

Summary Notes
International Lake Ontario –St. Lawrence River Study Board
Meetings

Niagara Falls, Ontario
September 20 - 21, 2005

Present: Andre Carpentier, Steven Renzetti, Dan Barletta, Frank Quinn, Frank Sciremammano (Sept. 21 only) , Doug Cuthbert, Gene Stakhiv, Pete Loucks, Ian Crawford (Sept. 21 only), Sandra LeBarron, Tony Eberhardt, Ed Eryuzlu, Russ Trowbridge, Tom McAuley, Bill Werick, Wendy Leger, Debbie Lee, David Fay, Max Streibel, Elaine Kennedy, Rob Caldwell, Arleen Kreuzsch, Greg McGillis, Commissioners Brooks and Blaney, David Klein, Larry Field and John Ching.

Chair: Neil Fulton

Meeting Goal: To decide on the candidate plans to go forward to the IJC and whether any of those plans should include mitigation and adaptive management at part of the option. The Board also needed to agree on what it wants to recommend relative to deviations from the plans.

Feedback from IJC:

Doug Cuthbert and Russ Trowbridge reported back from the meeting with IJC Commissioners in Windsor on Sept 14th. The Commission, which wants the Study Board's work to be independent, has reached no conclusions on whether criteria, deviations, mitigation, and adaptive management should or should not be included in the regulation plan options. The Commission wants to hear the full pros and cons of the plans and the story behind them and wants the best advice of the Study Board on all of these issues.

The Commissioners also reaffirmed their direction given two years ago that the Study Board should not try to interpret the Treaty, and should take into consideration all interests, including recreational boating and the environment, in evaluating the plans.

Peer Review:

Russ Trowbridge gave feedback on the NAS/RSC review. They generally had a positive response to the Study and recognized it as cutting edge. However, they have identified some problem areas. These included:

- Took issue with the selection of wetlands noting that they believe there should have been a random selection of wetlands.
- Were concerned that information was being lost in the collapsing of data into the IERM and then into the SVM

- Concern over the collapsing of data for species-at-risk
- Lost opportunity for not using FEPS for the species-at-risk
- Use of STELLA as a decision model
- Concerned over how tradeoffs work within the SVM
- Want to see an explanation on why various plans were thrown out.
- Felt candidate plans put forward were too similar and didn't understand why more varied plans weren't put forward
- Felt adaptive management should be included with plan options.
- Wanted more documentation on SVM

Candidate Plans:

- Plan A – most rigid plan (distinct alternative)
- Plan B – best environmental plan
- Plan C – not distinct plan – OUT
- Plan D – most balanced plan
- Plan G – modification of Plan B – OUT as a separate plan, but its implications discussed in Final Report.
- Plan 1958DD – will not be recommended. Remains as fall-back option.

Mitigation:

- Gene to follow-up on a report, identification, costs, agencies, etc. Need to discuss further with IJC.
- Doug suggested avoiding handing off to agencies.
- Board feels mitigation is not required, but may be beneficial in some cases. (see table below)
- New York State (according to Sandra) is not willing to support mitigation because it didn't create the situation and has no funding.
- Will include discussion in main report with supporting annex.
- Annex will lay out the process or blueprint for how to come up with a mitigation strategy with as much detail as possible on potential mitigation options and who would pay for it.

Adaptive Management:

- Timeline for assessing how plan is working based upon hydrologic cycle but no less than 10 years
- Monitoring of wetlands, erosion, shore protection and species at risk.
- Monitoring should be carried out under existing programs by existing agencies.
- Control Board becomes responsible for taking, reviewing and monitoring data and hiring someone to perform these tasks – seek out funding.
- Gene to write a report on the subject and include a strategy for implementation.
- The IJC should be apprised of the pros and cons of adaptive management (and mitigation) and the decision will be theirs regarding follow-up actions and implementation.

- Great Lakes Collaboration Strategy which includes New York could monitor.
- Regarding the Control Board's make-up and role regarding adaptive management, everything can change from this point forward (according to Tom) including monitoring, public involvement, etc. Commissioners Brooks and Blaney agreed.
- Control Board will likely have to report annually on how the new Plan is performing.

Supplementary Order of Approval:

- Preamble: Current regulation does not favor the environment.
- Preamble: Recognize that regulation can provide environmental, economic and social benefits.
- Preamble: Climate will affect benefits.
- Conditions (a), (b), (c), (d), (e), (k) and (l) should remain unchanged.
- Conditions (f) and (h) may require an update.
- Conditions (g), (j) and (m) are obsolete.
- Condition (j) should be replaced by an updated upper limit for Lake St. Lawrence.
- David proposed some rewriting of criteria. The Study Board will review and comment of the eight proposed. A ninth would pertain to Deviations.
- The IJC has broadened the review of criteria so that the Orders can be revised. The Commission will use material provided by Study Board as an example. The information is contained on the FTP site in the "Study Board" folder.
- A Criteria Review Panel was created including Doug, Frank Q., Frank S., Steven, Pete and Andre with support from David Fay.

Deviations:

- Agreement on emergency deviations.
- No consensus on "interest specific" deviations.
- Doug suggested that in such cases, intent of plan should be maintained and a limit should be set.
- Board agreed that there should be some sort of Criterion (k)-type deviations, however, limits have to be defined.
- Criteria Review Panel will meet on October 4th in Montreal to define wording of Criterion (k)-type deviations.

Next Steps and Other Issues:

- Additional ETWG funding: LTI (Joe DePinto) has requested \$8-10,000 to run revised options through IERM. Board agreed to wait to see what NAS report says regarding IERM before providing funding.
- Final Report: revised date for submission to IJC two to three weeks after October 20th, i.e., November 7th – 11th. Public distribution likely March 2006. Public will be informed of shift in release date through web notification.

- Study Board meeting was considered for October 19th in Ottawa – but was not confirmed.

Joint Study-Control Board Meeting:

- Options identified that will move forward to IJC (A, B and D).
- Need good public relations program to tell riparians that this is as good as it gets.
- Before IJC recommends a plan, they will consult with agencies.
- Final Report should include a section identifying spin-offs from the Study that can be adopted by agencies (suggested by Comm. Brooks).
- The role of the PIAG, Communications Group with Control Board to be discussed in Washington in December 2005.
- Transition to Control Board should include an IM Plan. Connie Hamilton to provide presentation given to both Boards for information and review. The document management system (DMS) and web mapping components are being managed presently by the Great Lakes Commission. The FTP site management is with Environment Canada. Study Board web is with the IJC.
- Need a Control Board point of contact (POC) / IJC POC to be available to interpret data and information on the web after Study completion – possibly Reg. Reps. or Control Board Secretaries. Discussion item for December meeting.
- Key Study representatives have been identified for post-Study including Elaine, Debbie and David.
- Meeting of the respective Communications Committees of the Study Board and the Control Board was confirmed for October 20th in the afternoon – to be held in Ottawa.
- Material from summer public meetings (3-inch report) is available to the Control Board. Recommendations on Control Board communication plan was provided by communication group 18-months ago.

*Ed Eryuzlu and Tony Eberhardt
October 11, 2005*

Table on Mitigation Discussion

Plan	Potential Mitigation Options		Magnitude
	Above Dam	Below Dam	
A	<ul style="list-style-type: none"> ▪ Coastal – agree no disproportionate loss. Mitigation for regulatory adjustments beneficial to improve acceptability of the plan ▪ Env. – Least bittern (SAR) 	<ul style="list-style-type: none"> ▪ Coastal – Most agree not a disproportionate loss. Flood proofing would be beneficial (all support) ▪ Env. –Most agree not a disproportionate loss but at least on member feels mitigation is required for habitat/wetland 	<p>Small above Small below</p> <p>Medium above / None (1 Medium) below dam</p>
B	<ul style="list-style-type: none"> ▪ Coastal –Most agree not a disproportionate loss, but mitigation would be beneficial. IJC should encourage agencies to implement structural and non-structural mitigation related to the issue, not the plan (all support) ▪ Rec Boating (Ontario) – 1 member thinks mitigation required. 	<ul style="list-style-type: none"> ▪ Coastal –Most agree not a disproportionate loss, but mitigation would be beneficial. IJC should encourage agencies to implement structural and non-structural mitigation related to the issue, not the plan (all support) ▪ Env.– Most agree not a disproportionate loss, but at least one Board member feels mitigation is required for habitat/wetland 	<p>6 None 1 Small (1 medium) above and below</p> <p>None (1 small) above</p> <p>None (1 Medium) below</p>
D	No disproportionate loss by interest and location.	No disproportionate loss by interest and location. At least one member thinks mitigation is required for wetland fish	1 small below