BY FACSIMILE AND MAIL

The Secretary, Canadian Section
International Joint Commission
234 Laurier Avenue West, 22nd Floor
Ottawa, Ontario
K1P 6K6

Dear Sir/Madam:

SUBJECT: IJC – Proposed new Order of Approval and Plan 2007
Regulation of Lake Ontario and the St. Lawrence River

Further to the release of the above for public comment and the public hearing held in Port Jordan on June 9th, 2008, we would like to thank the IJC for the opportunity to comment on the proposed new Order and Regulation Plan for Lake Ontario and believe that the final decision of the IJC will provide a much-needed, more balanced approach to water level regulation. The following comments are, therefore, offered for your consideration.

The Hamilton Conservation Authority (HCA) is a watershed-based natural resource management agency established under the Conservation Authorities Act of Ontario, with a jurisdiction of 477 square kilometres, which includes the Hamilton Harbour and the Lake Ontario shoreline in Hamilton (former municipality of Stoney Creek). We are a shoreline property owner of a marina, the Fifty Point Conservation Area and Marina – a 76 hectare property with 47 campsites, 310 boat slips and a visitation of 90,000 per year. We also regulate shoreline development along Lake Ontario and the Harbour to protect existing and new development from the inherent natural hazards associated with the Great Lakes, under the above-noted Act through the Development, Interference with Wetlands and Alterations to Shorelines and Watercourses Regulation (Ontario Regulation 161/06). We are an active member of the Hamilton Harbour Bay Area Implementation Team (BAIT) formed to assist with the delisting of Hamilton Harbour as an IJC Area of Concern in the Great Lakes by the year 2015. We are also a member of the Bay Area Restoration Council (BARC), also formed to assist with delisting of the Hamilton Harbour Area of Concern.

As the above clearly indicates, the Hamilton Conservation Authority takes a great interest in the regulation of water levels on Lake Ontario not only as a watershed resource management agency, but also, as a Lake Ontario shoreline property owner and marina operator.

Plan 2007 is proposed as an interim step to long term lake level regulation which would create lower spring and winter water levels (lake storm event periods) and higher summer
water levels on Lake Ontario. It is proposed to be implemented until such time as the Commission determines that measures to mitigate the additional risks to all interests (i.e. primarily the flooding problems in a small area on the south shore of Lake Ontario) are in place. At that time, Plan B+ - Balanced Environmental – is to be implemented. No set time line has been established within which this mitigation is to take place. An adaptive management approach is proposed as part of Plan 2007 as well.

Our review, and that of our local and association peers, of Plan 2007 indicates that it will have detrimental environmental impacts to the management of the Cootes Paradise Marsh, a coastal wetland in Hamilton Harbour, an established Nature Preserve since 1927, the western most point of water on Lake Ontario and under the ownership and management of the Royal Botanical Gardens. The proposed lower spring and winter water levels in Plan 2007 will change the natural ecosystems of Cootes Paradise Marsh to the extent that fish and wildlife reproduction may be severely impacted as spring-flooded coastal areas are key to fish & wildlife reproductive processes. Higher fall and winter water levels and lower summer levels are critical for re-establishing coastal wetlands. As such, we strongly support the implementation of Plan B+ and do not believe that the compromises proposed in Plan 2007 warrant compromising the overall health of the lake environment. The improved environmental health of Cootes Paradise Marsh is incorporated into the Hamilton Harbour Remedial Action Plan and we believe that the implementation of Plan 2007, even for a short term, will severely compromise the great progress made by many partners toward delisting Hamilton Harbour and bringing even greater positive environmental (and consequent economic and social) change to the Hamilton area.

As a natural resource manager, specializing in the management of natural hazards, the HCA sees no benefits to our watersheds shoreline residents, even in the short term, to the implementation of Plan 2007. Our shoreline regulation affects 359 Lake Ontario and 27 Hamilton Harbour properties. Protection of new development against the flooding, erosion and dynamic beach environments in these areas has been in place in Ontario for decades and our regulation along Lake Ontario and Hamilton Harbour has been in place since May of 2006. HCA staff work cooperatively with all shoreline landowners to assist them in better protecting existing development from shoreline hazards and in ensuring new developments along the shore are protected from the adverse effects of living and working near natural hazards. We strongly believe that current shoreline management approaches and shoreline regulations are working effectively to protect Ontario citizens and their property investments. Plan B+ is compatible with existing policies and regulations. It is also for these reasons that we cannot support Plan 2007, which may give false hope to shoreline landowners on both sides of the international border.

As a marina operator on Lake Ontario, the HCA believes that the changes in water levels as proposed in Plan B+ will allow our operations to continue to be strong and profitable and that Plan 2007 does not provide benefits to our marina. As such, we cannot support Plan 2007.
We wish to, therefore, advise that we support the position of our association, Conservation Ontario, which does not support Plan 2007 either in the interim or long-term and that we strongly support Plan B+, Balanced Environmental, as the basis for regulation of outflows from Lake Ontario through the St. Lawrence with the IJC working with the other levels of government on concurrent mitigation plans and having the ability to consent to deviations in extreme high water periods to minimize shoreline loss until mitigation is in place.

In addition to the above, the HCA strongly recommends to the IJC that serious consideration be given to the comments and technical submissions of the Hamilton Harbour Remedial Action Plan office, the Bay Area Restoration Council and the Royal Botanical Gardens as provided to you at the June 9, 2008 Port Jordan public hearing.

Thank you for the opportunity to comment on this very important matter. Should you have any questions, please feel free to contact me at extension 130.

Yours sincerely,

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Hamilton Conservation Authority
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KJM/

Cc – Conservation Ontario
- John Hall, Hamilton Harbour Remedial Action Plan
- Tys Theysmeyer, Royal Botanical Gardens
- Jim Hudson, Bay Area Restoration Council
- Kevin Christenson, City of Hamilton