the Orleans and Niagara County Legislator, and all the Town supervisors and Town Board that represents the towns that across there that have been tireless advocates for their communities.

What we need is a plan that protects these communities and these property owners and protects the vital tourism resources that we have here. We are proud to have these communities here in our districts and we appreciate hearing from everyone tonight and I thank you all for your time and for coming out. Thank you very much.

(Applause)

Lana Pollack: Thank you very much we appreciate that. Tony McKenna who I know is familiar because you served on one of our important committees.

Tony McKenna: Yes...As a matter of fact Madam Commissioner I was appointed by the Niagara County of Legislature as their representative on the Public Interest Advisory Group. I served all 5 years; as the Senator said I served on the Great Lakes Basin Advisory Council with Dereth for quite a while. I am a licensed professional engineer and I'm a riparian, I'm a boater. I could not be more interested in the environmental health of the Lake and the River. I came back today from Canada, Port Dalhousie, beautiful trip back in the fog. But this is something that I've lived with since I was a child; I don't want it harmed. But I see that what we are doing here is creating damages for a very small group of people in a very localized area. When we started the study, one of the basic tenants of the study was that there would be no disproportionate losses; no one would gain from someone else's loss. Well that's not what happened. At the end of the study, and that's probably why it was abandoned and Commissioner you were around at that time, it was abandoned because there were disproportionate losses. We are now at a point where the South Shore of Lake Ontario are taking all of the losses and the boaters of the South Shore are also taking the losses.

I want to talk a little bit about the environmental science that was behind this. I know a little bit about it, I'm not an environmental scientist but I have studied the Peer Review that was done on our environmental science. The study had as part of it a funding mechanism to bring in the National Resource Council on the American side and the Royal Society of Canada on the Canadian side to Peer Review the environmental science. So we paid them to do it. The Peer Review did not come out well for the environmental science. As a matter of

fact, page 65 of the Peer Review says: “Do not use those models as a decision making mechanism”. You didn’t take an ecosystem approach, you took an impact approach. Now that’s a lot of talk but, I can tell you in my business we’ve done plenty of Peer Reviews and we’ve been Peer Reviewed. You cannot walk away from a Peer Review; you need to have that Peer Review cleaned up and I have not heard since that it has been. I heard that we have a small group that’s gone away and did some studies but certainly not like the Public Interest Advisory Group where we were watching; we don’t know who did it, we don’t know what the science is. We do know that the 2 Peer Reviews have not come back and said that we now bless this. The problematic part of it is it didn’t take into account unintended consequences of this study.

The second part of this then that I want to talk a little bit about is the coastal damages. What your models show you is \$1.5 million per year; sounds pretty benign compared to the pre-project or even 58 DD. But we all know that sitting here, that that’s not how the damages occur. Think Hurricane Sandy; that’s when it happens, you get a high level period and then you get a storm and then all the damages happens at once, millions of dollars’ worth of damages. While they’re going at it only takes a week or two to do all this damage, the phones are ringing off the hook, all these Elected Officials are getting calls and what are they supposed to say? I doubt that they can say to these people “this is good for the environment and we’re letting you take all these damages.” That is problematic in my mind for you as Commissioners. When you came here the last time, we laid out these issues to you and the Commission at that time said we were not going forward with these plans until we can get adequate mitigation for the people on the South Shore.

You’ll hear from the voters... by the way the tourism and commerce that goes on in Lake Ontario here on the South Shore, in Niagara County alone is worth something like \$30 million and I also kind of represent the Niagara Chamber of Commerce because I’m on their Executive Committee and I could not get the Director here tonight. The point is, it’s a very big economic generator; Wilson Harbor will not work at the high level you have, it will be flooded out. I know because I had a boat there for years and I know that even now, it gets right up to the level. So it will be flooded out, it’s very flat. At the low level which we approached last year, you could not get boats in or out of that harbor and we’ll have representatives who will corroborate what I’m saying. You will drag them to the mud and it’s the only you would get them to a place where you can get them out. So that’s the kind of damages that we’re talking about. Sports fishing here is a big deal.

Let me just do one last thing; we have a particular problem on this area in Niagara County in particular. People that want to protect their property cannot do so. The department of Environmental Conservation has been very restrictive in allowing people to put permits together so that they can protect their property. That’s kind of a double edge sword if you can understand what you’re doing. So you got the Hurricane Sandy thing here which is an

act of God, but this is not. This is a plan; you're planning to do these damages, you've said so but you will not let the people protect their properties and something has to be done about that. I talked to a fellow from Syracuse who said that after the last big storm in the late 90's, the D.E.C., the Army Corp of Engineers and the New York State came together and they provided a path to get a permit within 30 days. Somehow that's been lost; I just need that to be on the record. We cannot damage these people without a way for them to protect their property. Thank you very much and thank you for coming tonight.

(Applause)

Lana Pollack: Thank you. Up next after Ms. Johnson is David Godfrey and then Daniel Engert and then Lisa Stevens in that order.

Lynn Johnson: Thank you and it was my honor to meet you tonight for the first time Madam Chairperson. Thank you to all of you Commissioners for coming to our area. My name is Lynn Johnson I'm an Orleans County legislator and I'm also a representative of NORA, which is the Niagara-Orleans Regional Alliance. I sit on that Board along with Legislator David Godfrey from Niagara County.

Lake Ontario is the most prolific Great Lakes trophy trout and salmon producer. Together with the Oak Orchard River they form an unequated year-round trout and sport fishery famous for its world class fishing. The diversity and productivity of the Orleans County fishery is unequalled among Great Lakes trout and salmon angling destinations.

Plan 2014 is projected to nearly double our existing highs and our existing lows. Do not abandon your commitment to us and put our economic development, our tourism, our boaters and our lake front owners at risk. Oak Orchard Harbor has already experienced unexpected groundings last season risking injuries, risking drownings. Elected Officials are very concerned about the unintended consequences and the damage of even one powerful storm. I'm here representing Orleans County which borders Lake Ontario between Niagara County and Monroe County. Muskrats didn't not put me in to Office, the tax payers in this room did. Thank you very much.

(Applause)

Lana Pollack: Thank you. Mr. Godfrey...

David Godfrey: Thank you Madam Chairperson, Commissioners. I think you for coming and spending your time. I know it's a very difficult task for you. But I do appreciate you being here listening to all of us.

When I look at the plans as I have over the last couple of years, I can't help but to bring it to a little bit higher level and that is a County-wide level. As a County Legislator, as Lynn

Johnson and Dr. Syracuse, we have a responsibility to our tax payers. I see that the economic impact is not just at the shoreline, it's County-wide. Let me explain a little bit. High water obviously is going to erode our shoreline. That's going to devalue the property along our shoreline. Once you devalue that property, certainly these people that own these homes are not going to get that resale value out of it. The resale value goes down, they sell the home, the home now is assessed at the new sale price, the entire tax property tables are changed because of devaluation of these lake-front properties. To make up that difference, our towns and the villages would have no choice then to re-distribute those taxes across through entire towns. That literally puts the burden on more than just the shoreline owners; it's now on the entire town but also on the entire County as those taxes are being redistributed because of the devaluation of that property. So in my opinion, it is much more than just that shoreline issue.

And the low water... they talked about the closing of the harbors and the dangers that the low water presents to us. The loss of our boating seasons, the loss to our fishermen, all of that equates to a loss of sales revenue. Our small towns and villages along our shoreline and even in-land depend upon sales tax revenue; they get a piece of that. Their budgets are geared towards that. You're reducing that revenue stream that is totally depended upon in our small rural communities. Again... the end-result in my opinion, another tax increase. So we're paying for taxes because properties decline, we're paying taxes because our sales revenues are going down all because of the high and low waters. It does affect the entire County because it's not only your town and village but also your County taxes.

Now when you look at the high and the low waters, as Tony McKenna had mentioned, there's millions of millions of dollars of remediation there and we also recognize that you have said that you are not responsible for that. That's a very difficult pill to swallow. That money there is not just the homes but it's the entire infrastructure that's going to be affected. I live on the Shore and I lose a foot of bank every year. But you think of all the other infrastructure that was built 50 years ago on the highs and low waters that are out there, all of it: every pier, every dock, every retaining wall, not just on the Lake Shore but in our harbors... are going to be subject to low waters that could collapse inward and high waters that could damage them and over-flood them. I just cannot even imagine the amount of money and the millions of dollars to reinforce and put those protections back in place.

So to sum up, the economic impact would be absolutely devastating to the entire counties of Niagara and Orleans, as I also represent NORA; not just on the shoreline but also in-land. Every tax payer will feel the pain due to loss of jobs as our harbors are closed, due to loss of sales revenues from our recreational boating, and our fishermen that sales will be just cut to ribbons and the property taxes will be re-evaluated and re-distributed totally across the County. And all of this for muskrats and cattails. I urge you to stop and re-think who is

getting hurt? Is it the muskrats or is it we the people, the tax payers? Thank you very much for your time.

(Applause)

Lana Pollack: Thank you Mr. Godfrey. Daniel Engert and then Lisa Stevens and then Timothy Horanburg...

Daniel Engert: Good evening and thank you Madam Chair and Commissioners, welcome to Niagara County. My name is Daniel Engert I'm the elected Town Supervisor in the Town of Somerset in Niagara County. Our northern boundary is the southern Shore of Lake Ontario. I represent home owners and tax payers who have invested in their private property along this lakeshore. Our largest business and single largest tax payer in the town and the County is situated along this lakeshore. We are home to a beautiful park and boat launch at Golden Hill, which is owned and operated by the tax payers of the State of New York and it is also situated along this lakeshore.

On this beautiful evening in July, I'm pleased to offer comments on behalf of the Town of Somerset. While there have been some enhancement in this Plan which sought to address the overwhelming opposition that was recorded previously and particularly by the South Shore communities; we do not believe that they go far enough. Significant issues remain open and need to be addressed before any plan is implemented. We are encouraged that deviations will be allowed in this Plan however, the specified trigger points are too high especially when the low water triggers are not. Additionally, we understand that the IJC will still be ultimately in control over whether a trigger can be implemented so therefore, is it really a trigger? While this Plan reportedly reduces damages for home owners and recreational boaters, this remains an issue of great contention due to the fact that the data used remains old, outdated and inaccurate. How many re-assessments along the South Shore have occurred since the original study? The Town of Somerset for example re-assess property owners; our property values last year and I'm aware that similarly, many other towns along the lakeshore have as well and in some cases multiple times. At no times as the assessment values decreased and since this was a critical feature for the development of coastal damage projections, we believe it clearly documents the cost for coastal shoreline protection is significantly undervalued in this Plan. That missing piece of critical data alone should prevent the release of any plan. Furthermore, we understand that damages to public lands like the State Park at Golden Hill, Tuscarora and fort Niagara are still not considered in damage estimates.

This Plan, as did previous, concentrates large disproportionate loss on 5 South Shore counties including Niagara. The total annual damages are still not mitigated in any way under Plan 2014. We believe that there needs to be a realistic recognition of the boating season in the Plan. The season is not limited to just Memorial Day to Labor Day. Fishing

charters begin in late April and harbor assets are actively used by recreational boaters into late October weather permitting, including those that transit to and from Canada. The economic impact just in terms of sport fishing is \$30 million dollars in Niagara County alone; this doesn't include the other 4 South Shore counties. How will these losses be mitigated? The previous IJC Board had given us assurances that the Plan would not go into effect unless and until a method of mitigation for the affected interest was put in place. . The economic impact on the 5 counties along the southern Shore of the Lake will be devastating. Frankly, this whole initiative which deviates significantly for more than 50 years of water level management is beginning to resemble a recurring nightmare for those of us who live on the South Shore. *(Applause)*

Please consider for the record of this hearing that the Town of Somerset in Niagara County is opposed to the revised IJC Plan 2014. Additionally, the Town will be submitting a certified copy of the resolution of the adopted in opposition to Plan 2014, which was adopted in our July 9th meeting for your review and consideration. Again thank you for the opportunity to speak before you this evening.

(Applause)

Lana Pollack: Thank you very much...Unlike some hearings where people say they won't tolerate applause and responses, it's fine to applaud. But if you come to somebody you hear and somebody doesn't agree and I hear any negative verbal hissing, booing, scraping of chairs, clearing of throats or whatever, it will count against you. So positive reinforcement we're happy to hear; just be polite please if it comes to somebody who doesn't. We want to hear from everybody and we appreciate what we're hearing tonight. Thank you very much, it's now Lisa Stevens who is representing I believe the Supervisor of the Town of Wilson if that is correct.

Lisa Stevens: Indeed I am thank you and I echo everyone's thanks as well. It's nice to meet you all instead of looking at your faces on the webpage. I'm Dr. Lisa Stevens I'm representing the Town of Wilson and I also have an appointment from the NORA, the regional alliance of legislative appointment. I'm also the Past Commodore of the Wilson Yacht Club; I'm about a 6000 mile under our keel and I'm leaving for Toronto tomorrow morning as a matter of fact. I'm also a lake-front property owner. Between the two roles, I've also been involved in a multiple D.E.C. and Army Corp permits. I can attest to Tony's comments about the sometimes challenge of obtaining a permit.

The Town of Wilson stands firmly with the overwhelming majority of Elected Officials from the 5 counties South Shore region against any change in the Lake level policy or practice based on a review of the current IJC Plan 2014 rationale. I grew up on the lake-front and many of us have a clear memory of the significant erosion caused by storm damage coupled with high water in the early 70's. The federal government provided low interest loans

forgiving the first \$5000 dollars as grants to successfully encourage investment in shoreline protection. That would cost around \$30 000 dollars to cover 100 feet of shoreline in today's economy.

We've recently learned that the 2012 Bigger Waters Flood Insurance Reform Act will mandate flood insurance for all new lake front mortgage holders. The projected cost of those premiums for a \$250 000 home, depending on your floodplain classification could actually exceed \$9000 dollars a year. Now, that's going to make it tough to sell your home and echo's the previous comment about assessed values. Meanwhile there's no insurance to cover damage to shoreline protection, it only covers structures. The homes in my neighborhood are about 50 feet up and 100 feet back from the water and we've never once even had water in the basement. Our assessments will be impacted by a lot of these floodplain re-classifications.

So for the past 40 years, homeowners, municipalities and private businesses have engineered and built marina and water treatment infrastructure to that roughly 4 foot like variation. But how will environmental damage be prevented when significant waste is released during the inevitable storm damage caused when that infrastructure had not been built to those particular standards under the new Plan. Now the region is not high on this port; we did a little bit of a count with our boats and the perception that the population that would be most injured can afford to absorb the hit is both cynical and false. Over 92% of the boats in Wilson are more than 20 years old; in fact about half are over 30 years old. And the overwhelming number of lake-front homes are modest and stature.

More recently the Wilson economy has been damaged by low water; boating based tourism has a \$ 6 million dollar direct impact on Wilson and the boating season as was just mentioned begins in April with the fishing charters and it ends when the Erie Canal closes in November. There's about a \$30 million dollar impact by sport fishing on Niagara County and last year in the low water, Wilson Marinas lost about a thousand dollars a day in fuel sales starting in August and about \$100 00 annually in storage and boat maintenance because the low water is coupled with the lack of dredging.

We were just recovering from 9/11 and people were starting to come back from across the border and getting used to navigating all of the bureaucracy and now we're taking a hit on the low water. We know from our friends in Pickering and our friends from Bluffers Point in Canada that once you get the reputation of having a tough time getting into a harbor, it really takes a long time to recover from that and our economy is directly tied to that reputation.

The Niagara County Sheriff's Department and the Coast Guard have already cited security and safety issues because visitors and returning residents can't get to the Customs and Immigration videophone at the far end of the Harbor, so that's a problem in low water.

The Army Corp is very cooperative but their funding is tied to projects and they haven't been adequately funded to take care of these issues.

Now it seems like the Power and Shipping industry may stand to gain a fair bit from this Plan. But none of the hypothetical benefits make sense in light of the known human and economic damage that even the IJC is projecting.

At the very least, we need to implement some kind of pilot phase to validate the environmental and economic hypothesis and address the infrastructure dependencies before even considering an operational policy change. I thank you very much.

(Applause)

Lana Pollack: Thank you very much. Timothy Horanburg please; on deck after that will be Terry Yonker, Shirley Nicholas and Deborah L. Cieslewicz.

Timothy Horanburg: Madam Chairwoman would you mind if I postpone my 3 minutes? You have skipped over our Legislator Dr. Syracuse.

Lana Pollack: I apologize...please. He certainly can.

Dr. John Syracuse: Thank you for that presentation earlier, it was riveting to say the least. My name is John Syracuse I'm a Niagara County Legislator. I'm thankful to represent the hamlet of Olcott, Town of Newfane and Town of Somerset along the South Ontario Shore. I speak before you tonight for myself and for my neighbors. Many people will speak tonight but for me and for my neighbors, what happens here tonight is important. After all, we actually live here. We actually must live with the consequences of the IJC's actions. Our children will actually suffer as our properties are washed away. That sets us apart from the Birkenstock-wearing environmentalist zealots from Buffalo and other big cities who will be here tonight to explain to us that somehow, because they like to take in the view of Lake Ontario that it offers, that they are equal stakeholders to those who actually own property on the lakeshore. Really, that this crowd feels content to come in to our community and push its radical agenda with no regard for our lives, for our property, for our homes is an indictment of where America stands in the year 2013. Yet here they are from their various advocacy groups ready to calmly explain to us that we have to live with the consequences of their agenda even though they don't. Of course why not? The IJC's Commissioners don't live in places like Olcott, Somerset, Wilson, Youngstown either.

Now let's consider for a minute the men and women who are now deciding our children's fates: the IJC's Commissioners. There's Ms. Lana Pollack, the Chairwoman of the IJC. She lives on the picturesque Sumac Lane in Ann Arbor Michigan. Now for those of you who don't know Ann Arbor, it's a trendy Detroit suburb many miles from the Lake Ontario Shore. You see what happens to lake levels won't affect life on Sumac Lane. But we're

fortunate to have Ms. Lana Pollack deciding what should happen to our properties. After all, she was a College Professor at the Kennedy School of Government in Harvard; of course she wasn't a Professor of Engineering or any hard science. But theorists from the academic world always have had such good intentions so why should we question her qualifications?

Then there's Rich Moy; he's from Helena Montana. He has a Doctorate. Of course it's in Animal Ecology so I guess if either of my dogs gets sick he's probably a good guy to know. But again, he's from Montana. I checked: Helena Montana is 3875 feet above sea level. No matter how much Rich Moy and his colleagues meddle with our water levels his basement is going to remain dry.

And then there's Dereth Glance. Her scientific knowledge includes her Bachelor's Degree in Political Theory and Constitutional Democracy. She grew up in sunny Detroit and lives in Syracuse. It's nice that she's managed to stay within an hour or so of the Great Lakes her whole life. But I want my neighbors over in Somerset to know that Ms. Dereth Glance has them in her thoughts. Not too long ago she had an opinion piece on the Syracuse Post Standard's website in which she said quote "*the by-products of processing coal pose persistent threats to human health and our environment. We now need the political will to direct our shared resources to advance truly clean and sustainable energy solutions*". The great thing about Ms. Dereth Glance is she wants to make her impact felt on both your private property and your job if you live over in Somerset. Because while her Bachelor's Degree in Political Theory means she gets to decide how we all should live.

Lana Pollack: Sir? I see you have what, how many more pages of single spaced-?

Dr. John Syracuse: With all due respect Madam Chairman I've got a minute to go.

Lana Pollack: You may use that to insult us all you want and perhaps that will help us...

Dr. John Syracuse: Let me speak please Madam Commissioner...Ok so well that and her (Dereth) appointment to the International Joint Commission courtesy of President Obama who appointed all three U.S. Commissioners. It would have been nice if any of the three U.S. Commissioners actually came out to listen to us in the past but they sent our old friend Frank Bevacqua. Frank, we know you can always be counted to come out to try to put lipstick on a pig for your bosses. Serious though Frank, we understand you're just doing your job. I hope none of you have to rush back to the IJC offices; maybe you can stay for a day or two and meet a few of the people whose property and jobs your bosses are so intent on destroying. Meanwhile, it's my hope that the three Canadian Commissioners are more reasonable than the American counterparts. Unlike the three political theorists that President Obama has appointed, the Canadian Commissioners include number one, a Member of Parliament who chaired the St. Lawrence Seaway Sub-Committee of Parliament's Transportation Committee; number two, Ontario's former Minister of

Industry and Trade and the former Chairman of the Canadian Transportation Safety Board who is also the former Canadian Ambassador to France. Now I'm sure our Birkenstock-wearing friends from Buffalo and elsewhere feel differently. After all, the three U.S. Commissioners are doing a lot to advance the interest of you activists from the big cities. And by the way, may I just add for our friends from Buffalo, you're doing a really great job with your own community. We're glad to have you here trying to do for our community what you've managed to do for Buffalo's Westside.

Seriously, worry about getting your own house in order before you show up looking to destroy ours. You know 2 years ago, we're all packed in the Olcott Firehall telling Frank to tell his bosses we weren't really keen on the IJC's Plan Bv7. I remember some of my neighbors tried to talk about compromise; they wanted to believe that the IJC wasn't evil and was guided by the best of our intentions. They wanted to believe that -

(Interruption)

Lana Pollack: Sir! I am in charge of this meeting and you have gone over your line... you've got pages there!

Dr. John Syracuse: I've got one and a half more pages to go Madam Chairwoman and as an Elected Official, I appreciate this that I'm here representing the people of Niagara County and I demand respectfully that I'm here to finish my report. Thank you.

(Applause)

Dr. John Syracuse: Seriously...worry about getting your own house in order before you show up looking to destroy ours. Two years ago, we're all packed in the Olcott Firehall telling Frank to tell his bosses weren't really keen on the IJC's Plan Bv7. I remember some of the neighbors tried to talk about compromise. They wanted to believe that the IJC wasn't evil and was guided by the best of intentions. They wanted to believe there was merit to the forces motivating that Plan. Tonight, there can be no more talk of compromise; two years ago, we told the IJC that Plan Bv7 was too extreme, that it would erode our properties and destroy our homes. So they came back with Plan 2014; the new Plan is Bv7 on steroids. The highs are even higher and the lows are even lower. Our properties will disintegrate and our fishing and pleasure boating charters will be sitting in muck in useless harbors. But at least Green Peace and Earth First guys who made the trip will be happy. My neighbors and homes and jobs will be gone but the cattails will be thriving.

My friends, the IJC is being held hostage by urban hipster extremists. The IJC is now pushing a radical and dangerous agenda that will leave all of us exposed. I promise you that my colleagues Legislative Godfrey, Vice Chairman Burmaster, Chairman Ross along with Majority Leader, Rick Updegrave and Legislator Hill, we will bring a resolution at the next

meeting of County Legislature opposing this extremist agenda. We will stand ready to make Niagara County a part to any lawsuit that they seek to block the enactment of this Plan. We will call in our State Leaders to do the same. Although I know that Senator Maziarz and Assemblywoman Corwin already stand in solidarity with us. We live here, they don't; the IJC Commissioners don't; their boss, President Obama doesn't, neither do big city environmentalists. But I want all of them to take away one thing here tonight: we will fight you, we will fight you every step of the way, we will meet you in the courts, and we will meet you in the streets. We will not stand idly by while our neighbors' homes and livelihoods are destroyed. It doesn't have to be that way; the IJC can do the honorable thing and scrap this bad Plan. The IJC can respect our homes, our property and our livelihoods. In the meantime, we actually do appreciate you coming here to listen to us. If after this meeting runs its course you want some advice where to grab a bite to eat, feel free to ask any of us who live here. We won't steer you wrong and whatever you do, don't ask any of the environmental zealots or you'll end up eating tofu and listening to bad poetry. Thank you.

(Applause)

Lana Pollack: I'm going to say something about, not the content; we have the First Amendment rights and people get to express themselves in any way they think is going to be most influential and we've just heard one example and that's fine. But the time length is not fine and it's not appropriate to cut into other people's time. That's not the way democracy works; we've got rules, we've got orders and we are happy to read longer papers. If you have things that cannot be said in the allotted time, just submit it. There's nothing to say that what we read is less influential than what we hear. So please, in the interest of courtesy, civility and the great principles of democracy in which both our countries are founded. Let's not have some sort of: "I'm louder than you so I can sit here longer than you." That's just not the way we do business in our countries and we know that.

Yes sir please go ahead.

Timothy Horanburg: Thank you. My name is Timothy Horanburg I am the Supervisor of the Town of Newfane. If you follow this road right to the end you end up on at Lake Ontario, I have either lived or been out on the Lake or next to Eighteen Mile Creek my entire life. One of the first concerns we have is part of our infrastructure is built in low lands of Olcott. When we had floods back in the 70's, it took our Plant right offline; D.E.C. doesn't like that, environmental people don't like, I don't like it...it costs us a lot of money. Olcott also last year was voted the Ultimate Fishing Town in the United States. We have world-class fisheries, we have a municipal marina and we run approximately 75 to 80 charter boats

from all over the U.S. out of our Harbor. It is a huge economic impact for our community and our local communities.

One thing you haven't taken into consideration and I'm surprised, maybe the New York State D.E.C. has not brought this up is that one of our biggest fisheries is the salmon; we have one of biggest salmon runs in the Southern Shore of Lake Ontario. They have to traverse very shallow water. I think that if this Plan takes into effect and that water goes lower, I don't think they will be able to reverse that. That would be a huge economic disaster for Niagara County.

Also last year as I said right on the Lake 50 feet from it, if the water level would have been high during Hurricane Sandy they were projecting 20 foot waves on Lake Ontario, my house and several of my neighbors' all on the Lake would not be here today; luckily the water was low.

The one thing you mentioned that bothers me is the triggering device. High water can trigger and you know and the little bit I know, that by opening the opening and closing the Dam up there, you don't fill Lake Ontario in 10 minutes nor do you empty it in 10 minutes. It's by foresight and somebody has to have some foresight and start opening and closing when they see maybe a wet season coming. I don't know how you can possibly wait for a triggering moment and then maybe at that triggering moment is because of wet weather. Maybe you can't let it go because of the Montreal situation that it would hurt somebody else. It needs every, and we've had it, an even keel distribution. The same with the low water and the triggering device there... What would trigger that? I don't quite understand without doing massive amounts of damage.

Our marina, our structures, everything we have was built according to the existing Plan. If we deviate from that, you're going to devastate our community. I'm a Supervisor of a little town, a small community. We have struggled the last few years with the economy just like everybody else has. We don't need another blow; another blow from you people would be a disaster to municipalities along the Lake.

Please take into consideration our perspective; we are the people who are the first line of offence and for people to bitch when something goes wrong and many times we can't do anything about it.

I would like to ask the Commissioners to, and I know you're from distance away but take a personal look at it. If it wasn't for me we'd had a disaster tonight because this meeting was scheduled for Olcott. Well in Olcott tonight is a Pirate Festival going on and their parking lot is full of frigging rides and I could imagine all these people coming to Olcott and trying to park with no place to park.

Lana Pollack: Would they have been dressed like pirates?

(Laughter)

Timothy Horanburg: They do dress like pirates so I told the fire company you need to call somebody and tell them that they can't –

(Interruption)

Lana Pollack: Thank you for doing that. Thank you very much.

Timothy Horanburg: Personally take a close look at our little communities that you've all heard from. That would be a devastating blow and that triggering device is truly bothersome.

Lana Pollack: Ok so I'm going to say first of all thank you and I'm going to deviate from what I've done because you've raised an issue on triggering and this is not about back and forth and I'm truly not arguing. But I'm going to ask David Fay, could you just step to the mic as an engineer and talk about the triggering advice? Doesn't mean you're going to like it even but I don't know what he's going to say but if you could explain the –

(Interruption)

Timothy Horanburg: But it's mentioned as a triggering device like if it hits a level and all of a sudden you do something –

(Interruption)

Lana Pollack: Mr. Horanburg, his Supervisor is saying "how would you know ahead of time" and go can't just turn this thing on and off that fast, it's a big body of water... can you explain the difference between the triggering device now and how it's triggered with the deviations under the current Plan?; because under the current Plan, it does get deviations too so if you could just give us a couple of minutes on that; facts.

David Fay: Do you have control of the presentation? Can you actually go to the slide that showed the trigger levels? Ok...there. Basically the triggering device you can't really see because our Commissioners are there, but it varies depending on the time of year: it's lowest in the winter and fall which follows the natural seasonal cycle. And if you have high levels in the winter-fall, you have to do something to try to prevent really high levels the following spring and summer. So that's why it's lower especially in the fall because there's an opportunity to take some of the water off the lake typically then to prepare for the coming winter and spring. When ice is blocking the river, in the winter you can't discharge as much water and you can't lower the lake so that's the idea, the seasonality of it.

Now the other aspect of the trigger level and the seasonality was because these storms actually are most severe in the fall and early winter before there's ice protection along the shoreline and that's also why the trigger levels are somewhat low in the winter. Now I certainly hear and I would expect that just about every shoreline property owner would say: "can't you reduce those water levels, those levels are too high". We've heard that from very many people. I think in theory you could but it's going to have an impact and may benefit the shoreline property in terms of reducing the risk of shore protection damage. Maintaining higher levels in the growing season is what the environmental scientists have found necessary, occasionally allowing higher levels during the growing season, which is the June-July period, would restore some of the wetland diversity. So that's the trade-off and that's really what the Commissioners are here listening about.

I'm not sure if this answering Lana's question or...

Dereh Glance: Can I just ask a follow up question? When you're talking about the trigger levels though, on average though from what I understand it's 2.4 inches higher at the upper range of the Plan and what is the difference between what we're experiencing currently?

David Fay: When we simulated the effects of Plan 2014 with the existing plan we've showed those spaghetti graphs, the upper levels are about as, Dereh said 2 and some odd inches higher. Actually in the handout, there is a comparison that may be not all that evident to you at first; this little graph which is full of little dots and on the bottom X axis, on the horizontal axis that's what the level would be assuming you have that level now. But with the new Plan you can read up the vertical scale there and say: "ok that's what the level would be with the new Plan". So you can see in the middle there's a lot of variability; sometimes it's lower sometimes it's higher. But on the very high side you can see that consistently Plan 2014 would give 3 to 6 inch higher levels and on the low side it would indeed result in several inches lower at the lowest levels. So there's certainly some truth to the fact that if you had this new Plan, the water level would be more variable from year to year and that's actually an intention of the Plan because that's what the environmental model said was required and the environmental scientists are adamant when they come and tell us that is what would be required to provide these environmental improvements for the wetland.

Lana Pollack: Ok...let's move forward with the hearing. At the end of the day and we're not at the end of the day, we haven't made any decisions; we have a proposal in front of us. The end of the day, some people, whatever we do or don't do, not doing anything is doing something, some people will be happier and some people will not be happier. But part of our goal is to have people understand what really is likely to happen and have it based on the best understanding we can have. So I think you for raising those questions and I thank you for your courteous comments and explanations of the impacts as you see them.

Timothy Horanburg: Just to finish up, my last comment is that I think you hit the nail on the head: that was an environmental chart. We need an economical chart; we do for our communities to survive. Thank you very much for hearing me.

(Applause)

Lana Pollack: You're welcome and thank you for coming. Terry Yonker, and then Shirley Nicholas and then Deborah L. Cieslewicz...

Terry Yonker: Chairwoman Pollack, members of the Commission... I had a long association with your organization and I appreciate the fact that you are all here tonight to hear our comments. I'm probably the guy that's wearing Birkenstocks...No I'm not actually. My name is Terry Yonker and I live in the Village of Youngstown. I've been a sailor, I've been a boater, and I've been a fisherman for more than 60 years. I've sailed at all the Great Lakes and am committed to the preservation of the Great Lakes.

I've come here to support the IJC adoption of the Lake Ontario/St. Lawrence River Plan 2014 along with the implementation of the directive to the International Lake Ontario/St. Lawrence River Board on operational adjustments and deviations and extreme conditions; I think both are important to this whole effort. I think the Plan is the best for the health of Lake Ontario ecosystem and fair to both U.S. and Canadian riparians. Opposition to this and previous proposed Plans is in my opinion somewhat unfounded, not always based on good science and in many cases overblown.

I live right across the street from Old Fort Niagara. The Castle at Old Fort Niagara will not be in danger of falling in the Lake Ontario because of this Plan. Erosion at Old Fort Niagara is been much worst in the past, a process that is addressed in Plan 2014 and the directive.

Twenty five years ago, I was appointed to the Natural Resource Technical Team of the IJC Water Levels Reference Study and looked at the possibility of regulating all 5 Great Lakes to maintain the water levels so that levels do not vary more than a foot from the long term mean. The issue then was high water. The Study Board concluded that further regulations of the Great Lakes water levels was not practical nor economic, nor called for, except for some minor efforts to adjust water levels to better protect the health of Lake Ontario's fragile ecosystem and downstream St. Lawrence River.

My training is as a meteorologist; I spent roughly 50 years as a Climate Scientist and I have served as Director of Great Lakes United, Lake Erie Alliance, many many years as the Director of the Michigan Audubon Society, and over 10 years as the Environmental Advisor to former Governor Milliken of Michigan, a Republican by the way. But in the long term, water levels of the Great Lakes are expected to decline and all the climate models that we have in front of us, in many cases by several feet. As Gordon Lightfoot noted, Lake Ontario

takes whatever flows into it from the upper lakes, be it more or be it less than the historical flows. Over the next several decades, we will be tackling an altogether new set of issues: maintaining flows over the Niagara Falls, limiting hydro power production, limiting shipping through the St. Lawrence Seaway, limiting recreational activities that depend on high water levels and protecting emergent wetlands from development.

I believe that this Plan is well reasoned and I think that the directive is right spot on and I support it and I also have more extensive written comments at a later date. Thank you.

Lana Pollack: Thank you very much, I appreciate that and I know that there are people in this room...all of you who have who have lived lives of service and lives of commitment to your communities and beyond. I just don't know you that well; I know that man's history because he has a history in Michigan and I want to take the opportunity to thank you for serving Governor Milliken many years ago.

Shirley Nicholas is up next.

Shirley Nicholas: I'm Shirley Nicholas and I'm from Lockport, New York. I am a concerned citizen and probably also kind of the economy and environmentalists. You know, I'm not happy with what you proposed because I believe when you mess with Mother Nature, she gets even with you.

And number two, the harbors are one of our most important industries in our area. They produce billions of dollars of revenue. And you know, Orchard Harbor is my main concern but Wilson and Point Breeze are also because they're in my area. They already need dredging. Now what if you lower the water levels even more, what's that going to do? Are we going to have to dredge it more and more? I'd like an answer. Also, what's this going to do to our creeks? When you lower the level of a lake and not raise it; what does it do to these creeks that empty into to Lake Ontario? Does anybody know? Does it have an impact? Eighteen Mile Creek for one thing has a very bad environmental thing right now because it's polluted terribly. Now, when you take water out of something that makes it stronger; does that mean that the creek lowers its level because you lower your lake level? Does that mean that these things that are in there, the chemicals and what not, are going to be even stronger and more dangerous than what they are now? I'd like some of these answers before you go ahead and do these things.

Lana Pollack: Thank you.

Shirley Nicholas: You're welcome.

(Applause)

Lana Pollack: Thank you I appreciate that. Deborah.

Deborah L. Cieslewicz: Hi how are you? I think that as an American what I'm afraid of is once you give something away or you change something, you have to fight like heck to try and get back to that safe place. We've done this over the past couple of years so I think that that's my major concern. You said 2 inches of difference, you said maybe 6 inches of difference; it's important when you're on the shoreline and that's where I'm coming to. I am a South Shore Lake Ontario property owner and I was lucky enough to get this property in 2006 for \$250 000. As it stood, I had about 100 feet from back from my home; now as it stands I have 75. So 2006 and 2013, that's the difference. For me to mitigate that, for me to protect that, I have 300 foot of shoreline. It's about a \$1000 a foot; I would pay more to put rip-rap there than I would have paid for the entire property.

Now, I was lead to go through the D.E.C. and God knows how long that would take and how much more I would lose but I could do that if my 2 neighbors didn't do it. What I got is an island or an isthmus because it might be connected it might not because it would depend on how bad it would erode that area. I work 7 days a week, I have 2 jobs and I haven't had a vacation in 7 years; long week-end, no vacation. I do all this to maintain my resources, pay my taxes and keep my home. With the proposed changes, I would either be forced to come up with \$300 000 and begin the arduous process with the D.E.C. or move the home, so literally pick it up like you see on HD-TV and move it back so that I can keep it. Now that's if I had the funds; I don't have that. If the two neighbors didn't do it, I'd be back on the same place: an island, or move it.

Now I do feel that we are: us South shore homeowner are on an island because all this other interest is being taking into account except for us in Niagara, Orleans and Munroe counties. I see your charts all indicated that we're taking the brunt of whatever change would make according to 2014 now. You can call it 2014 sort of looks like Bv7, sort of looks like the one before that and it's been 10 years some of the other homeowners have said that you've been working on this; that's a long time. You could have maybe just mitigated this 10 years ago. It would have cost a lot less and you guys could all have muskrats and cattails.

I had the pleasure of observing muskrats this year in my pond because I got a wetland in there that I can't touch; it's about a quarter of an acre. Guess what muskrats eat? Cattails, yes. Well, when they were done eating every bit of cattails and completely defoliating the entire pond, they're gone. I don't know whether they died or they just moved on; I didn't tag them or anything like that. It's a dichotomy that makes me question the agendas. Mine is just to keep my home, mine is just to have the American dream, mine is to probably work until the day I die trying to keep my taxes paid because I'm sure they're going to go up and hang on to my home so that maybe someday I can leave that to my daughter. If you take it away from me, everything I've worked for...

Anyway I think that we could live with it now because it hasn't been that drastic, the fluctuations, but if it's 2 inches or 6 inches and we have a storm surge, I think it's going to be much more than that. I know that the nature groups feel like they got short-changed and the cattails and the muskrats and all this wildlife is really needed but I question who funds the 2 groups that are hell bent on keeping these things. I tried to look that up to see what kind of agenda was going on there and who funds the Nature Conservancy and Ducks Unlimited and see; we don't get that knowledge, we don't get to know who actually contributes to them. Now you know I pay my taxes and we know a lot of the people here pay their taxes; we know their names, we can look it up it's public record. But we don't know who funds that. I just looked at some of the Board members and they're pretty big business...some of those board members and some of those presidents from these nature conservancies. I also know that some of those conservancy groups are not-profit, they don't pay taxes and the businesses probably make a heck of a lot more than I can if I worked 3 jobs. So they have the Petition and the Lobby and the conservancy they can come... which is a tax right-off for them. I pay taxes, I work hard to maintain my investment alone, I'm suggested and railing all South shore homeowners to contribute about a \$1000 dollars each and it's less expensive than the new rip-rap and it's less expensive than the tax we pay on property that's washed into Lake Ontario and maybe we should actually file suit with the Haig Commission and have this put to a stop. I see no other way around it. In America today it's sad that only in this way can a small homeowner and a small business operator have equal standing with big business and big green. Thank you.

(Applause)

Lana Pollack: Thank you and would you do me a favor? For the record can you pronounce your name correctly please?

Deborah L. Cieslewicz: Yes it's Cieslewicz. I can do it in Polish too.

Lana Pollack: Thank you very much. Alright, Tom Herberger and Brian Smith and Paul Ozimek in that order

Tom Herberger: Good evening my name is Tom Herberger and I'd like to thank the Joint Commission for being here tonight to hear our comments.

Lana Pollack: Thank you.

Tom Herberger: I'd like to state that I grew up on the Southern Shore of Lake Ontario and I only represent myself. All together I've lived about 30 years on lake-front property here in Niagara County. I agree with the statements made by Senator George Maziarz that... you know I've studied the Plan Bv7 and the Plan 2014 doesn't look very much different.

Last year my wife and I bought a lake-front home in the Town of Porter between Wilson and Youngstown. Since last summer, 2 feet of our property has fallen into the lake.

I recently had a meeting with the Code Enforcement Officer, Building Inspector for the Town of Porter where I live. I didn't know this but he told me that there's a study that's been done over many years and it's called the Erosion Rate Study. I would encourage any shoreline property owners if they're not familiar with the erosion rate for their individual property, they should contact the town officials and find out what is it. He looked up the erosion rate for our property and he told me it's 1.5 feet per year, that's the average. That's under the existing water level conditions. So that is to say that in the last 20 years, that property has fallen into the lake, well 30 feet of it. It is also to say that in the next 20 years, we're going to lose another 30 feet and that's with the existing Plan that's been in effect, not with the higher levels of water that you are proposing.

So if this proposed Plan results in these higher water levels, the erosion rate will be greater and the results will be devastating. I've always looked at different proposals and tried to figure out maybe where the money is to find out what's behind it. I read an article in yesterday's Buffalo News that talked about the hydro-electric plants and during the peak demand times, they can make more electricity when the water levels are higher. The difference there results in millions of dollars. I don't believe that it's only just about the wetlands and the muskrats; I also believe that it also has to do with hydro-electric plants, the money that is involved and the shipping industry as well.

So the Southern Shore of Lake Ontario where we live is more vulnerable to these erosion rates than the Canadian side because so much of the wind comes out of the North West, and the Southern Shore of Lake Ontario is impacted even greater. So it's very difficult for me to get warm and fuzzy feelings about wetlands and the muskrats when our yard is falling into the Lake. You're proposed Plan 2014 admittedly states that there will be less shoreline protection. I strongly oppose the proposed changes since the resulting erosion, the increased erosion, will be devastating and disastrous. Thank you very much.

(Applause)

Lana Pollack: Thank you Mr. Herberger we appreciate your comments. Brian Smith...

Brian Smith: Thank you and thank you to the members of the IJC for the opportunity to provide testimony today. Again my name is Brian Smith and I am the Program and Communications Director for Citizens Campaign for the Environment (CCE). I'm here today on behalf of our 80 000 members throughout the State of New York to voice our strong support for the implementation of Plan 2014.

While we greatly appreciate the IJC holding hearings, of course everybody cannot attend. So I want to start with our Compendium of support for Plan 2014, which demonstrates a strong and broad base support that exists for implementation of Plan 2014; support that's included in this Compendium, includes but not limited to: 9776 signatures, letters and even telegrams that were sent by members of the public in support of Plan 2014. In CCE's public outreach alone, almost exclusively in communities along the South Shore of Lake Ontario we generated 7200 of these expressions of support; these are mothers, fathers, recent College graduates, grandmothers, grandfathers, real families that live in communities like Youngstown, not that the people that are been represented by some of these urban hipsters that were represented earlier. These are real families that live in these communities. Also in the Compendium 42 environmental and conservation groups, which represent hundreds of thousands of New Yorkers; 35 businesses including the Business Council of New York State.

In our outreach, we found that there was broad recognition among the public that 50 years of damaging regulation, we must take action to restore our Nation's most important natural resource: Great Lakes. The public recognizes that implementation of Plan 2014 is essential to restoring Lake Ontario and the St. Lawrence River. It's no wonder that the public supports this because in New York alone, our Great Lakes support 4 million jobs for New York residents. Our sport fishery valued at \$2.27 billion dollars, which generates nearly 12 000 jobs; the foundation of a multi-million dollar tourism industry, a vital resource for hydro-power and recreational boating opportunities that contribute over \$600 million dollars a year to New York's economy. All of these things will be supported and enhanced by the implementation of Plan 2014.

Not only that Plan 2014 is supported by the public, but it is in line with national priorities to protect and restore the Great Lakes. In recent years, more than a billion dollars has been invested in the Great Lakes Restoration Initiative (GLRI).

Protecting, restoring, enhancing wetlands in coastal habitats are identified as priorities in the GLRI Action Plan. The Plan also explicitly identifies quote "*the alteration of natural lake level fluctuations due to artificial lake level management and flow regimes as a major threat to the health of the lakes*". This is why local, state and federal governments have spent millions and millions of dollars on habitat and wetland restorations. With Plan 2014, by allowing more natural lake levels and flows, we have the opportunity to restore and enhance 65 000 acres of wetland habitat along Lake Ontario and the St. Lawrence. This will mean healthier habitats that will revive fish and wildlife populations, thus contributing to a robust tourism industry including fishing, hunting, bird watching and more. Plan 2014 will mean healthier wetlands, which effectively absorb flood waters and make our coast lines more resilient which is particularly important as we face a changing climate.

So in closing, I want to say that Citizens Campaign for the Environment believes that this is a win-win for our environment and our economy and we strongly support its swift implementation.

Lana Pollack: Thank you very much. I appreciate that much Mr. Smith. We're going to hear from Lori Crane, Supervisor of the Town of Huron. And then after that Paul Ozimek and then Christopher Srock

Lori Crane: Thank you very much. I've come a long way tonight; I'm way down in Wayne County. I wasn't actually planning on speaking tonight so I have nothing really written up but I've listened to a lot of things that the people have said and I would like to put in my two cents again.

I was looking at your paper on what's new with this Plan: the policy for deviation including the trigger levels. We already have trigger levels. We have the River Board of Control; we don't need to pay or have another Board to control that. This Plan is the same as Bv7, has the same damage as we've had before. It says here that Montreal and Lake St. Louis will retain current benefits for downstream interest. What we had been told is that Montreal refused anymore further damage than what they get already. Why isn't New York State doing that? New York State cannot afford to take all the damage from this Plan. Our tax payers cannot afford to take all the damage from this Plan. New York tax payers cannot afford to continue to study this and spend the millions of dollars that have been spent year after year. I have researched this; we have been working on not too long ago, I can't remember the year, the IJC worked on how to control the fluctuations of the Lake. You've already said in your articles and online that we don't know what the climate is going to be. You cannot predict what it's going to be if you don't know what it is. You can't control Mother Nature. If you're truly listening to the people, the majority of the counties on the Lake are opposed to this Plan, the majority of them. The only counties for this Plan think that they will benefit from this Plan. What they are not listening to is that their tourist season and their economics will be destroyed if they have even more than one year of very low water.

This Plan is not environmentally friendly because we all know if this Plan goes through, one of the first things that's going to be flooded is Sodus Point. Sodus Point will be under water; they have a municipal septic there. Town of Huron is a small town but we have a lot of waterfront. We have lake and we have 3 embayments; they're all on septic systems. Now when you flood them out, when the bay bars are gone, all of our protection is gone and it's only going to take one Hurricane Sandy and it's all going to be gone. Where do you think all that e coli and all that septic is going? It's going north; right to the River that they're trying to environmentally improve. It's going right to Lake St. Lawrence.

In this economy the tax payers cannot afford this Plan. We cannot afford to fix what this Plan will destroy and contaminate.

I am very thankful that you are here tonight and I would also like to bring up one more point: we have a Treaty between Canada and the United States. That Treaty has been since 1909. In that treaty, it says that we will not, New York States, U.S., nor Canada will pollute our waters. That is exactly what will happen if this Plan goes through. Thank you.

(Applause)

Lana Pollack: Thank you very much Ms. Crane. Yes sir.

Paul Ozimek: Good evening my name is Paul Ozimek and I'm a resident of Wilson. I also like fishing in canoes and I've also got a bigger boat, I got a 21-foot boat. I love going out on my canoe, do my fishing. But while you're out there and enjoying nature, what I'm noticing is that a lot of the sailboats, they're preparing to go out this season to do fishing. The Harbor of Wilson: the major problem is, the water is down so low now that the keel sterns underneath the sailboats are actually resting on the bottom of the harbor and you can actually see the water outline from the bottom of their boats from where they're sitting on the bottom. For them to bring their boats and get it into the passage to go out to the Great Lakes it's really thin and it's really scary. With my 21-foot boat, last year, I ran it aground in the harbor in the main harbor channel. I have plenty of clearance but I couldn't even reach... I ran into problems with my boat, it's stalled out. I was trying to get to one of the docks on the island. When I was aiming to try to do that, my boat ran aground right and I could not move my vessel. And it's just that we need to keep the water levels up. It's not just for passage in the canal of the harbor, but it's also for our fish and it's for our nature. If we take away and lower the water by that 2 to 6 inches, the fish are not going to come up and spawn; they're going to go somewhere else or they're just not going to be there ever again. I don't want to risk something that I've experience through my 40 years with my dad fishing and I can't even offer to my children a good fishing spot ever again because it's gone.

I would ask the Committee, really, take your time; think about what you're doing to the next generation of our kids raised up in our communities and our friends and our neighbors. Without this, we're going in vain; we got to start taking care of our Earth and go forward with stuff. Take care of the waters, I mean keep the water flow up. We got to do all this stuff and we got to do it now. Thank you.

(Applause)

Lana Pollack: Thank you sir. I appreciate that. I have 3 more cards and I remind people that they can leave things in writing here with us tonight after we've completed the evening. You can go online and leave it. There will be other meetings although we will give

precedence to people who have not spoken at a previous meeting. We want to continue to hear and give you every opportunity to be heard. So, Mr. Srock...

Christopher Srock: Thank you for having this opportunity for all of us to be able to speak. I'm currently actually a candidate for the 10th District in Niagara County's Legislative seat, which is primarily Wilson and Cambria with a little bit of Wheatfield. I actually grew up in the Town of Newfane which encompasses Olcott, so I've actually grown up all along the shoreline in the watershed. My parents never got a pool until I was a teenager because I could go for 9 miles on my bike and swim in the lake. So I know that the lake water levels look like; I've seen what the lake looked like before zebra mussels, I've seen what it looked like after zebra mussels. Actually as a recreational swimmer, I liked it afterwards a little bit better because I could see what's on the bottom, though my knees and legs all got cut up.

I've looked over your nice little pamphlet there and I can see from the weekly water levels table and the regulation plan for performance that it doesn't have any huge benefit for this region of Lake Ontario; it actually keeps on having negatives on all the columns that everything that we have is actually going to be lessened. At this point I don't support the Plan mainly because I find that a plan with the water levels as had negative effects over the last couple years with the drought we had and then with Sandy coming through.

I'm also a volunteer fireman along the lake; we actually had one kid who actually ended up drowning and we weren't able to find him very quickly because of the water levels being so low it murkied the water, we couldn't see what was in the water. So for public safety issues, we couldn't see that.

Well then later on that year, because of the low water levels we actually had a sailboat stuck in and out of our harbors and another boat tried to pull it out. Well, like an old 1930's 40's comedy routine, they eventually got the boat out but then they smacked together causing an even bigger mess than what was there. Most recently this year and it's in the papers, there was a lady who was out boating and hit some debris in the lake and then she unfortunately passed away.

My concern is with altering the water levels up and down and pushing from the tributaries out and the water sheds out is flushing out some of the debris, some of the things that have been clogged up and putting it into the waterways making hazards on the waterways for boaters, for recreational swimmers, not making it a actual safe environment for us to actually get out there, adding in and complicating the issues further.

Once the engineer explained the nice slide behind your head I kind of understood a little bit more what was going on with a high and low water level triggers. But that doesn't kind of address for me some of the other issues of when a creek or stream gets flushed out, how much all that sediment debris gets pushed out into a harbor. Wilson Harbor is in desperate

need to be dredged out. I know Olcott will probably need a good dredging at some point too. But if you start pushing with some of these water levels because they're low and allow the flow to come out a little quicker there's going to be a lot more heavy sediment in the bottom of these creeks and streams and it will need to be pulled out so.

In closing, I would like to say thank you for allowing us to have the opportunity to speak. Thank you.

(Applause)

Lana Pollack: Thank you for coming. Actually I have a card here with an e-mail but no first or last name so I'm going to... will this somebody with the roadrunner email wants to step forward... Yes sir.

Daryl Gleaton: Hi my name is Daryl Gleaton and I'm live in Niagara County. We also have a family camp up on Wellesley Island in the St. Lawrence River Thousand Islands region. Basically my biggest issue is the low water last year was a record low that I've ever seen it. I'd left my boat floating in a foot and a half of water on August 24th to come back on September 26th and it was sitting on the rocks and there was 15 feet until the water line was there. My dock was completely sitting on the rocks. So I don't know, to me the low water is an issue for fish spawning and of course it's a great issue for people who repair outdrives and propellers, and sell propellers, etc.

And I want to say that I appreciate you all are trying to find a solution for all this. I did notice we have a creek that runs around our property and the wetlands have dried up considerably. The creek was basically nothing but a mud ditch because it feeds off the lake and then goes out into the St. Lawrence River.

I understand the people's concern about erosion; however if you move to Florida you expect hurricanes, you live on a lake you got to expect some erosion. That goes with the territory. We own 7-acres on the Lake of the isles or approximately and we banked it with stone to combat the erosion issue and I'm really glad to see that you're working towards the ecological issue of the wetlands. Other than that, we have to find a compromise and I'm glad that you're here to listen to our voice.

Lana Pollack: Thank you. Can you spell your name for me please?

Daryl Gleaton: Yes that G.L.E.A.T.O.N. Thank you for your time.

Lana Pollack: Alright. The last speaker is Jim Howe.

Jim Howe: Thank you Commissioners for traveling to Western New York. I'm Jim Howe the Director of the Nature Conservancy in Central & Western New York. The Nature Conservancy has a mission of protecting land and water for people and nature. We're

supportive of Plan 2014; we commend the IJC for putting forth a water regulation plan that really aims to restore the health of the Lake but also tries to balance out the benefits and impacts among all the interest groups that depend upon the water levels. Make no mistake, the environment of the Lake and River has really suffered under the past 50 years. The science on this is clear and unassailable; I don't hear anyone disputing that tonight which I'm pleased with.

I think it's also very clear that a healthy lake is important to all of us. Plan 2014 returns some level of variability of water levels that a healthy great lake needs and it does so without bringing the water level significantly higher than it is now; I think that the number that I heard, 2.4 inches, that's apparently our analysis too and that's a few times this century. These comments that the Lake is going to go much higher highs, huge swings in range... If you look at the Plan, that's really not what's happening here.

I really wanted to come out tonight because there are shoreline property owners here and to shoreline property owners who are upset with this Plan, I guess I have a few questions: first, the Plan brings low water back into the Lake Ontario system on a regular basis and if you're a shoreline property owner, the reason you've lost beach and frontage based on what the scientists say, over the past 5 decades which coincides with 1958 DD is because there are no longer low water periods and that's when the beaches, when the shoreline rebuilds. So the current Plan from that perspective is really your enemy, it's not your friend. And this process is well understood: the low water process of rebuilding shoreline is well understood throughout the Great Lakes especially on Lake Michigan, I've seen photographs of this. So my point is, why not give this a chance? You're clearly suffering from erosion now. Why not give it a chance?

Second, erosion is a constant on the Great Lakes, there's no question about it and no plan can stop it. The previous speaker just said "you live on the lake you got to expect some erosion." I think if erosion is happening regardless of what Plan is in place, why wouldn't we choose a Plan that restores the environment of the Lake?

Third, the IJC's estimate that the proposed Plan will add an additional \$2.23 million dollars in erosion maintenance costs per year; that's right on the back of the handout and that's for all shoreline properties along the entire Lake. So I've really thought about that. What does that mean? That's a big number... but also if you look at the IJC Study Report, there are about 8300 developed properties along the Lake, that's Lake-wide, and about 5600 break walls. So that means the cost of restoring a healthy lake if you take the \$2.23 million and divide it by the developed properties or the break walls, it's either \$268 dollars per year per property or it's \$400 per break wall per year per property. I mean help me understand this; when I look at the numbers that's what they say to me. So if that analysis is right, is it

really significant to justify preventing the adoption of a plan that will restore a healthy Great Lake.

So the other thing I'll say is this is not a question of homes falling into the lake being washed away, we heard that tonight. You know it's really the question of: people are going to have to spend more to maintain their structures. If those numbers are correct, to me that doesn't seem like a significant amount of money if you live along the lake. Another way to look at this too is ask: what are shoreline property owners currently spending to maintain their structures and then to look at that increase. The IJC Report, the Study that goes along with this estimated that depreciation annually on shoreline structures is \$54 million dollars a year. So if you take the 2.23 million and divide it by 54 million, that's an increase of 4%. Again, I don't know what people are spending but I'm just trying to get a handle, trying to get a perspective on what this really means.

The other thing I'll say is that there is a lot of misinformation about this Plan; we've heard some of it tonight. I'm especially surprised that I don't hear anyone talking about low water levels and how that can really improve shoreline properties. I'd like to see that really be part of the dialogue. So to shoreline property owners I say please read the Study, talk to people, ask questions and don't believe everything you're hearing from some of your elected officials.

Finally I want to talk a little bit about the economics. The benefits of a healthy environment are really enormous; wetlands filter and purify our water, they absorb storm water during high water events and they provide habitat for fish and wildlife. Of course fishing and hunting, outdoor wildlife recreation is a huge economic engine in Western New York. The IJC chose not to try to quantify those benefits during this study but we have taken a look at this and the numbers are really astonishing. Based on some economic analysis that we've done, the Plan 2014 would provide an additional \$9 million dollars per year in economic benefits just in fish and wildlife based recreation. It doesn't include storm water run-off, filtering and purifying our water. That study is based on a number of economic models. That's why the Business Council of New York State supports the change to a new water level Plan for Lake Ontario.

I'll just conclude by saying that the Nature Conservancy believes we need a new plan that protects the environmental Lake, that enables us to respond more quickly to climate change, that takes into account more than 50 years of data and science and that really tries to balance the benefits of water regulation among all the interests who depend upon the Lake including the one interest: the environment of the Lake, which really has been the disproportionate loser after 50 years of regulation.

I really appreciate you coming out tonight and for the tour that you're taking of Western New York and Ontario. Again, thank you for your time and the opportunity to come out.

Lana Pollack: Thank you Mr. Howe. I want to thank everybody who's here and some who have left with one exception plus the guy who shouted at me; very rude. You've been an excellent group of people. We really appreciate not just what you've said but the way you've said it, the respectful way that you've heard differences of opinion. We will take that impression away of these communities; of your civility, of your concern and that's really important to us. Is there anything that any of my colleagues would like to say?

Joe Comuzzi: You've said it very well for all of us thank you.

Lana Pollack: Well then thank you very much.

(Applause)

End of Transcript

Transcript