



## Congress of the United States House of Representatives

June 26, 2017

The Honorable Louise Slaughter  
Member of Congress  
New York's 25<sup>th</sup> Congressional District  
2469 Rayburn House Office Building  
Washington, D.C. 20515

Dear Representative Slaughter,

Today, I am writing to ask that you join me in supporting businesses and shoreline property owners in your district from the devastation of *Plan 2014*. As you know, *Plan 2014* is the International Joint Commission's (IJC) plan to regulate the water levels in Lake Ontario at higher-highs and lower-lows and at a more frequent pace.

The International Joint Commission's Report of June 2014 states, "Computer simulations show that average annual damages to the Lake Ontario coastal development are expected to be somewhat larger under Plan 2014 than under Plan 1958DD." It goes on to say, "the average net increase in damage to all Lake Ontario shore protection structures for Plan 2014 is estimated at \$1.94 million per year." Since 2013, I have been working to protect our constituents from these projected damages. This is an increase of nearly \$2 million dollars projected annually, a burden placed on our constituents, businesses, and municipalities.

This year's flooding has already caused irreparable damage to shoreline property and placed large financial burden on our constituents. Lake Ontario's water levels are higher than they have been in over a century, and experts say it could be months before they drop substantially. It is not simply coincidence that these record levels are being surpassed during the first year of *Plan 2014's* implementation.

Our constituents are facing hundreds of thousands of dollars in damage to not only their docks and break walls, but to their homes. Governor Cuomo has recently joined me and many local municipalities in agreeing that this plan was a bad deal for New York and must be renegotiated. The IJC themselves issued an economic impact analysis report showing that 76.3% of the negative impacts fall within the United States of America. The IJC estimates that Monroe County will receive the most damage of the New York Counties affected, with a projected 20.9% decrease in benefits along the shoreline.

It is time that we stand together to protect them from future devastation. The flooding and erosion is leaving many of our constituents displaced and uncertain. In March of this year, Representative John Katko joined me in submitting an amendment to the House Committee on Appropriations Subcommittee on State, Foreign Operations, and Related Programs that would hold the IJC accountable. This amendment would direct the IJC to compensate our constituents from the damages caused by *Plan 2014* using their existing funding. Your constituents would greatly appreciate your support for this amendment in the FY18 appropriations process.

Representative Tenney recently joined us by sending a letter to the Committee in support of this amendment.

Attached you will find a copy of the original letter to Appropriations, sent by me and Representative Katko, Representative Tenney's letter of support, and a letter from Monroe County Executive, Cheryl Dinolfo, to Commissioner Bouchard regarding shoreline property owner compensation.

I look forward to you joining me in ensuring that our constituents get the compensation they are owed.

Sincerely,

A handwritten signature in black ink that reads "Chris Collins". The signature is written in a cursive, flowing style.

CHRIS COLLINS

Member of Congress

# Congress of the United States

Washington, DC 20515

March 30, 2017

The Honorable Hal Rogers  
Chairman  
State, Foreign Operations, and  
Related Programs Subcommittee  
House Committee on Appropriations  
U.S. House of Representatives  
Washington, D.C. 20515

The Honorable Nita Lowey  
Ranking Member  
State, Foreign Operations, and  
Related Programs Subcommittee  
House Committee on Appropriations  
U.S. House of Representatives  
Washington, D.C. 20515

Dear Chairman Rogers and Ranking Member Lowey,

As you consider the Fiscal Year 2018 State, Foreign Operations, and Related Programs Appropriations bill, we respectfully request that you include language to require the International Joint Commission's (IJC) to use its funds to compensate shoreline property owners for the disproportionate damages caused by Lake Ontario-St. Lawrence River Plan (Plan 2014) on residential and commercial shoreline properties.

In December 2016, the Obama Administration approved Plan 2014. As you may know, this plan increases the frequency of raising and lowering the water levels in Lake Ontario. This fluctuation in water levels will result in increased erosion damage to the Lake's south shoreline, including the lakeshore properties of businesses and homeowners. According to the IJC's own studies, implementation of the plan would raise the current water maximum by 2.4 inches and would increase the annual cost of shoreline maintenance and protections by 13 percent. Communities, residents, and businesses, including the recreational harbors along this shoreline that provide millions of dollars in economic activity, are at risk. The U.S. counties bear 76.3% of the economic damages of this plan. Of the eight U.S. counties touching Lake Ontario, Niagara, Orleans, Monroe, and Wayne Counties alone make up 66.2% of those damages.

We would like to ensure that the burden of this plan does not fall further onto U.S. taxpayers and is fully covered by the IJC's current budget. Therefore, we respectfully request that the following language is inserted into the FY18 State, Foreign Operations, and Related Programs Appropriations bill:

*SEC. ... (a) Of the amounts appropriated or otherwise made available under the heading "International Commissions" for the International Joint Commission, not less than 50 percent of such amounts shall be made available to provide compensation to any United States person— (1) who owns public or private property located on the waterfront of Lake Ontario in the United States; and (2) whose interests in such property have been disproportionately harmed by implementation of the International Joint Commission's Lake Ontario-St. Lawrence River Plan 2014.*

*(b) In this section, the term "United States person" means— (1) a natural person who is a citizen of the United States or who owes permanent allegiance to the United States; (2) a corporation or other legal entity that is organized under the laws of the United States, any State or territory thereof, or the District of Columbia, if natural persons described in paragraph (1) own, directly or indirectly, more than 50 percent of the outstanding capital stock or other beneficial interest in such legal entity; or (3) a government or governmental entity of the United States, any State or territory thereof, or the District of Columbia.*

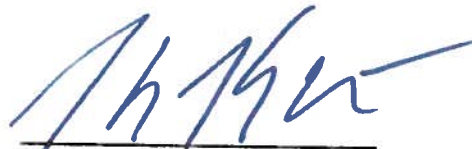
It is imperative that we protect our shoreline property owners from the expected impact of any international obligation. Thank you for your time and consideration of this request.

Sincerely,



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CHRIS COLLINS  
Member of Congress



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JOHN KATKO  
Member of Congress

**Congress of the United States**  
**House of Representatives**  
**Washington, DC**

June 21, 2017

The Honorable Hal Rogers  
Chairman  
State, Foreign Operations, and  
Related Programs Subcommittee  
House Committee on Appropriations  
U.S. House of Representatives  
Washington, D.C. 20515

The Honorable Nita Lowey  
Ranking Member  
State, Foreign Operations, and  
Related Programs Subcommittee  
House Committee on Appropriations  
U.S. House of Representatives  
Washington, D.C. 20515

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In December 2016, the Obama Administration approved Plan 2014. As you may know, this plan increases the frequency of raising and lowering the water levels in Lake Ontario. This fluctuation in water levels will result in increased erosion damage to the Lake's south shoreline, including the lakeshore properties of businesses and homeowners. According to the IJC's own studies, implementation of the plan would raise the current water maximum by 2.4 inches and would increase the annual cost of shoreline maintenance and protections by 13 percent.

Communities, residents, and businesses, including the recreational harbors along this shoreline that provide millions of dollars in economic activity, are at an increased risk. In fact, U.S. counties bear the clear majority of this risk, with 76.3 percent of the economic damages set to hit U.S. counties. Of the eight U.S. counties touching Lake Ontario, Niagara, Orleans, Monroe, Oswego and Wayne Counties alone make up 69.1 percent of projected damages. My constituents are already feeling the negative impacts, with coastal flooding causing severe damage throughout Oswego County.

The burden of this plan should not fall further onto U.S. taxpayers and should be fully covered by the IJC's current budget. Therefore, I respectfully request that the following language be inserted into the FY18 State, Foreign Operations, and Related Programs Appropriations bill:

**WASHINGTON, DC:**

512 CANNON HOUSE OFFICE BUILDING  
WASHINGTON, DC 20515  
(202) 225-3665  
FAX: (202) 225-1891

**NEW HARTFORD:**

555 FRENCH ROAD, SUITE 101  
NEW HARTFORD, NY 13413  
(315) 732-0713  
FAX: (315) 732-0986

**BINGHAMTON:**

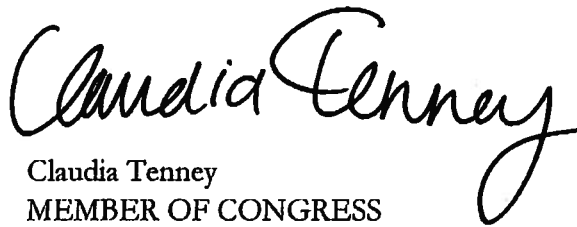
49 COURT STREET  
METRO CENTER, SUITE 210  
BINGHAMTON, NY 13901  
(607) 376-6002

*SEC. . (a) Of the amounts appropriated or otherwise made available under the heading "International Commissions" for the International Joint Commission, not less than 50 percent of such amounts shall be made available to provide compensation to any United States person— (1) who owns public or private property located on the waterfront of Lake Ontario in the United States; and (2) whose interests in such property have been disproportionately harmed by implementation of the International Joint Commission's Lake Ontario-St. Lawrence River Plan 2014.*

*(b) In this section, the term "United States person" means— (1) a natural person who is a citizen of the United States or who owes permanent allegiance to the United States; (2) a corporation or other legal entity that is organized under the laws of the United States, any State or territory thereof, or the District of Columbia, if natural persons described in paragraph (1) own, directly or indirectly, more than 50 percent of the outstanding capital stock or other beneficial interest in such legal entity; or (3) a government or governmental entity of the United States, any State or territory thereof, or the District of Columbia.*

It is imperative that we protect our shoreline property owners from the expected impact of any international obligation. Thank you for your time and consideration of this request.

Sincerely,

A handwritten signature in black ink that reads "Claudia Tenney". The signature is written in a cursive, flowing style with a large, prominent "C" at the beginning and a long, sweeping tail that extends to the right.

Claudia Tenney  
MEMBER OF CONGRESS



# Office of the County Executive

MONROE COUNTY, NEW YORK

**Cheryl Dinolfo**  
*County Executive*

June 13, 2017

Benoit Bouchard, Commissioner  
International Joint Commission  
Great Lakes Regional Office  
100 Ouellette Ave., 8th Floor  
Windsor, ON N9A 6T3

Dear Commissioner Bouchard,

I am writing to you on behalf of the shoreline residents and businesses of Monroe County. We have seen the continuing destruction of property, devastation of businesses and significant impact on municipal infrastructure caused by the unprecedented historic high levels of Lake Ontario. We seek resolution of the ongoing monitoring of the lake levels as well as compensation for the impacted property owners.

The International Joint Commission (IJC) was created under the 1909 treaty between the United States and Great Britain. Article IV of the treaty dictates that no "dams or other obstructions" to water flowing in the Ontario/St. Lawrence River basin would be constructed which would "raise the natural level of waters" on the upstream residents. An exception was given to construction approved by the IJC.

The treaty went on with further guidance to the IJC in article VIII. Here the treaty provides:

*"The Commission in its discretion may make its approval...conditional upon the construction of remedial or protective works to compensate so far as possible for the particular use or diversion proposed, and in any such case may require that suitable and adequate provision, approve by the Commission, be made for the protection and indemnity against injury of all interests..."*

*In Cases involving the elevation of the natural levels of waters... as a result of construction... of dams or other obstructions... the Commission share require, as a condition of its approval thereof, the at suitable and adequate provision... be made for the protection and indemnity of all interests... which may be injured thereby."*

The IJC, under the authority granted to it by the 1909 treaty, has regulated these waters as outlined in the various plans issued by the Commission since 1910. "Regulation Plan 2014 for the Lake Ontario and St. Lawrence River" is just the latest effort by the Commission.

Within Plan 2014, the Commission itself ordered and directed that:

*"interests... which are injured by the reason of the construction, maintenance and operation of the works shall be given suitable and adequate protection and indemnity..."*

This mirrors the Treaty's stated guidelines. However, like the Treaty before it, the Plan does not allocate funds for the stated protection and indemnity, nor does either government. While the goals and directions appear to be worthy of praise, in fact, they are hollow words – neither the Plan nor the Treaty give any reprieve to those harmed by the attempts at water level management. The decisions made by the Commission harm one or more of the interests in the basin in order to benefit more favored interests. Those who are harmed are left without remedy of any kind. This is unconscionable.

This year, 2017, is the first year the IJC has operated under the dictates of Plan 2014. The results have been catastrophic for the riparian land owners along the south shore of Lake Ontario. We are of the opinion that the losses suffered by the riparian owners are directly attributed to the decisions made by the Commission with respect to the water levels seen in Lake Ontario in the Fall of 2016 into the Spring of 2017. The Commission was negligent in its decision to allow the lake to achieve near record levels during this period. The failure to act prudently during this time period simply did not allow enough room in the Ontario basin to accommodate the predictable inflow of waters from the other Great Lakes as well as the ample rain fall throughout the area.

We hereby request that the Commission immediately embrace the spirit of the Treaty of 1909 as well as the clearly stated orders and direction of its own Plan 2014. It is crystal clear that the stated goals of both were to assure that parties injured by the choices made by the Commission, under the authority of the Treaty, would be fully compensated. This goal is the foundation of the Plan. The IJC should embrace its own goal.

On behalf of the south shore residents of Lake Ontario, we request that the Commission establish a process which would provide compensation for damages suffered. I also request a meeting with the IJC to discuss future actions. Should the IJC choose not to meet and agreeably resolve this matter, we ask that the damage claims sustained by property owners be resolved by a Federal Court Judge who could hear evidence of the aggrieved injured parties and the position of the Commission and, thereafter, render a fair and just verdict. This could only be addressed by a federal lawsuit brought by those injured parties.

The Commission may argue that it is cloaked with immunity from Federal litigation. We are requesting that the Commission waive its claim of immunity to fulfill the clear intent of Plan 2014 and the Treaty of 1909. Such a waiver would not be an admission of negligence nor of any responsibility. Rather it is the only way that those who have been injured and the Commission are able to present their opposing views to a neutral party.



On the other hand, cloaking itself in immunity will send the message to the property owners who have been devastated by the high lake levels that the Commission's stated desire to assure parties injured by the actions of the Commission were placed in the Plan without any intent that compensation would ever be available. It would reinforce the view of many that there was never an intent to compensate those injured and would undermine the Commission.

Please advise whether the Commission will honor our request for a meeting and follow Plan 2014 by compensating aggrieved parties. Alternatively, we request that the Commission waive its claim of immunity in all matters involving the high water damage suffered by the riparian land owners and businesses. This office and the citizens of the counties of the south shore of Lake Ontario await the Commission's response.

Sincerely,



Cheryl Dinolfo  
Monroe County Executive

CD/kam

CC: Honorable Rex Tillerson, United States Secretary of State  
Honorable Kirsten Gillibrand, United States Senate  
Honorable Charles Schumer, United States Senate  
Honorable Louise Slaughter, United States House of Representatives  
Honorable Chris Collins, United States House of Representatives

