

1 JOINT HEARING BEFORE THE NEW YORK STATE SENATE
2 STANDING COMMITTEE ON ENVIRONMENTAL CONSERVATION
3 AND
4 STANDING COMMITTEE ON AGRICULTURE

4 PUBLIC HEARING

5 TO HEAR FROM STAKEHOLDERS ON THE IMPLEMENTATION OF
6 PLAN 2014, TO DISCUSS THE IMPACTS OF RISING WATER
7 LEVELS ON LOCAL BUSINESSES AND HOMEOWNERS, THE
8 ABILITY OF INTERNATIONAL LAKE LEVEL REGULATORS TO
9 PREEMPTIVELY MANAGE LAKE LEVELS, THE ADEQUACY AND
ACCESSIBILITY OF STATE AND FEDERAL PROGRAMS DESIGNED
TO ASSIST LOCALS IN PROTECTING AGAINST RISING WATER
LEVELS, AND TO EXPLORE POSSIBLE STATE OPTIONS FOR
IMPROVED ASSISTANCE

11 Mexico High School Auditorium
12 3338 Main Street, Mexico, New York

13 October 10, 2017, at 4:00 p.m.

14 PRESIDING:

15 Senator Thomsa F. O'Mara, Chair
16 Standing Committee on Environmental Conservation

17 Senator Patty Ritchie, Chair
18 Standing Committee on Agriculture

19 PRESENT:

20 Assemblyman William A. Barclay

21 Assemblyman Bob Oaks
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1 SENATOR O'MARA: I want to thank everyone for
2 coming out this evening on this very important issue
3 that we have throughout the shore of Lake Ontario
4 and the St. Lawrence River.

5 So, I appreciate everyone coming out tonight.

6 I'm Senator Tom O'Mara, senator from the
7 Southern Tier area of New York; the Elmira, Corning,
8 Hornell, Ithaca, area and the Southern Finger Lakes.

9 I'm pleased to be here as Chair of the
10 Environmental Conservation Committee in the Senate
11 to host this hearing.

12 I thank Patty Ritchie for her involvement in
13 this issue throughout the entire past year.

14 With that, I will turn it over to Patty for
15 some opening remarks.

16 SENATOR RITCHIE: Thank you, Senator.

17 I would like to thank everyone for coming out
18 tonight for this important hearing on the
19 unprecedented flooding of the Lake Ontario and
20 St. Lawrence River.

21 I particularly want to thank my colleague
22 Tom O'Mara, the Chair of the Senate's Environmental
23 Conservation Committee, in holding this hearing so
24 we can get some answers --
25

1 (Member of the audience asks, "Is the
2 mic on?")

3 SENATOR RITCHIE: -- so we can get some
4 answers to some very important questions.

5 I'd also like to thank Assemblyman Will
6 Barclay and Assemblyman Bob Oaks who have been
7 partnering with the Senate to address all of the
8 concerns from the people that we represent.

9 The record high quart of Lake Ontario and the
10 St. Lawrence River have had a profound impact on the
11 entire region; in particular, more than 150 miles of
12 shoreline that I represent.

13 From docks and breakwalls, to primary and
14 seasonal homes, to the impact on local businesses,
15 this devastation has been heartbreaking. It will be
16 years before people completely recover.

17 But please know that we are all working hard
18 to get people back on their feet and on the path to
19 recovery.

20 Visiting your homes and businesses, and
21 hearing your stories, is why I, Senator O'Mara,
22 Assemblyman Barclay, and Assemblyman Oaks enlisted
23 the help of our colleagues to work with the Governor
24 to deliver 45 million in emergency assistance to
25 primary and seasonal property owners, businesses,

1 and local governments at the end of session.

2 Then, to help make sure those who were
3 affected were able to access those resources,
4 I co-sponsored, along with my colleague
5 Assemblyman Barclay, workshops in six communities,
6 where we were able to answer questions, and where
7 residents could learn about the assistance that was
8 available to them.

9 Which brings us here today.

10 I've been working closely with the Governor's
11 Office, as I shared concerns and stories about the
12 shoreline damage.

13 And as you have heard, as of last Friday,
14 everyone who has applied for help will receive
15 funding.

16 I just want to take a moment to thank
17 Governor Cuomo for listening to us, understanding
18 the situation, and working with us to make sure the
19 funding was available for all applications.

20 I know many in this room, as we watched what
21 was going on around the country and the other
22 devastating storms, we were really worried that
23 there wouldn't be any help, potentially, with the
24 FEMA application, and where that was going to leave
25 many of you.

1 So that was great news, to find out that the
2 Governor was willing to the work with the Senate and
3 the Assembly, to make sure that all the applications
4 that had been turned in will receive funding, and
5 that is something that's been important to all of
6 us.

7 All of us here were determined to hold this
8 hearing because many of you suffered from this
9 flooding.

10 We know that you're still trying to recover,
11 and that goes beyond money.

12 The peace of mind that comes with hearing
13 directly from all those involved is extremely
14 important, since the question everyone is waiting to
15 be answered, is whether this will happen again next
16 year.

17 There are a number of experts here today who,
18 hopefully, can shed light on this issue.

19 We also have families and business owners who
20 have been affected.

21 State agencies and the IJC have agreed to
22 testify, to help us better understand Plan 2014.

23 I personally want to thank them for coming
24 here this evening.

25 If we all understand the size of this

1 flooding issue and we work together, we will be
2 better prepared for the future, and better prepared
3 to take care of everyone who lives, works, and plays
4 on the lake and the river.

5 And tonight is an opportunity to hear
6 directly from those of you who have been affected,
7 whether you're a homeowner, a secondary resident,
8 has been affected, or you're a business owner.

9 So I want to thank you for coming out
10 tonight, and taking time out of your busy schedule
11 to be here.

12 And I also want to thank, once again,
13 Senator O'Mara for taking time out of his busy
14 schedule to come and hold this hearing in my
15 district.

16 Thank you, Senator.

17 SENATOR O'MARA: Well, thank you, Patty.

18 It's quite all right.

19 I got some fishing in while I was here this
20 weekend, so it's worth the trip.

21 Assemblyman Barclay.

22 ASSEMBLYMAN BARCLAY: Thank you, Senator.

23 I will be very brief.

24 I want to thank Patty Ritchie for the great
25 job she's done in the Senate to help secure the

1 financial relief for those who are affected by this
2 high water levels.

3 And I also want to thank her for the great
4 job she's doing to try to get additional funding, so
5 we make sure everybody, as she mentioned, can get
6 some relief from the high waters.

7 I want to thank Tom, my friend
8 Tom O'Mara/Senator O'Mara, who served in the
9 Assembly for six years with Bob and myself.

10 And what Tom didn't tell you, although he's
11 Chair of the Environmental Committee in the Senate,
12 he also -- we think of him has a resident here of
13 Mexico, because his parents have a camp down on
14 Ramona Beach.

15 And, obviously, I want to thank my colleague
16 Bob Oaks, on my far right, from Wayne County.

17 He's intimately involved also with this
18 problem because, obviously, Wayne County is being
19 affected quite heavily like we are here.

20 So, thank you all for being here.

21 SENATOR O'MARA: Assemblyman Oaks.

22 ASSEMBLYMAN OAKS: Thank you, Senator.

23 And I would just like to add my greetings.

24 Thanks to my colleagues Senator O'Mara,
25 Senator Ritchie, and Assemblyman Barclay.

1 Just focusing on this issue, for me, my
2 district runs west, from the city of Oswego line
3 to the Monroe County line. So, through part of
4 Oswego County, Cayuga County, Wayne County.

5 And so the issue of, concerned about possible
6 flooding, came up in recent years, as considerations
7 were being given on what types of policies should
8 oversee the lake.

9 And then, clearly, this year we had the
10 problem that affected all of us on the south and
11 eastern shores and the St. Lawrence River area, that
12 the impact of the high water.

13 And, so, my major concern tonight, and
14 interest, is listening, and hearing responses to
15 questions about how we can move forward in a way
16 that prevents future lake problems, and also puts us
17 all on a path of protecting the property that people
18 own, the businesses that operate, along that shore.

19 So, I appreciate the opportunity, and the
20 Senate and Senator O'Mara for coming here, and
21 Senator Ritchie for providing that invitation, so
22 that we can cover that issue tonight.

23 Thank you.

24 SENATOR O'MARA: Thank you, Bob.

25 And just to let you all know, briefly, a

1 little bit of my background, as Will alluded to a
2 little bit:

3 My parents are both graduates of Mexico
4 Academy.

5 My mother grew up two blocks down the street,
6 across the street from here, so I've been coming
7 here my entire life.

8 My family has had a place on the beach, at
9 Ramona Beach, for the past 36 years that I've been
10 coming here.

11 So I've been an avid boater and fisherman in
12 the area, and take the concerns of Lake Ontario, its
13 beauty, its natural wonder that we have, and the
14 economic activity that is generated from that for so
15 many.

16 So we hope to learn tonight about how the
17 programs of relief are going.

18 And probably more importantly, for myself and
19 others here, what do we expect next year, and the
20 year after that, and the year after that?

21 Is this the new normal because of Plan 2014,
22 and where are we going?

23 So I thank you all for being here.

24 We're going to start out with

25 Mr. Stephen Durrett, the alternate co-chair of the

1 International Lake Ontario-St. Lawrence River Board.

2 STEPHEN DURRETT: Thank you all very much.

3 Good afternoon, members of the Senate
4 Standing Committee on the Environment Conservation,
5 and, ladies and gentlemen in the audience.

6 My name is Steve Durrett.

7 I am the alternate U.S. chair for the
8 International Lake Ontario-St. Lawrence River Board.

9 I am also a member of the senior executive
10 service, civilian, for the U.S. Army Corps of
11 Engineers, in the Cincinnati, Great Lakes, and
12 Ohio River division.

13 I am here today on behalf of Major General --
14 Brigadier General, excuse me, Mark Toy, to represent
15 the International Lake Ontario-St. Lawrence River
16 Board, which I will refer to as "the board."

17 General Toy regrets he could not make it.

18 He is in the process of getting his training,
19 and stuff. He will be deploying to Afghanistan here
20 next month.

21 The board was established by the
22 International Joint Commission and has ten members;
23 five from the United States and five from Canada.

24 Our primary duty is to ensure that outflows
25 from Lake Ontario meet the requirements of the

1 IJC orders of approval.

2 In my comments today, I would like to explain
3 the hydrologic conditions which led to the record
4 high water levels on Lake Ontario this year, and
5 explain the water-level regulation activities the
6 board carried out in accordance with the IJC
7 December 8, 2016, supplemental orders of approval,
8 referred to as "Plan 2014."

9 I hope this forum provides the Committee and
10 the public with an understanding of three facts:

11 The extreme high water levels on Lake Ontario
12 this year were primarily driven by extreme weather
13 conditions.

14 The extreme weather conditions --

15 [Indiscernible audience comments.]

16 SENATOR O'MARA: Can we please -- hold the
17 comments, please, during this hearing.

18 STEPHEN DURRETT: The extreme weather
19 conditions cannot be reliably forecast months, or
20 even weeks, in advance.

21 And the potential impacts to all interests in
22 the Lake Ontario-St. Lawrence River system must be
23 balanced when making water-management decisions.

24 The high water levels on Lake Ontario this
25 year primarily stem from two factors: Heavy

1 rainfalls across the entire Lake Ontario and
2 St. Lawrence River system that began in April and
3 continued through early August, and, a related
4 record-setting spring runoff event in the Ottawa
5 River Basin.

6 Two additional factors also play a role in
7 increased water levels: An unusual mild and wet
8 winter we had this last year, and, the above-average
9 inflows from the upper Great Lakes.

10 Water levels on Lake Ontario began in
11 January 2017, very similar to 2015 and '16, slightly
12 above long-term average, with Lake Erie water levels
13 above average.

14 Unlike the years of '15 and '16,
15 Lake Ontario-St. Lawrence River system and the
16 Ottawa River Basin received widespread,
17 record-setting precipitation during the months of
18 April and May, leading to high water levels and
19 flood-related impacts simultaneously occurring on
20 Lake Ontario and downstream in the Montreal region.

21 During April, the total amount of water
22 entering Lake Ontario, known as the "net total
23 supply," was the second highest recorded since 1900.

24 Net total supply includes precipitation,
25 runoff from tributaries, evaporation from the lake

1 itself, and inflow from Lake Erie.

2 The Ottawa River Basin also experienced heavy
3 rainfall in April, leading to record-setting flows
4 and one of the highest recorded since 1960.

5 To balance flooding impacts between
6 Lake Ontario and Montreal region, Plan 2014 includes
7 the F limit, which was based upon previous board
8 decisions making strategies -- board-making
9 strategies.

10 During high-water events in the 1990s, under
11 the previous regulation plan, 1958D, the F limit
12 determines the maximum outflow from Lake Ontario to
13 limit flooding on Lake St. Louis near Montreal.

14 In consideration of Lake Ontario's levels, it
15 is a multi-tiered rule that attempts to balance
16 upstream and downstream flooding damages by keeping
17 the level of St. Louis -- Lake St. Louis below the
18 given stage for a corresponding Lake Ontario level.

19 Outflows were set in accordance with the
20 F limit for the entire month of April.

21 By April 28th, Lake Ontario water levels had
22 reached Plan 2014 Criteria H14 high threshold.

23 The Criteria H14 authorizes the board to make
24 major deviations from the regulation plan to provide
25 all possible relief to riparian owners both upstream

1 and downstream.

2 After an extensive review of the high water
3 levels occurring throughout the system, along with a
4 number of potential outflow strategies, the board
5 decide to continue following the F limit,
6 recognizing that any greater increases in outflow
7 would further increase flooding in the lower
8 St. Lawrence River system, while only providing a
9 minimal decrease to the Lake Ontario water levels.

10 Moving into May, extreme precipitation
11 continued across the Lake Ontario-St. Lawrence River
12 Basin, and, on Lake Erie itself, resulting in the
13 highest net total supply to Lake Ontario in May
14 since 1900.

15 When combined with April, the total -- the
16 net total supply was the highest two months ever
17 recorded on Lake Ontario.

18 At the same time, more record-breaking rain
19 on the Ottawa River Basin caused its outflows to
20 peak at historic record rates, and induced more
21 significant flooding in the Montreal area and
22 further downstream.

23 In accordance with the F limit, outflow from
24 Lake Ontario was significantly reduced during the
25 first week of May during the peak of Ottawa River

1 outflow.

2 As Ottawa River flows subsided, Lake Ontario
3 outflows was quickly increased, from 6200 cubic
4 meters per second during the first week of May, to
5 10,200 cubic meters per second by the last week of
6 May.

7 This flow rate exceeds the flow specified by
8 Plan 2014, and was equivalent to the highest weekly
9 average outflow released in 1993 and 1998.

10 This was also considered to be the maximum
11 outflow that could be released while maintaining
12 safe velocities for navigation in the international
13 section of the St. Lawrence River when Lake Ontario
14 levels are high.

15 Despite these record high releases, water
16 supplies into Lake Ontario remained above average,
17 and Lake Ontario continued to rise, peaking at a
18 record high level of 75.88 meters by the end of May.

19 At this time, the board concluded that any
20 further increase in outflows would have further
21 adverse impacts to water levels downstream, while
22 only providing minimal lowering of the water levels
23 on Lake Ontario.

24 June and July brought more rain, which
25 contributed to the second highest net total supplies

1 on record since 1990 for each of these two months.

2 By June -- by mid-June, water levels
3 downstream in Montreal began to decline, and
4 the board increased the Lake Ontario outflow to a
5 new record maximum weekly average outflow of
6 10,400 cubic meters per second.

7 This required the St. Lawrence Seaway to put
8 in mitigation measures in place to ensure safe
9 navigations could continue under the increased and
10 current velocities that were caused by the increased
11 outflow.

12 As wet weather continued, the board
13 maintained this high record flow of 10,400 cubic
14 meters per second into early August, nearly six
15 weeks, or eight weeks, of high record flows we were
16 discharging through Moses-Saunders Dam.

17 By the middle of August, hydraulic conditions
18 improved, and since then, the Lake Ontario levels
19 have been on a steady decline.

20 In fact, Lake Ontario fell 13.8 inches during
21 the month of August, which is the largest drop ever
22 recorded during any month since records were
23 maintained in 1918.

24 It continued to fall in September, and
25 dropped an additional 11 inches, which is the

1 largest decline on record for the month of
2 September.

3 Water levels are expected to continue to
4 decline over the next several weeks, and with hope
5 of average weather conditions, Lake Ontario water
6 levels is expected to continue to decline and
7 approach average water levels by the end of the
8 calendar year.

9 That concludes my accounts of the hydraulic
10 condition and the board's role in level regulation.

11 In summary:

12 The magnitude of the record precipitation
13 events that occurred this spring and summer were
14 caused -- were the cause of high water.

15 The coincidental high water levels and
16 persistent rainfall, both upstream and downstream in
17 the Lake Ontario and the St. Lawrence River system,
18 presented a challenge in providing relief to
19 riparian property and business owners system-wide.

20 With the water levels of Lake Ontario
21 starting in 2017, similar to '15 and '16, and no
22 forecast that indicated the record-breaking weather
23 arrived in the spring and summer, this year events
24 demonstrates the uncertainty associated with
25 long-term forecasts and the inability to schedule

1 proactive water releases in anticipation of extreme
2 weather.

3 I hope the Committee and the public have
4 gained an understanding of the need to balance the
5 impacts to all interests within the system, and the
6 complexity of managing water levels during extreme
7 weather conditions.

8 Despite record outflows being released from
9 Lake Ontario, they played a minor role in affecting
10 water levels when compared to the effect of the
11 weather conditions.

12 Due to the large size of Lake Ontario, when
13 compared to the capacity of the St. Lawrence River,
14 relatively large changes in Lake Ontario outflow
15 have a small effect in changing the levels of
16 Lake Ontario, but may severely affect interests on
17 Lake St. Lawrence and downstream in the lower
18 St. Lawrence River near Montreal.

19 Before closing, I would like to mention that
20 the board, in conjunction with the Great Lakes and
21 St. Lawrence River Adaptive Management Committee,
22 will be producing a post high-water assessment.

23 This assessment would document the hydraulic
24 conditions, the actions taken by the board, compiled
25 information on known impact, and identify any other

1 strategies that could have occurred under the
2 current regulation plan.

3 We hope to have this report available next
4 year after data collection efforts are completed.

5 Thank you for this opportunity, and I now ask
6 the Senate Committee if they have any questions?

7 SENATOR O'MARA: Thank you, and thank you for
8 being here this evening with us as well.

9 Patty?

10 SENATOR RITCHIE: (No audio.)

11 ASSEMBLYMAN BARCLAY: I have a few, I think,
12 relatively simple questions.

13 Thank you for your testimony.

14 First, can we get a copy -- do we have a copy
15 of that testimony?

16 STEPHEN DURRETT: Yes, you do.

17 ASSEMBLYMAN BARCLAY: Oh, it is?

18 Thank you.

19 How is the board appointed?

20 STEPHEN DURRETT: The board is appointed by
21 the IJC.

22 ASSEMBLYMAN BARCLAY: And you, essentially,
23 if I understand the board, your job is, basically,
24 the mechanics of keeping the water level; correct?

25 STEPHEN DURRETT: Our job is the execution of

1 Plan 2014, yes.

2 ASSEMBLYMAN OAKS: Which is, essentially,
3 keeping the lake levels.

4 Do you feel -- and this is more of an
5 opinion, but do you feel, because of Plan 2014, your
6 hands are now tied?

7 Where, my understanding, in the past, the
8 board had some leeway in regulating the lake.

9 They thought, maybe it was going to be a
10 heavy rainfall in the spring, they might level more
11 water out than they would, you know, in a normal
12 year.

13 Have you felt, under the Plan 2014, that the
14 board's, you know, hands are tied because of the
15 plan?

16 STEPHEN DURRETT: I do not believe so.

17 I think this is a record -- my opinion is,
18 this is all based upon a record event.

19 It's not a record event in one area. It was
20 a base -- really, it was a region-wide event that
21 occurred over Lake Ontario and the lower
22 St. Lawrence River.

23 Whatever plan we would have in place, we
24 would have had the same conditions.

25 I believe we had the same conditions we had

1 this year, no matter what plan was in place.

2 ASSEMBLYMAN BARCLAY: In the spring --

3 [Indiscernible audience comments.]

4 ASSEMBLYMAN BARCLAY: -- if I understand the
5 Plan 2014 correctly, you couldn't release water
6 until you hit the 248 level? Is that correct?

7 STEPHEN DURRETT: No. We couldn't release
8 till we hit the H14 criteria, which varies, from
9 week to week, across the given year.

10 That's when we have deviation authorities to
11 change.

12 But then it's a matter of balancing the
13 interests upstream and downstream of Lake Ontario.

14 ASSEMBLYMAN BARCLAY: And how -- just, how do
15 you get on the board?

16 It's, the IJC, what, do you put a resume in?

17 Or, how do people get on this control board?

18 I know it's appointed by the IJC, but --

19 STEPHEN DURRETT: That would have to be a
20 question for the IJC.

21 ASSEMBLYMAN BARCLAY: Thank you.

22 SENATOR O'MARA: Senator Ritchie.

23 SENATOR RITCHIE: Just a couple questions.

24 I guess I am a little confused on, and I need
25 some clarification on, the deviation authority.

1 You're saying that, with what's in place now,
2 you're not able to make changes, and there's a
3 certain deviation authority.

4 Has that changed in the last year under
5 Plan 2014?

6 STEPHEN DURRETT: No, any major deviations,
7 even under the 1958 plan, we would have to ask for
8 deviation and do a payback.

9 So there was rules in place even under the
10 1958D plan as well.

11 The 214 -- Plan 2014 tried to establish,
12 based upon historical guidelines that we had had in
13 1990s, in '93 and '98 events, how we regulated
14 Lake Ontario, that was incorporated into the 2'14
15 plan.

16 SENATOR RITCHIE: So there is no -- there's
17 no change between what has been historically done
18 and what was done under Plan 2014?

19 STEPHEN DURRETT: That would be hard to say,
20 since it's hard to compare historical events, unless
21 the floods, the rainstorms, and the events were
22 exactly the same.

23 And they are not exactly -- no two rain
24 events or flood events are exactly the same.

25 So it would be impossible to say there's no

1 difference between the two plans.

2 SENATOR RITCHIE: And in order to get
3 authority to start a deviation plan earlier, where
4 would that come from?

5 STEPHEN DURRETT: We would have to -- the
6 board would have to request authority from the IJC.

7 SENATOR RITCHIE: And is that something that,
8 potentially, you're going to look at doing in case
9 this is an unprecedented wet spring next year?

10 Is there anything that you're going to put in
11 place that would, potentially, allow you to act
12 sooner, or to ask for that authority to deviate from
13 the plan?

14 STEPHEN DURRETT: Some of that data will come
15 out in the post-flood assessment, to look at ways,
16 is there anything we could have done differently
17 last year, that we could apply to the change or make
18 modifications to the plan?

19 So, hopefully, some of those things may be --
20 may come out in the post-flood assessment that we'll
21 be looking at, that our adaptive management
22 committee is looking into.

23 SENATOR RITCHIE: And I know it was taken
24 under consideration, the flooding in Montreal.

25 And just for my own knowledge, what was done

1 to control the outflow from the Ottawa River, which
2 was then restricting what could be let out of the
3 Robert Moses Dam?

4 STEPHEN DURRETT: The Ottawa River
5 restrictions, I'm not familiar with because that's
6 in Canada.

7 I know, by talking to my Canadian
8 counterparts, many of their dams along the
9 Ottawa River were overflowing as they were, so they
10 were already past the ability to do any kind of
11 control whatsoever.

12 They had reached capacity, and it was just
13 the natural flow of river at that point.

14 There was no control mechanism available to
15 them.

16 SENATOR RITCHIE: So is there a way to ask
17 that that be looked at?

18 Because, if, in fact, there wasn't the issue
19 with the flooding in Montreal, and the outflow from
20 the Ottawa River could have been slowed down, then,
21 it looks like we would have been able to have a
22 greater release, which would have kept the damage
23 down on Lake Ontario and the St. Lawrence River.

24 So, I understand it's a bi-national
25 organization, but, how does that work, that the

1 Canadian board is asked to look at those issues
2 also?

3 STEPHEN DURRETT: Well, they're part of the
4 post-flood assessment.

5 So, the Canadian and the U.S. government will
6 both be looking at the post-flood assessment.

7 What could be done on the U.S. side, what
8 could be done on the Canadian side, that will all be
9 part of the post-flood assessment.

10 SENATOR RITCHIE: (Technical difficulties/no
11 audio.)

12 (Inaudible) what consideration was given to
13 the shipping?

14 I know a lot of people were hearing on the
15 news that, potentially, the water release was slowed
16 down because of shipping.

17 And what kind of consideration is given to
18 shipping, versus personal property, businesses, that
19 are affected by the high water?

20 [Member of the audience says "They're
21 not."]

22 STEPHEN DURRETT: Consideration is given to
23 all interests (inaudible) upstream and downstream on
24 Lake Ontario and the St. Lawrence Seaway.

25 So, there's no plan or a formula that says

1 one interest gets more -- more -- more benefit than
2 another.

3 We try to look at all things: trying to
4 balance the environment, trying to balance the
5 riparian owners, trying to balance the navigation
6 interests.

7 The navigation industry put in some extreme
8 measures because of the discharges we were
9 discharging out of Moses-Saunders, at 10,200.

10 They had to put some measures in place to
11 help some of their boats.

12 They limited the power on boats, so some
13 boats could not travel through the St. Lawrence
14 Seaway. They were not powered appropriately.

15 They also put some tugs to assist at some
16 very key points along the seaway, to make sure that
17 it was safe passage.

18 We did not want an environmental spill, and a
19 ship hitting a rock.

20 So all those things were put in place, not by
21 us, but by the Seaway itself.

22 So other interests were considered, and it's
23 a matter of balancing what is -- what's -- how much
24 water is too much water upstream, or how much water
25 is too much water downstream?

1 Discharging more than 10,400 will run the
2 St. Lawrence River out of its banks.

3 SENATOR RITCHIE: I guess I would just have
4 one comment for you to take -- one comment for you
5 to take back.

6 That if there is a mechanism in place that
7 ties your hands under this deviation authority, that
8 when it looks like there's a situation, going
9 forward, that you need to adjust for, if there's a
10 certain time frame for that to happen, or a level,
11 that maybe somebody who's making the decisions take
12 a look at that again, to untie the hands of the
13 people who have to make adjustments.

14 STEPHEN DURRETT: And we're hoping to get
15 that out of this post-flood assessment.

16 Is there anything we could have done
17 differently? we will document that in the post-flood
18 assessment.

19 SENATOR RITCHIE: Thank you.

20 SENATOR O'MARA: Assemblyman Oaks.

21 ASSEMBLYMAN OAKS: Yes, just to follow up on
22 that, so, at this point, there's nothing that's
23 happened -- you're going to do the assessment.

24 So there's nothing that's happened this year
25 that is changing your few tractions at this moment?

1 There could be something, depending on what
2 you find through your assessment?

3 SENATOR O'MARA: That is correct.

4 There is nothing that we think we could have
5 done differently this year, but the assessment may
6 tell us something different.

7 We, literally, had a region-wide, a regional
8 flood event, that spanned, not only one area, but
9 the entire region of Lake Ontario and the
10 St. Lawrence Seaway.

11 We had a lot of water that fell over several
12 months a period of time that doesn't normally fall
13 at that time of year.

14 June and July were extremely wet months as
15 well. That's not normally wet.

16 So we -- it was -- literally, was a
17 basin-wide event.

18 ASSEMBLYMAN OAKS: In the acceptance of
19 Plan 2014, when discussions were about that, people
20 raised concerns as we went through that process, one
21 of the things that was adopted, was to accept,
22 generally, that the plan allowed for higher heights
23 in certain years, and, also, lower lows, than what
24 the earlier maintenance plans did.

25 At what point this year -- and if you said it

1 in your remarks, just to, you know, reiterate that,
2 at what point this year did we meet what was the
3 acceptable or encouraged higher height as a part of
4 Plan 2014?

5 STEPHEN DURRETT: I don't know if there was
6 actually -- I did not say in it my remarks, but
7 there was not a point in time, I think, where we
8 could actually say that you've met -- you know, you
9 hit a point and you say, Oh, we're there. We need
10 to do something differently.

11 The lake rose extremely fast in the
12 March-April time frame. And it -- by the time-- and
13 there was, literally, nothing we could do.

14 The lake jumped 80 centimeters in a matter of
15 a couple of months, and it was all because of, like
16 I said, the basin-wide flooding.

17 We knew there was going to be problems, but
18 there was nothing we could do because there was no
19 place to send the water.

20 ASSEMBLYMAN OAKS: But if we look at,
21 I guess, and my concern, and your description of
22 this event, we know it rained a lot this year, and
23 we know there were, you know, various
24 considerations, and I know there's different
25 perspectives of why we ended up with what we have.

1 I'm very concerned about what happens next
2 year and the year after, and beyond, is the sense
3 that we have accepted more of higher water, and
4 where, other years, lower water than what's been the
5 norm, the impacts on those years that we have the
6 higher waters, the defense, I remember saying, well,
7 the increase is only a few inches. It's about like
8 a tennis-ball size.

9 But in -- and a number of people's concern
10 raised at that point was, in my understanding, every
11 other high-water event, '73, '92, that the incident
12 of the high water came quite quickly, and then it
13 went down.

14 And a concern of many of us was, 3 inches
15 sustained for months is going to, ultimately, have a
16 devastating effect on shorelines because we're going
17 to get weather events in that time.

18 And so the encouraged or acceptable levels
19 also become a great deal more damaging than what
20 high-water incidents were before.

21 So do you think future high-water incidents,
22 because of the plan, look for more sustained water,
23 that we can -- if we continue with the plan as is,
24 we're going to, on those high-water years,
25 anticipate property damage, either approaching or at

1 levels that we've seen this year?

2 STEPHEN DURRETT: I can't predict the
3 weather. And that's part our problem with doing
4 water management, is predicting the weather.

5 [Audience member says "Can't hear you."]

6 STEPHEN DURRETT: Sorry.

7 Part of our problem is predicting the
8 weather, and we're not able to predict the weather
9 very well.

10 There is no one forecasted -- no weather
11 forecast said we were going to have the amount of
12 precipitation in 2017 that we had, for the whole
13 basin. Not just falling on just the Ottawa River or
14 falling on Lake Ontario, but it fell up and down the
15 entire basin, from the lower St. Lawrence, all the
16 way up through the entire Lake Ontario region.

17 So if we know that, then you can plan better.

18 We don't know what the weather forecast is
19 going to be.

20 We have a lot of evaporation that occurs on
21 Lake Ontario in the summer.

22 If you don't have -- if you try to hold the
23 lake too low, and you have a lot of evaporation,
24 we're going to have a lot of dry docks instead of
25 wet docks, because we just don't know the weather.

1 The thing is, we -- and by March -- the
2 middle of March of this year, 2017, we were the same
3 as we were in 2016. There was no difference between
4 '16 and '17. The lake rose just look it did in '16.

5 But the events then started in the April time
6 frame, April and May, June and July, were all
7 extremely wet months for the normal time of year.

8 That's not predicted.

9 Now, the lake will have a little bit higher
10 highs and a little bit lower lows under lake --
11 under Plan 2014, under normal river -- normal
12 conditions.

13 But that's a normal condition. That's not
14 extreme conditions.

15 That's the key point I'd like to make, is we
16 had extreme wet weather, not in an area, but across
17 the entire region. And it's the weather and the
18 rainfall precipitation is what was the contributing
19 factor for high lake levels on Lake Ontario.

20 ASSEMBLYMAN OAKS: So you really can't say,
21 under the acceptability level under Plan 2014, at
22 what point it's kind of okay, and what point it's,
23 you know, not okay?

24 I understand we're going to be susceptible in
25 the future to whatever the weather is, but there's

1 some anticipating that can be done.

2 And, again -- or, outflow, you know, in the
3 future, if it reaches to the higher level, some
4 would say that there's property damage going to be
5 caused even at that upper level. And, certainly,
6 with a storm or two, that people are going to suffer
7 continually, irrespective of extreme high water,
8 because we're accepting a level that's above what
9 had been the norm.

10 STEPHEN DURRETT: And that's the purpose
11 of -- built into Plan 24 (sic) is this H14 criteria.

12 There's an upper and a lower band on this H14
13 criteria which allows that, as what you referred to
14 as, "a little higher high and little lower lows,"
15 that we try to stay within.

16 The plan operates, as long as you stay within
17 that band, the plan runs as the plan is set up to
18 run.

19 Once we exceed those levels, whether you
20 exceed them on the upper end or during a drought
21 when you exceed them on the lower end, only does
22 then does the board really come into play about
23 asking and looking for deviations.

24 That's how Plan 2014 is established and we're
25 supposed to operate.

1 We will be looking at those levels: Are
2 those triggers too high or too low?

3 Well, too low, we won't be able to look at it
4 very well.

5 But the "too highs" we can look at as part of
6 our assessment. Are the triggers too high?

7 I can't tell you the answer to that question.

8 I would say, at this point in time, the
9 answer would be, I don't think the triggers are too
10 high. But, our assessment may tell us that, yeah,
11 maybe the triggers are too high.

12 [Indiscernible audience comments.]

13 STEPHEN DURRETT: But -- so that's part of
14 the post-flood assessment. We will look at those
15 triggers, that H14 trigger elevation.

16 ASSEMBLYMAN BARCLAY: Well, isn't that the
17 biggest different -- sorry, Bob.

18 ASSEMBLYMAN OAKS: Go ahead.

19 ASSEMBLYMAN BARCLAY: Isn't that the biggest
20 difference between the old plan and the current
21 plan, that your hands are tied, because you can't --
22 isn't it 248, is that the number, before you go --
23 when you can deviate?

24 STEPHEN DURRETT: There's no set number. It
25 varies from the time of year, depending --

1 ASSEMBLYMAN BARCLAY: Well, you just
2 mentioned the --

3 [Indiscernible audience comments.]

4 ASSEMBLYMAN BARCLAY: Excuse me.

5 Excuse me.

6 [Indiscernible audience comments.]

7 ASSEMBLYMAN BARCLAY: I know.

8 Hold on.

9 Excuse me.

10 -- I just want to -- you mentioned "the
11 bands."

12 Could you just tell us what the "bands" are?

13 STEPHEN DURRETT: It depends on what month of
14 the year you want to go.

15 The H14 bands that I was referring to,
16 there's a high H14 limit and there's a low band.

17 ASSEMBLYMAN BARCLAY: What are the numbers,
18 though?

19 STEPHEN DURRETT: Well, it changes from year
20 to year. I mean, I can't tell a number.

21 Pick a month, and I'll be able to tell you a
22 number.

23 ASSEMBLYMAN BARCLAY: All right.

24 Take -- take April or May, the spring, when
25 the water is high.

1 STEPHEN DURRETT: It's somewhere around
2 75.5 meters, approximately.

3 [Indiscernible audience comments.]

4 ASSEMBLYMAN BARCLAY: And then --

5 Excuse me, excuse me.

6 Sorry. I can't have everybody yelling
7 questions. I can't hear.

8 And then how was -- what was the band under
9 the prior plan?

10 STEPHEN DURRETT: I can't tell you that.

11 ASSEMBLYMAN BARCLAY: Okay.

12 All right.

13 Okay.

14 [Indiscernible audience comments.]

15 SENATOR O'MARA: You don't know what the
16 criteria was under Plan 1958?

17 STEPHEN DURRETT: No, I do not.

18 SENATOR O'MARA: Was the International Board
19 involved in the formulating of Plan 2014?

20 STEPHEN DURRETT: I have only been on the
21 board for 2 1/2 years, so, the Plan 2'14 was done
22 prior to me arriving at the board.

23 The IJC would be a better person to ask the
24 question to.

25 SENATOR O'MARA: All right.

1 Now, on these so-called "trigger points," at
2 the high or the low, what action can you at the
3 board take, anticipating that trigger point being
4 exceeded?

5 STEPHEN DURRETT: Prior to the trigger point
6 being exceeded, we could ask permission to do a
7 deviation from the IJC.

8 Once the trigger point is achieved, we can
9 make deviations, and then we notify the IJC.

10 So, lower than the trigger, we have to ask
11 permission.

12 Higher than the trigger, we can -- actually,
13 we just do notification.

14 SENATOR O'MARA: It's my understanding that,
15 for the past several years, Lake Erie's water level
16 has been high.

17 ASSEMBLYMAN BARCLAY: That's correct.

18 SENATOR O'MARA: Is that your understanding?

19 STEPHEN DURRETT: Yes.

20 SENATOR O'MARA: And the flow of water from
21 Lake Erie to Lake Ontario is not controlled;
22 correct?

23 STEPHEN DURRETT: It is somewhat controlled,
24 yes.

25 SENATOR O'MARA: How is it controlled?

1 STEPHEN DURRETT: We control -- it's
2 minimally controlled, I'll say.

3 But there's -- the control is mostly over the
4 distribution of water between the United States and
5 Canada more than it is the flow over the falls
6 itself.

7 SENATOR O'MARA: And how high has Lake Erie
8 been over the past four or five years?

9 STEPHEN DURRETT: I don't know that number
10 off the top of my head.

11 SENATOR O'MARA: No?

12 It's my understanding that, in February of
13 this year, Lake Ontario levels rose as a result of
14 the elevated Lake Erie levels in February, and no
15 action was taken by the board at that point to deal
16 with that increase.

17 STEPHEN DURRETT: Lake Erie's flows have been
18 high for the last several years.

19 Yes.

20 ARUN HEER: I just want to say -- I just want
21 to mention, Bill Werick from the IJC is going to be
22 speaking next. He'll be able to answer your
23 questions concerning the plan formulation a lot
24 better than a board member here.

25 So I just wanted to prep you up for some of

1 these questions you might have. You're going to get
2 a better answer from the next speaker.

3 SENATOR O'MARA: Okay.

4 What's your name, and who are you from?

5 ARUN HEER: My name is Arun Heer. I'm the
6 U.S. secretary for the board.

7 SENATOR O'MARA: Thank you.

8 ARUN HEER: You're welcome.

9 Thank you.

10 STEPHEN DURRETT: So, I'm sorry.

11 Can you repeat your question, or, do you want
12 to save it for Bill?

13 SENATOR O'MARA: There was no anticipatory
14 actions taken by the board because of excess water
15 coming from Lake Erie because of its elevated state
16 in the month of February this year?

17 STEPHEN DURRETT: That is correct, because
18 there was no real need to. It did follow in a very
19 similar path to what it did in 2016.

20 In February -- the 2016 levels and 2017 were
21 about the same in February.

22 SENATOR O'MARA: How much are the riparian
23 landowners' rights considered in your determinations
24 of what to do with the outflows of Lake Ontario?

25 STEPHEN DURRETT: They're considered with

1 every other interest.

2 SENATOR O'MARA: Is it weighted at any
3 extent?

4 STEPHEN DURRETT: No.

5 SENATOR O'MARA: And what are those factors,
6 other than riparian rights?

7 STEPHEN DURRETT: There's environmental
8 interests. There's riparian interests. There's
9 navigation interests. And there's -- I'm missing
10 one.

11 [Member of the audience says "power."]

12 STEPHEN DURRETT: -- power.

13 Thank you.

14 SENATOR O'MARA: Power?

15 What are those environmental interests?

16 STEPHEN DURRETT: A lot of those have to do
17 with the sudden rise and lowering, of whether it be
18 upstream or downstream.

19 It's mainly about fish habitat.

20 When you get into a flood event, the
21 environmental interests are very minimal.

22 SENATOR RITCHIE: I just have one follow-up
23 question.

24 Earlier you stated that there was -- you
25 noticed -- or, the board noticed that there was a

1 high water level and there was nothing that could be
2 done.

3 Can you just clarify what you mean by
4 "nothing could be done"?

5 STEPHEN DURRETT: Well, balancing all the
6 interests associated with it, you try to discharge
7 water out of Lake Ontario, it's gonna go impact
8 someone else.

9 The water downstream was already at record
10 levels as well.

11 There was no place to put the water.

12 The water, do I send it downstream? do I hold
13 it where I'm at?

14 It's a balancing act, when you're in a flood
15 event, as to how you manage water and where you
16 store it.

17 Discharging, and increasing discharges, will
18 have a very minimal impact on the level of
19 Lake Ontario because the lake is so large.

20 Increasing by 1,000 cubic meters per second
21 is a very small amount of impact on Lake Ontario,
22 but it could be devastating to what's downstream
23 because of the St. Lawrence Channel is so narrow.

24 So, we already were in a flood event
25 downstream. Changing something by a millimeter on

1 Lake Ontario could be several inches in -- on the
2 St. Lawrence River downstream.

3 SENATOR RITCHIE: And the flood event
4 downstream, was that mostly caused by the
5 Ottawa River?

6 STEPHEN DURRETT: And other tributaries, yes.
7 But the Ottawa River had record flooding.

8 SENATOR RITCHIE: Okay.

9 Then I guess, one last question: Once again,
10 do you believe that, if you had the ability to
11 release water before the situation with the
12 Ottawa River was at that level, it would have helped
13 the situation, or you don't believe it would have
14 made any difference?

15 STEPHEN DURRETT: I don't believe it would
16 have made any difference because, before the
17 Ottawa River and the flooding event going on,
18 I wouldn't have been wanting to release water.

19 I would have stayed within the normal guides
20 that tells our historical data from 1900. We have
21 115, 118 years of data, and we were within the
22 normal range, up till March. And then, all of a
23 sudden, in April and May, it shot through the roof,
24 but it shot through the roof everywhere across the
25 entire basin; not just on Lake Ontario, but the

1 entire basin, including the St. Lawrence River
2 Basin.

3 There was no place for the water to go.

4 SENATOR RITCHIE: I know I have grave
5 concerns after Senator O'Mara brought up the
6 controls on Lake Erie, and the fact that there's
7 minimum controls.

8 But the people that I represent in the
9 middle, their property was affected because of the
10 controls that were used at Robert Moses to keep from
11 flooding Montreal any worse than it already was.

12 So, I guess that is a question, that I would
13 hope it would be addressed when you go back, is
14 that: If the water levels are controlled and the
15 outflow is controlled, at some portions along the
16 system, then maybe Lake Erie ought to be controlled
17 a little more than minimally.

18 STEPHEN DURRETT: Okay.

19 SENATOR RITCHIE: Thank you.

20 ASSEMBLYMAN BARCLAY: Just quickly following
21 up again, when did the board -- do you have a date
22 when the board realized that you might have to
23 deviate from the Plan 2014?

24 STEPHEN DURRETT: I don't have a date off the
25 top of my head, but I could give you a range, that

1 we probably were thinking --

2 ASSEMBLYMAN BARCLAY: Even a month.

3 STEPHEN DURRETT: -- have to deviate in the
4 April time frame.

5 ASSEMBLYMAN BARCLAY: And then what was the
6 band that they were in when you understood that this
7 was a flood condition where have to deviate from the
8 plan?

9 STEPHEN DURRETT: We were still below the H14
10 criteria. But, we saw the rise, and we were
11 starting to meet weekly, or every other week, and
12 starting to talk about water levels and predictions,
13 weather forecasts, and what we were gonna do, and
14 what could we do?

15 So we were meeting about every -- I'll say,
16 on average, every two weeks, starting in, probably,
17 the April time frame, all the way through August.

18 ASSEMBLYMAN BARCLAY: I can't -- the H --
19 what was the band you called it? What was it --

20 STEPHEN DURRETT: H14.

21 ASSEMBLYMAN BARCLAY: H14.

22 What is that in meters or inches?

23 I prefer inches, but I'll take meters.

24 STEPHEN DURRETT: In the April time frame, it
25 would be somewhere around, and it's kind of hard to

1 read off this chart, but about 246.8.

2 ASSEMBLYMAN BARCLAY: Okay. Thank you.

3 STEPHEN DURRETT: That would be feet.

4 ASSEMBLYMAN BARCLAY: Feet. Right.

5 I meant feet. Sorry.

6 SENATOR O'MARA: Thank you very much.

7 STEPHEN DURRETT: Thank you for your time.

8 SENATOR O'MARA: Next up, from the
9 International Joint Commission, Bill Werick,
10 technical advisor.

11 BILL WERICK: My name is Bill Werick. I'm
12 here representing the International Joint
13 Commission.

14 They asked that I attend because of a broad
15 technical understanding of the regulation of
16 Lake Ontario levels, and water resources more
17 globally.

18 I was the lead U.S. planner during the
19 Lake Ontario-St. Lawrence River study in the 2000 to
20 2006 range. And I'm now a member of the IJC's
21 Great Lakes Adaptive Management Committee.

22 [Slide show begins.]

23 BILL WERICK: In my testimony today I will
24 make two points.

25 The first, is that IJC's regulation of

1 Lake Ontario levels substantially reduces flood
2 levels for people along the shore, but it does not
3 prevent them. These high levels are bound to happen
4 again.

5 The second point, is that any significant
6 reduction in high-water damages will require a
7 difficult, perhaps unprecedented level, of
8 collaboration and innovation, with roles for the
9 IJC, the state, local, and federal governments, and
10 landowners.

11 There is a history to this, and it is really
12 informative.

13 The IJC held its first meetings on this issue
14 back in 1920.

15 I'm from Buffalo, and I remember the
16 opposition to the seaway.

17 There were attempts for 30 years to get the
18 seaway built, and they were rebuffed.

19 On June 30, 1952, the two countries applied
20 to the IJC for approval of a power project,
21 including a hydropower dam.

22 Now, we think of dams as raising water
23 levels, but the regulation plan included in the
24 application was designed so that the project would
25 not raise the natural levels of Lake Ontario.

1 1952, coincidentally, the lake reached record
2 high levels in 1952.

3 These are pictures from the Rochester
4 Democrat & Chronicle, on Edgemere Drive near Dewey.

5 And the governments asked the IJC to study
6 whether, having regard for all other interests,
7 measures could be taken to regulate the level of
8 Lake Ontario for the benefit of property owners on
9 the shores of Lake Ontario.

10 So this is the difference.

11 In other words, could the project not just
12 protect against higher-than-natural water levels,
13 but actually lower them?

14 So the IJC held hearings on this in '52, '53,
15 and '55.

16 Higher lake levels are generally better for
17 producing power, and for providing water during
18 droughts for navigation on the river.

19 Hydropower interests argued that reducing
20 high levels would increase construction costs and
21 reduce power production.

22 And, of course, this was the 1950s, so there
23 was no consideration of the environmental impacts of
24 damming the St. Lawrence River.

25 Despite the costs of lost hydropower, the IJC

1 issued an order in 1956, with the criteria that
2 provided flood relief for Lake Ontario coastal
3 property owners.

4 The order prescribed a range of mean monthly
5 elevations for Lake Ontario, from 243.3, to
6 247.3 feet, as nearly as may be.

7 So what does that "as nearly may be" part?

8 It reflects the fact that this regulation
9 plan was designed by the engineers of the day, with
10 water levels from -- water supplies from 1860 to
11 1954.

12 So water supplies, since regulation began,
13 have included much wetter periods --

14 You see the supplies on the right there in
15 red.

16 -- than were done historically.

17 And the IJC said, if you run into this, if
18 you have these higher supplies, you have to deviate
19 to protect riparian owners above and below the dam.

20 Looking at the graph of Lake Ontario levels,
21 it's pretty obvious that, in most years, the dam and
22 regulation did compress Lake Ontario levels, but you
23 can see there's still levels with very high levels.

24 So, in 1972, the Rochester Democrat &
25 Chronicle reported that Lake Ontario was the only

1 lake spared flooding on the Great Lakes because of
2 that new dam.

3 But a year later, the paper reported that
4 Lake Ontario had risen to damaging heights, not as
5 bad as it would have been without the dam -- with
6 the -- without the dam, but still damaging.

7 I know many of you remember that.

8 Another story from 1973 quoted Rochester
9 realtors questioning how homes along the shore could
10 be bought or sold.

11 There had been \$3 million damage in '52.

12 The corps was saying, in 1973, the damages in
13 Monroe County alone would be 7 to 10 million.

14 That same year, the paper investigated
15 charges that Lake Ontario was being kept needlessly
16 high.

17 They concluded property owners would have
18 been worse off without the dam.

19 They reported, the IJC proposal, that year,
20 in 1973, the future lakeshore development should be
21 subject to strict zoning and setback regulations.

22 In 1993, just as the IJC was commissioning
23 another big study for all the Great Lakes,
24 Lake Ontario flooded again.

25 In its 1993 report, the IJC again advised

1 that the project was not capable of full control of
2 the water levels.

3 Commissioners recommended land-use and
4 management measures as the principal response to the
5 adverse consequences of fluctuating water levels.

6 Allowing the structural shore protection
7 might be the only alternative for
8 intensely-developed shorelines.

9 The study reported that most private
10 protection structures failed after 10 years, and
11 encouraged the use of better structures, with
12 provisions for inspection and approval of those
13 plans.

14 During the LOSLR study in the early 2000s,
15 we considered -- we had much better analytic tools,
16 and we considered a much broader range of water
17 supplies than had occurred historically.

18 We formed four teams that competed to produce
19 the best regulation plan.

20 We did statistical studies that showed the
21 lake could go much higher than it even had in
22 history.

23 Now, the board concluded that changes to the
24 criteria in the existing plan were not possible
25 without harming some interests.

1 The Plan '58D, with deviations, came close to
2 minimizing damages from Lake Ontario for the
3 property owners.

4 Because it reduced the range of rain -- the
5 range and the variability of Lake Ontario levels,
6 though, it also reduced the diversity of plant types
7 along the shore and populations of animal species
8 who feed on and live in the environments affected by
9 the reduced water-level ranges.

10 The board said that '58DD had caused
11 dewatering drawdowns in the fall, through the early
12 spring, to the detriment of some habitat and
13 species.

14 It took another 10 years of debate before
15 Plan 2014 was ratified by the governments of Canada
16 and the United States.

17 And in 2017, the first year of its
18 implementation, unprecedented weather condition
19 caused Lake Ontario to rise even higher than it had
20 in 1952.

21 As this graph shows, IJC -- you can see on
22 the top there, IJC regulations still lowered levels
23 below what would be occurring naturally.

24 And you can see on the bottom, as Mr. Durrett
25 had talked about, it's because the dam allows much

1 bigger releases than would have occurred naturally.

2 So, what should we do to prepare for future
3 high-water conditions?

4 My remarks reflect finding some other
5 studies, as well as those done by the IJC, and my
6 own experience in flood-damage reduction here, and
7 all around the world.

8 I'm a member of the Great Lakes Adaptive
9 Management Committee, and we will review how
10 Plan 2014 performed this year, but we already know
11 that the regulation plan can only do so much.

12 So the question then is: What else can we do
13 if we want real changes?

14 First, even though this is a very emotional
15 issue, it's really important that people stay
16 committed.

17 We know from experience, it's ironic, but
18 it's time of crises that makes people do long-term
19 strategic planning.

20 We're all here together, this issue is on the
21 table, but, in my experience, that window will
22 close.

23 In a few months, this will become an issue
24 that has -- people remember, but they haven't acted
25 on.

1 So it's really important that we stay engaged
2 and that we act soon.

3 Second, it's really important that we
4 recognize how difficult this will be.

5 So I see this happen all over the world, and
6 the sad news is, is that, as you saw in this history
7 here, that floods happen, and people get upset, and
8 they look at what could be done, and the interest
9 dies, and floods happen, and the cycle repeats
10 itself.

11 Part of that is because there are no easy
12 answers.

13 The kind of solutions that we might imagine
14 are not solutions that everybody says, oh, that
15 would be great, everybody is in favor of that.

16 Consider shore-protection damages, for
17 example.

18 As the commission had said, no structure will
19 last forever, but structures that are designed with
20 heavier stone and are -- which are taller and
21 designed for a 6 1/2-foot range will be more robust.

22 But they're more expensive, quite a bit more
23 expensive.

24 People often talk about floodplain management
25 as a solution.

1 I'm not really sure, we haven't gotten all
2 the data yet, but I think that floodplain management
3 actually has helped on Lake Ontario.

4 When I look at the new homes that have been
5 built, I think they are up higher, and that has
6 reduced flood damages.

7 Of course, there are a lot of older homes,
8 there's homes with basements.

9 And even when your home isn't flooded,
10 outbuildings may be flooded. You may have water on
11 the street that makes it very difficult to live your
12 life.

13 And, finally, there's the erosion to property
14 which has no shore protection, and this can be
15 really difficult.

16 This is going to happen no matter the
17 regulation plan, although, the regulation plan can
18 change the rate at which it happens.

19 Now, some people who have no shore protection
20 can build it, but it's very expensive, and there's
21 environmental concerns about shore protection too.
22 People are worried about hardening the shore.

23 I've talked to landowners who have said,
24 well, you know, when I lose the bank, I just drag my
25 cottage back closer to the road.

1 But, of course, there are limits to that.

2 It's not a satisfying solution at all.

3 And then the big question: What role should
4 government play in helping private-property owners?

5 And this is an issue that's been debated, not
6 just here, but everywhere in the United States and
7 in every country around the world.

8 And the answer is different in different
9 places, at different times. And there's a trade-off
10 between providing relief after a disaster and
11 providing protection before the disaster.

12 The IJC is involved in some efforts that may
13 help.

14 We're doing a study of flooding in the
15 Lake Champlain Basin. This just started.

16 The interesting thing there, is there is no
17 dam, so we're not talking about a regulation plan.

18 We're only talking about land-management
19 measures and flood-response plans; so, plans that
20 better forecast floods, and help towns put out
21 sandbags or other flood-control measures.

22 And, we recognized the interest in this is
23 bigger than Lake Champlain, and we want to make sure
24 that we share those results with you.

25 The IJC is also working with NOAA and Cornell

1 on flood forecasting and high-water response plans.

2 In sum, my two points:

3 Water-level regulation has helped, but it can
4 only do so much;

5 And the only hope for doing better in the
6 future, this is very difficult, it almost never
7 works, but there is hope if we work together.

8 Thanks so much for organizing this meeting.

9 This is the first time we've really had a
10 hearing that have brought -- that's brought all the
11 players together.

12 This is the most important thing, that we
13 start talking, and I really appreciate you doing
14 this.

15 And, I may be able to answer some questions
16 on Plan 2014.

17 SENATOR O'MARA: Okay.

18 Well, we really appreciate you being here as
19 well, and thank you for your testimony.

20 Would you like to start?

21 ASSEMBLYMAN BARCLAY: Sure.

22 Could you explain -- I just -- I don't know
23 what the Great Lakes - St. Lawrence River Adaptive
24 Management Committee is.

25 What is that?

1 BILL WERICK: That is -- that's a -- it's an
2 idea that's been talked about for a long time, but
3 hardly anybody in the world does it.

4 And the idea is, is that after you make a
5 decision, you continue to monitor the evidence to
6 make sure that your decision was right.

7 So, in other words, you think, if I do this
8 Plan 2014, we'll strike this kind of a balance
9 between hydropower and navigation and
10 shore-protection damages and the environment.

11 And, typically speaking, when those studies
12 are done, nobody then monitors every one of those
13 things and says, hey, we were right about that, but
14 wrong about that, and now let's think about
15 adjusting.

16 So in this case, the IJC has actually started
17 monitoring programs, and our intent is to continue
18 to watch, and in 15 years, or less, we will report
19 on that and say, we could do better or we could do
20 worse.

21 ASSEMBLYMAN BARCLAY: So it's a committee
22 that's put together by the IJC to give them advice
23 on all the state -- you know, what's happening with
24 all the different stakeholders --

25 BILL WERICK: Exactly.

1 ASSEMBLYMAN BARCLAY: -- along (inaudible) --

2 BILL WERICK: The actual results of the plan,
3 and what could be done better.

4 ASSEMBLYMAN BARCLAY: Okay.

5 Were you involved in the Plan 2014, the
6 implementation of Plan 2014?

7 BILL WERICK: I was involved as a planner, so
8 I would run evaluation models, and -- yes.

9 ASSEMBLYMAN BARCLAY: Could you just go
10 through that process?

11 Because I think a lot of people are
12 discouraged, the way Plan 2014 came in, and I think
13 people are suspicious, because it was implemented
14 in, what, December of -- what was it, last year;
15 right?

16 BILL WERICK: Exactly.

17 ASSEMBLYMAN BARCLAY: And, you know, I've
18 heard a lot of complaints, that there wasn't
19 public -- appropriate public input on 2014.

20 You know, you went through a lot of different
21 iterations with different plans. Some faded off.
22 And then, all of a sudden, this one came out in,
23 seemed like, the dead of night.

24 BILL WERICK: Sure.

25 ASSEMBLYMAN BARCLAY: So, maybe, if you could

1 explain the process that it went through for us.

2 BILL WERICK: So this is a process that
3 probably, you could say, it started in the
4 late '80s, with the Great Lakes Levels Reference
5 Study.

6 The first -- during the study that
7 I participated in, and I know many of you did too,
8 from 2000 to 2006, we had teams competing to produce
9 better plans.

10 And that study board made recommendations to
11 the IJC for three different plans, and each one had
12 a different nature, they stressed different balance
13 of results.

14 And there was a plan called "B+," which was
15 more natural levels, and that's the predecessor to
16 Plan 2014.

17 The next several years, people -- the IJC had
18 hearings on a plan that they called "Plan 2007."

19 It was rejected by almost everybody.

20 They came back with other studies.

21 That B+ plan became Bv7, and there were many
22 public hearings on that, with the people opposed and
23 people supporting it, just as 2014 was.

24 And they held a series of public hearings all
25 along the south shore, before they wrote their

1 report to governments recommending Plan 2014.

2 So, full public involvement up to that point.

3 Now, once the IJC sends it to the
4 governments, then the state department and
5 department of foreign affairs each do consultations
6 within their countries.

7 And at that point, I don't -- I'm an outsider
8 to that process.

9 So, basically, at that point, each country is
10 looking at it in their own interests. And then they
11 have negotiations, and they come back together.

12 And, for me, that period of time was more
13 opaque.

14 But they, basically, accepted the
15 recommendations of the IJC, with some minor edits.

16 ASSEMBLYMAN BARCLAY: Is the board fully --
17 all the appointees still on the IJC?

18 Has Trump made his appointees?

19 BILL WERICK: There are no new appointees by
20 either the Prime Minister or the President.

21 ASSEMBLYMAN BARCLAY: No new.

22 Are there vacancies?

23 BILL WERICK: They're all people that were on
24 the commission from years ago.

25 ASSEMBLYMAN BARCLAY: There are no vacancies

1 currently?

2 BILL WERICK: There's one vacancy on the U.S.
3 side.

4 Is there a vacancy on the Canadian side?

5 No.

6 ASSEMBLYMAN BARCLAY: And then the Adaptive
7 Management Committee, how many members are on that
8 committee?

9 BILL WERICK: I think there are -- I would
10 say ten.

11 I can get you the list of people.

12 ASSEMBLYMAN BARCLAY: Anyone from the
13 southern or eastern end of Lake Ontario?

14 BILL WERICK: I'd have to look.

15 Nobody comes to mind.

16 These are mostly agency people, so the Corps
17 of Engineers has representatives.

18 ASSEMBLYMAN BARCLAY: I mean, I think --
19 again, my concern is, and I think a concern of a lot
20 of my constituents, is our voice isn't being heard
21 by the IJC.

22 I think we feel like, with the implementation
23 of the Plan 2014, that the southern and eastern end
24 of Lake Ontario are the losers in that process.

25 So it would be nice to know at least there's

1 a voice there, and someone hearing the concerns of,
2 particularly, the property owners along the lake.

3 BILL WERICK: Well, let's solve that problem,
4 because the committee certainly knows that it has to
5 have that connection.

6 And we're in the process now of trying to
7 establish those connections.

8 And what we're looking for, really, is
9 somebody from the community who speaks for the
10 community.

11 They can be skeptical. They can be against
12 Plan 2014. As long as they're willing to work with
13 us, and express the views of the community, we see
14 that as an essential thing.

15 So, that's something we'd like to fix.

16 ASSEMBLYMAN BARCLAY: All right. Let's do
17 that.

18 Thank you.

19 SENATOR O'MARA: Patty?

20 SENATOR RITCHIE: And can I just ask for you
21 to follow up on a previous speaker?

22 As far as the deviation authority, do you
23 believe that has changed with Plan 2014?

24 BILL WERICK: There are changes, and some of
25 them are kind of technical. But when you look at

1 the actual instruction to the board, it's almost
2 identical.

3 But the condition -- in other words, the old
4 Criterion K under the old plan said, when supplies
5 are greater than the supplies of the past, do
6 everything you can for riparians above and below the
7 dam.

8 The question was: When are supplies greater
9 than the past?

10 It was a very fuzzy notion.

11 Now we have the trigger levels, so that the
12 triggering mechanism is very precise and clear, and
13 the instruction is about the same.

14 It's when the water -- when the -- you exceed
15 the trigger levels, do everything possible for
16 riparians above and below the dam.

17 SENATOR RITCHIE: Do you believe the trigger
18 level is set too high, given what's happened this
19 past year?

20 BILL WERICK: No, and I'll say that for two
21 reasons.

22 The first is, is that, when you look back at
23 this with the benefit of hindsight, you say, boy, if
24 we had started releasing 10,000 cubic meters per
25 second way back when, this would have been better

1 off.

2 But the fact is, is that, as Mr. Durrett
3 said, our forecasts for one month out are really not
4 very skillful.

5 You can look back at the forecasts that
6 people made at that time, and they missed this
7 completely.

8 So, for instance, 2016 looked very much like
9 2017. And had you done that, you would have made
10 the lower levels of 2016.

11 Lake Ontario ended up below average, much
12 lower.

13 So you have to kind of play the odds.

14 The second thing is, is that Plan 2014 builds
15 in a lot of the decision-making that the board used
16 to do anyway, so that, as the water levels rose
17 higher, and as Mr. Durrett talked, they were
18 operating under this F limit.

19 They were releasing as much water as they
20 could, balancing the flooding that was occurring
21 downstream.

22 And, in fact, the best test of that is that,
23 when they finally got to the end of April and hit
24 the trigger, they continued to use that same F-limit
25 strategy for some time.

1 So you could argue that, from a mechanical
2 viewpoint, once they hit the trigger, they were
3 already doing everything they could to lower
4 Lake Ontario level.

5 SENATOR RITCHIE: And the previous speaker
6 spoke about meeting every two weeks, which that
7 probably does not sound great to people who were
8 dealing with the water levels on an -- any given
9 hour, how much it was fluctuating.

10 So is there -- will that be taken into
11 consideration, that maybe there should be more,
12 either on-the-ground people seeing what's actually
13 happening here, or meeting more regularly, so things
14 can be changed at a quicker pace?

15 BILL WERICK: I'll let -- Mr. Durrett,
16 correct me if I'm wrong -- but I know, from
17 monitoring the situation, that there is a -- what
18 they call "the coordinating committee" that advises
19 the board. These are technical guys.

20 And these guys are looking at electronic
21 readouts of all of these measurements, and they are
22 constantly talking to one another.

23 So this is not something that they check in
24 every two weeks. This is something that they watch
25 all day long.

1 SENATOR RITCHIE: And I know there was great
2 concern by the people that I represent, that
3 Montreal's interests were being represented at maybe
4 a higher level than our own, given the fact that the
5 Ottawa River was a pretty significant contributing
6 factor.

7 What will be done in working with the
8 Canadians to try to address the outflow from the
9 Ottawa River, if that's what significantly decreased
10 the ability of the Robert Moses Dam to release
11 water?

12 BILL WERICK: You know, we are in the process
13 now of outlining our report on this year.

14 And I would say, one of the things that we
15 can do with you, and with the representatives we
16 work with, is try to articulate those questions that
17 are on everybody's mind.

18 My gut feeling now, is that there isn't much
19 that could have been done about the Ottawa River
20 discharge.

21 But let's make that, and other questions,
22 part of that report, and we'll try to have a really
23 good answer for that.

24 Because, this is the hard part, it's really
25 important that we establish a factual basis for any

1 modifications we make in the future, whether it's to
2 the regulation plan or to other decisions that are
3 made.

4 So, we'll work with you to develop a list of
5 questions that that report should answer.

6 SENATOR RITCHIE: Because I personally am
7 concerned that the people that I represent are
8 getting the squeeze on both ends.

9 That, now it comes out that Lake Erie is
10 minimally controlled, and what was possibly been
11 able to happen to help in the middle, couldn't
12 happen because of the situation in Montreal.

13 So, if this is going to be a solution to the
14 problem as a whole, how do we make sure that the
15 Lake Erie part of the conversation and the
16 Ottawa River part of the conversation is held
17 accountable to the same level?

18 BILL WERICK: You know, we can -- we can
19 answer those questions.

20 I grew up on Lake Erie, and I can say with
21 even more confidence, that Lake Erie will not be
22 regulated.

23 I mean, they have looked at that in the past,
24 and the downsides to it are so great, that it almost
25 isn't even worth asking anymore.

1 So I -- that -- I can answer you now, that
2 Lake Erie is not going to be regulated, unless the
3 world changes a lot.

4 SENATOR RITCHIE: And if there are
5 recommendations put forward, how does the plan
6 actually get changed by, whose authority?

7 BILL WERICK: Yeah, that's a good question.

8 I mean, if you look at the names of these
9 plans, 1958, 2014, you realize these plans don't
10 change very often, and it's because they are so
11 important to so many people, and they require a
12 buy-off -- an international buy-off between the two
13 countries.

14 That said, because of the Great Lakes
15 Adaptive Management Committee, we want to be open to
16 great ideas, and there is a mechanism for us to
17 report back to the IJC.

18 I don't see us making any enormous
19 breakthroughs. But, if we can find ways to tweak
20 the plan to make it better, then we have complete
21 freedom to recommend those things to the IJC.

22 SENATOR RITCHIE: And my last question: Do
23 you believe the people who are dealing with the
24 damage this year, are they going to be dealing with
25 the same situation next year, or the year after?

1 BILL WERICK: Boy, I have no idea, and I'm
2 saying that not casually, because I've tried very
3 hard to make those projections.

4 If you look at 2015, 2016, and 2017, and you
5 look at Lake Ontario and Lake Erie levels, they're
6 all pretty similar, and yet each one of those years
7 turned out so differently.

8 It's -- I will say that, over the next
9 20 years -- as you saw, I showed you pictures of
10 floods in '43, '47, '52, '73, and '93.

11 Over the next 20 years this will probably
12 happen again.

13 Climate change, the very warm winters, this
14 may make it more likely.

15 But, next year, I have no idea.

16 SENATOR RITCHIE: Thank you.

17 ASSEMBLYMAN OAKS: Your giving the historical
18 perspective was helpful, I think, in seeing how
19 things have developed over those years, and your
20 contention that, without the dam, without the
21 seaway, this year probably would have been worse
22 than if there was nothing there.

23 I think I can, you know, understand.

24 However, under the new terms, and looking
25 forward, we're saying we're going to manage it less.

1 And so we have the opportunity -- we
2 controlled, and we tried to stay here, and
3 conditions have taken us outside of it in different
4 years. But now we're saying we're opening it up.

5 And so I guess one of my questions, in
6 looking at it:

7 '43, '47, '52, that's good history.

8 Do we have any sense -- and I didn't see --
9 you know, we have the chart showing this.

10 Do we have any sense of days of flooding that
11 occurred those years, as well as '73 and '92,
12 compared to 2017, which that flooding sustained?

13 And, does the plan -- I guess as a follow-up,
14 does the plan encourage more days that we then have
15 to deal with higher waters and potential for
16 flooding?

17 BILL WERICK: Okay.

18 So, this is a good question to ask, and
19 answer more formally in the report, but let me make
20 some general comments off the top of my head.

21 The first is the obvious, that it's --
22 I understand that it's cold comfort to say it would
23 have been worse with the dam, because this is the
24 worst flood that's ever happened in -- since the
25 Civil War on Lake Ontario.

1 And, you know, I've worked on flooding since
2 1969. And I know that if you go through a flood,
3 people just don't understand how terrible that is
4 until you've gone through it.

5 So I know it offers cold comfort.

6 The next thing I would say is that,
7 Plan 2014, as the IJC has reported, does produce
8 higher highs and lower lows.

9 That generally happens in the middle highs,
10 in the middle lows. That's where you'll see a
11 difference.

12 And there are impacts to things along the
13 shore that are in that elevation range.

14 So Mayor Turtenac (ph.) is in the audience
15 tonight, and we've talked about parts of Sodus that
16 are vulnerable in that medium-high range.

17 Shore-protection structures that are not
18 built as high are going to be more susceptible to
19 overtopping, and that's why the damage figures for
20 Plan 2014 are a little higher.

21 Now, as the floods get worse, the new plan
22 gets to be more like the old plan, for two reasons:

23 One is, is that it doesn't do us much good
24 for the environment to have floods, so there's no
25 impetus in the plan rules to say, oh, let's have a

1 flood, it will be good for the environment.

2 The plan does try to control flooding.

3 And -- so, especially, once you get to the
4 deviations, there's really no difference between the
5 plans, and this is where you get the tennis-ball
6 comparison.

7 In real life, most of the time, with moderate
8 floods, Plan 2014 will have slightly higher water
9 levels, and that's because it's keeping the levels
10 higher in the fall and the spring for the benefit of
11 wetlands and everything that lives on there.

12 As the water levels get higher, the two plans
13 will be more alike.

14 Every once in a while Plan 2014 is better for
15 shoreline residents than the old plan because it
16 also does lower lows.

17 So if you have a year where Plan 2014 draws
18 the lake down, and have a flood the next year, and
19 this is not the majority, maybe one in five, then
20 the new plan is actually better.

21 ASSEMBLYMAN OAKS: Your -- the plan does
22 call, my recollection is, that over a 20-year
23 period, when we've typically seen a flooding event
24 in a 20-year period that we might see because of
25 higher highs, that happened, maybe, three times

1 during that 20-year period, is that the estimate of
2 the plan, and similar on lower water as well?

3 Or is --

4 BILL WERICK: The -- if you look at the
5 frequency of stages, Plan 2014 tends to have more
6 frequent middle-high levels, and then they start to
7 go back together on the higher levels.

8 And as far as the sequence, there are people
9 that argue that there are some sorts of cycles at
10 work here.

11 If you go out to North Dakota, you can see it
12 on a lake called Devil's Lake, that it almost
13 disappeared in the '40s, and then it came back,
14 and had enormous floods in the '90s and 2000s.

15 I think people who live along the lake would
16 remember this, the '60s as a low-water period. We
17 had lots of years where Lake Ontario was low. It
18 seemed to be a persistent multi-year thing.

19 And the '70s, '80s, and '90s were
20 considered wet.

21 And then the 2000s, and going into 2015, was
22 considered a low-water condition.

23 So we had, not on Lake Ontario which is
24 regulated, but up on Lake Superior, and
25 Lake Michigan and Huron, people were very upset

1 because the lake was so low.

2 ASSEMBLYMAN OAKS: On the business interests,
3 I guess just in this thinking, I mean, this was
4 because of the days of flooding and the damage done.

5 BILL WERICK: Yes.

6 ASSEMBLYMAN OAKS: For many, this was a lost
7 season of recreational boating, of marinas, of
8 businesses that serve people, et cetera.

9 Is that -- again, the concern would be, a lot
10 of our economy is driven by those.

11 With this plan, are we setting those
12 businesses up to have other lost summers, or is
13 there a way to minimize the days even in those
14 high-water times -- minimize the lost days, you
15 know, and trying to narrow those events?

16 BILL WERICK: So with the very high events,
17 I would say there won't be much difference.

18 I think this year was a particular year where
19 we said, we really can't see any difference between
20 2014 and the old plan, and in part, that is because
21 the fall levels were set by the old plan.

22 As you get into moderate flood years, there
23 will be marinas that start to suffer business losses
24 before other marinas do, and Plan 2014 will tend to
25 be a little worse for them.

1 SENATOR O'MARA: Again, thank you.

2 One thing that I'm having trouble
3 comprehending here, is where you say that a dam
4 along the St. Lawrence River actually helps lower
5 Lake Ontario levels.

6 BILL WERICK: Yeah.

7 SENATOR O'MARA: Can you expound on that a
8 little bit?

9 BILL WERICK: Sure.

10 I mean, it's -- you think of a dam as, like a
11 beaver, builds a dam and the level goes up.

12 So the difference is -- and I just worked on
13 the study on Rainy Lake in northern Minnesota, and
14 the dam cannot bring the lake down.

15 So if you look at an undammed situation, the
16 water that flows out of a lake will be a function of
17 how high the lake is.

18 You can't have a big discharge unless the
19 lake is really high.

20 But what was different about the St. Lawrence
21 project, and this is what the hydropower companies
22 complained about, is that they did excavations.

23 So now the board has the ability to create
24 much greater discharges than they would have without
25 the dam, because of that excavation, and because of

1 that they can actually lower water levels.

2 SENATOR O'MARA: Can you talk a little bit
3 about, you know, we're here as New York State
4 Legislators, representing the south shore and the
5 eastern shore and the river.

6 We haven't heard much, at least I haven't,
7 about damage around the rest of the lake, the north
8 shore, the west shore.

9 What were the impacts of those shorelines
10 throughout this year?

11 BILL WERICK: The Great Lakes Adaptive
12 Management Committee is trying to collect damages
13 for the north shore, south shore.

14 We're working with the New York Sea Grant and
15 Cornell to do that.

16 And then we're also trying to get the damages
17 downstream, and separate the St. Lawrence-related
18 damages from all the other flooding that Quebec had.

19 In general, I think that the north shore had
20 less damage.

21 SENATOR O'MARA: Was that expected in the
22 Plan 2014 considerations?

23 Because I kind of recall that being an
24 expectation.

25 BILL WERICK: I would expect it, yes.

1 I think, and this is something we were trying
2 to document, that Canada has taken more aggressive
3 measures to reduce its vulnerability to flooding.

4 Also, northwest and northeast winds are
5 really harmful to the south shore, whereas they
6 aren't to the north shore.

7 SENATOR O'MARA: You mentioned in your
8 presentation that Plan 1958DD came close to minimal
9 damage from the regulation.

10 BILL WERICK: Yes.

11 SENATOR O'MARA: So, 1958DD was particularly
12 designed to minimize shoreline damage?

13 BILL WERICK: Almost.

14 I mean, it does -- '58D also balanced all the
15 different interests. But, during that study, we --
16 we -- basically, we created these things called
17 "fence-post plans."

18 What if we disregarded everybody else, except
19 hydropower, how much good could we do for
20 hydropower?

21 What if we disregarded everybody else, except
22 riparians, how much good we could do?

23 And you could do a little bit better than
24 '58DD if you didn't care about anybody else in the
25 system, which, of course, I have to say is forbidden

1 by the treaty.

2 But we said '58DD is pretty close to as much
3 you can do with that dam and channel.

4 SENATOR O'MARA: So changing it to Plan 2014
5 by -- basically, raising it by about 2-1/2 inches?

6 BILL WERICK: The highest level by about
7 2-1/2 inches, yeah.

8 SENATOR O'MARA: The highest levels, yeah,
9 and the lowest levels.

10 It was known that there would be an increase
11 to property damage --

12 BILL WERICK: Yes.

13 SENATOR O'MARA: -- as a result of that, when
14 you exceeded those highs?

15 BILL WERICK: We -- we -- our models expected
16 that.

17 Now, we're going back to check that too.

18 SENATOR O'MARA: Yeah.

19 Yet, in Plan 2014, in the IJC, and, frankly,
20 the countries of Canada and the United States, did
21 not provide any remuneration for the shoreline
22 property owners for that expected damage?

23 BILL WERICK: That's correct.

24 SENATOR O'MARA: Do you know why that was?

25 BILL WERICK: I would say -- I would say

1 that, as I showed in the historical slides, the IJC
2 had to approve the dam.

3 They were required by the treaty to protect
4 riparian interests.

5 So they had to assure that the water levels,
6 because of that dam, would be no higher than they
7 would be without the dam.

8 That's when the treaty would have required
9 mitigation.

10 In either case, Plan 2014 or '58DD, water
11 levels are substantially below natural levels, so
12 that's why it wouldn't be required.

13 Now, my argument is, set aside the treaty
14 requirements, look at the problem, that there are
15 damages, and ask with an open mind and heart, what
16 could be done?

17 Understanding, that there are many people who
18 believe that government shouldn't help private
19 property owners in these circumstances, but also
20 arguing that, in almost every case, and we've seen
21 so many of these stories on the news, government
22 does help to pay for damage after it has occurred.

23 It just doesn't like to pay for damage before
24 it occurs.

25 So this is why I'm calling for an open-minded

1 collaborative approach.

2 It's going to be very difficult.

3 There are not many communities who solved
4 this problem, but, it's worth a try.

5 And this interest is only going to be
6 sustained for a few more months.

7 SENATOR O'MARA: Now, the trigger points, the
8 highs and the lows under the new plan, those are
9 based off of the average high for that time of year,
10 and the average -- or, the -- I'm sorry -- the
11 average of the extreme high for that time of year
12 and the extreme low of that time of year?

13 BILL WERICK: The high levels represent,
14 I think, the 2 percent exceedance frequency.

15 So they're a fairly high level, and they were
16 based on experimentation that was done with
17 different levels, watching the trade-off between
18 economic and environmental benefits.

19 So they varied throughout the year, just like
20 Lake Ontario does.

21 SENATOR O'MARA: Yeah, but I guess what I'm
22 getting at is, averaging off of the extreme highs
23 and the extreme lows, why didn't the commission take
24 a median approach, as opposed to an average of the
25 extremes?

1 And do you know what the difference is over
2 the years between the median and the extreme highs
3 and lows in that average?

4 BILL WERICK: So let me say this:

5 That the H14 high triggers represent the
6 levels that would be reached about 2 percent of the
7 time, so they don't relate to the median.

8 These are all about the frequency of those
9 high levels.

10 And we actually simulated these things, and
11 we would try 1 percent, we would try 2 percent, we'd
12 try different levels, and we would watch all our
13 models to see what results came out.

14 And it is finally the governments that
15 decided on the "295" that became part of the new
16 orders.

17 SENATOR O'MARA: Just in my mind, it seems
18 like using a median, or what happens more often,
19 rather than using the extremes, we base these
20 numbers on the extreme.

21 So now we're basing it at 2-1/2 inches higher
22 than what our extremes are in history has been,
23 rather than what a normal year is.

24 BILL WERICK: It is based on higher levels.

25 The lower you make those trigger points, the

1 less damage you would have, and the more the plan
2 becomes like '58DD, bad for the environment, but
3 causing less damage.

4 That was the -- that's the balance that you
5 strike as you adjust those triggers.

6 SENATOR O'MARA: Well, if the dam was
7 designed not to change the water levels of
8 Lake Ontario, which you said it was --

9 BILL WERICK: Yes, it was designed to reduce
10 the water levels.

11 SENATOR O'MARA: Yeah.

12 BILL WERICK: The high levels.

13 SENATOR O'MARA: -- so, I don't follow how we
14 then had to alter it later on, to have a more
15 environmentally-friendly ebb and flow of the level
16 of the lake.

17 BILL WERICK: This was a decision that the
18 two governments made, to recognize that the
19 environment is an interest that both countries have,
20 and is protected by the treaty.

21 The 1950s is -- I mean, I'll say, when
22 I started out with the Corps of Engineers in the
23 '60s as a summer school -- summer student at
24 Conesus, I worked in the Cuyahoga River, and I had
25 to wear -- in the summertime, I had to wear rubber

1 gear from head to foot, because we knew that you
2 couldn't let river water touch your skin.

3 So that was the climate under which '58DD was
4 designed. There was absolutely no interest in the
5 environment.

6 On the LOSLR study, we tried to do something
7 for the environment, while doing as little damage as
8 we could to the shoreline protection damages.

9 SENATOR O'MARA: What in Plan 2014 will allow
10 the international board to make anticipatory changes
11 before that trigger point is hit?

12 BILL WERICK: The board can't deviate until
13 it hits the trigger.

14 But as Mr. Durrett said, even before they
15 hit the trigger, they were operating under the
16 F limit.

17 So Plan 2014 really incorporates the
18 knowledge of board representatives, and guys like
19 David Fay (ph.) who's in the audience, because it's
20 the intent of Plan 2014 to avoid those floods.

21 And, those rules are based on tests with
22 50,000 years of different possible inflow, so
23 there's many different ways that Lake Ontario can
24 flood.

25 So even before you hit the trigger, Plan 2014

1 is trying to reduce those water levels.

2 When it comes to the trigger, then the board
3 is free to do much more, it can go off the plan.

4 Now, in this year, they still stayed on the
5 F limit because the plan was good.

6 SENATOR O'MARA: So the board then can
7 increase outflows from the river before the lake
8 level hits that trigger level?

9 BILL WERICK: Plan 2014 will increase
10 releases naturally, generically, as part of the
11 code.

12 SENATOR O'MARA: Okay.

13 You suggested in your remarks that the
14 outflow from Lake Champlain might be looked at, as
15 far as damming that lake.

16 You didn't mention anything in your remarks
17 about controlling the outflow from the Ottawa River
18 which was a factor in the flooding this year.

19 BILL WERICK: No.

20 SENATOR O'MARA: What -- what's the
21 distinction there?

22 BILL WERICK: First of all, we're not going
23 to look at damming Lake Champlain.

24 So the last dam study that I got involved in,
25 it lasted 30 years, and at the end of the 30-year

1 study the dam was rejected.

2 So we're not building many dams anymore.

3 So we're not gonna even think about building
4 a dam on Lake Champlain.

5 That's why the focus is all on the land-side
6 measures, and then, also, flood response plans. So
7 helping communities respond better to floods so that
8 they can minimize the damage.

9 On the Ottawa River, this is one of the
10 questions we'll answer better and more formally than
11 I can do right now.

12 My belief is, that the Ottawa River has some
13 regulation in the upper part of the basin, but it
14 has very little impact, and this year had almost no
15 impact.

16 So, we'll answer it more carefully, but
17 I would say there's very little hope that
18 controlling the Ottawa River can make things better.

19 SENATOR O'MARA: Okay.

20 ASSEMBLYMAN BARCLAY: Just one quick
21 question.

22 I'm a little confused on your flooding
23 comment you made about flooding not being good for
24 the environment, so Plan 2014 does not, I guess --

25 BILL WERICK: Yes.

1 ASSEMBLYMAN BARCLAY: -- regulates against,
2 I assume you're saying, extreme flooding.

3 But the whole idea is to have water flow into
4 the wetlands and have an ebb and flow.

5 But, I guess, if you're a property owner, and
6 that ebb and flow is ruining your property, you
7 would consider it a flood.

8 I mean, am I understanding your -- you're
9 talking about extreme flooding? Is that what --

10 BILL WERICK: That's really the difference.

11 So, Plan 2014 -- so, typically, a dam
12 operator who's only worried about flooding, because
13 there's always uncertainty about what's gonna happen
14 in the spring, they will lower the dam levels, just
15 in case.

16 The thing is, is that if you do that, then
17 every year the wetlands are flooded less, and that
18 has an impact on wetlands.

19 So to produce a higher level of water on the
20 wetlands, and we're not talking a flooding level,
21 just a higher level, then you slightly increase the
22 risk that you will have floods later on.

23 ASSEMBLYMAN BARCLAY: Why did the Plan 2014
24 take away the discretion of the control board?

25 I don't -- I mean, you can say this is our

1 policy. We want to have a more ebb and flow. You
2 guys gotta follow through with our policy.

3 But why tie their hands and have certain
4 higher, you know, catch levels?

5 BILL WERICK: I think it's a good thing,
6 although people will argue about it.

7 I think Frank Sciremammano would say that I'm
8 wrong.

9 Here's the difference, is that when the board
10 confronts a decision, and its hands aren't tied,
11 then it makes a reactionary decision, that has a
12 little amount of time to study what the
13 possibilities are.

14 Sometimes it does good, and sometimes it does
15 bad.

16 With more regulation, you have the benefit of
17 studying these things with many more tests.

18 So the rules of Plan 2014 have been tested to
19 a much greater degree than the board decisions could
20 have been in the old days.

21 And, in fact, when the IJC first had hearings
22 on Plan 2007, this was a discussion because 2007 was
23 not an environmental plan. It was at least as good
24 at '58DD for shoreline owners. And it was all
25 automated the same way, with very little deviation.

1 ASSEMBLYMAN BARCLAY: And then how are they
2 going to judge the success of Plan 2014 with the
3 environment?

4 Are you going to say we got more
5 Northern Pike, and that's a success?

6 And the costs of that, I guess, that's a hard
7 thing for us, at least get my arms around, is,
8 obviously, because, potential, it would be very
9 costly to the property owners along the lake, and
10 what the return benefit.

11 And it's great to have, I think we're all
12 environmentalists. We would love to have more fish
13 and wildlife, and everything, but, is it worth the
14 cost?

15 So what -- what's going into that plan?

16 BILL WERICK: It's always going to be
17 controversial because you can't monetize all
18 environmental benefits.

19 I mean, some you can. Some you just can't.

20 I mean, there will be some environmental
21 benefits that will probably translate to real
22 economic benefits.

23 But we will try to at least quantify.

24 So what we've been doing for 10 years, is
25 sending biologists out into the field to actually

1 measure how much of the wetlands are covered by
2 different types of plants.

3 So continuing to gather evidence to see
4 whether or not wetlands change as we expected them
5 to.

6 Both the Corps of Engineers and New York
7 State DEC have gone out, and they've measured the
8 top elevations of shore-protection structures along
9 the south shore, because we want to make sure that
10 our models actually predicted the failure of
11 shore-protection structures correctly.

12 And now with the damage reporting that we're
13 doing with Cornell and New York Sea Grant, we'll
14 actually try to see whether our damage estimates
15 were reasonable.

16 Beyond that, we're trying to encourage even
17 broader monitoring. The Northern Pike is one
18 example.

19 I think that there are efforts underway
20 by the State University of New York to count
21 Northern Pike.

22 And we'll try to compare those to what they
23 would be in other years, to see whether we're really
24 getting a benefit or not.

25 ASSEMBLYMAN BARCLAY: Thank you.

1 BILL WERICK: We'll try to produce the
2 evidence.

3 ASSEMBLYMAN BARCLAY: Good.

4 SENATOR RITCHIE: Did you say earlier that
5 response was part of Plan 2014, a response to
6 flooding?

7 BILL WERICK: Yes.

8 SENATOR RITCHIE: I guess I would ask, did
9 anybody come to the local areas to prepare them for
10 what they might see, or what the extremes would be,
11 so they weren't taken by surprise?

12 Because I know most of the people here
13 thought there was, maybe, a two-week period they
14 were gonna have to live with the high water, and
15 possibly they could get through it. But it lasted
16 all summer until Labor Day.

17 So I'm just wondering, did anybody prepare
18 them for what the plan was going to mean to the
19 people who live here?

20 BILL WERICK: You know, we could always do
21 better.

22 And not knowing what the future would bring
23 limited the ability for us to forewarn people.

24 But I -- and I'm not on the board, but I did
25 watch modern tools, like Facebook.

1 There was a lot of advertising of this, and
2 so I think a lot of people in the audience were
3 watching Facebook and saw this as it rolled out.

4 Personally, I think that if we could make the
5 connections with the community to work with the
6 Great Lakes Adaptive Management Committee, that we
7 could establish better networks.

8 In our experience, communication works better
9 if you talk to community networks that already
10 exist. And we need to establish those.

11 So any help we can get with that, we would
12 appreciate.

13 SENATOR RITCHIE: Okay.

14 Thank you.

15 SENATOR O'MARA: What were the estimates of
16 damage that the IJC considered in coming up with
17 Plan 2014?

18 BILL WERICK: For Plan 2014, we had a model
19 that looked at damages to shore-protection
20 structures, to first-floor flooding in homes, and to
21 erosion of unprotected parcels that had buildings on
22 them.

23 And this had never been done before.

24 The difference in technology between 2000 and
25 1980 was, of course, enormous.

1 So we were able to make these whole-lake
2 estimates of how individual storm events would
3 damage shore-protection structures, and so we had
4 the dollar estimates.

5 SENATOR O'MARA: But what were the dollar
6 estimates?

7 BILL WERICK: They -- I don't have them in
8 mind, but I can get you a copy of the Plan 2014
9 report that has actual dollar damage limits.

10 What you would see there is that the vast
11 majority, something like 87 percent of the damage
12 that occurs, is to shore-protection structures.

13 And, of course, that's one of the things
14 we're trying to measure now, to see whether we can
15 do better at estimating those.

16 SENATOR O'MARA: Anyone else?

17 Thank you very much.

18 BILL WERICK: Thank you.

19 SENATOR O'MARA: We're going to take a brief
20 five-minute break.

21 We don't want to be any longer than that.

22 [A recess was taken.]

23 [The hearing recommences.]

24 SENATOR O'MARA: If we could -- take your
25 seats, please.

1 We're ready to go on with our next
2 witness from the U.S. Army Corps of Engineers,
3 Lieutenant Colonel Adam Czekanski, commander of the
4 Buffalo District.

5 LT. COL. ADAM CZEKANSKI: Senator O'Mara --

6 SENATOR O'MARA: Are you being joined at this
7 point by Mr. Forgette, or is he coming after you?

8 LT. COL. ADAM CZEKANSKI: Yes, sir.

9 SENATOR O'MARA: And we also have
10 Craig Forgette, chief of planning management team
11 and continuing authorities program manager for the
12 Buffalo District of the Army Corps as well.

13 Thank you, gentlemen, for being here.

14 LT. COL. ADAM CZEKANSKI: Thank you, sir.

15 Senator O'Mara, Senator Ritchie,
16 Assemblyman Barclay, Assemblyman Oaks, ladies and
17 gentlemen.

18 I want to thank you for the invitation of
19 inviting our team to come speak with you today.

20 As Senator O'Mara said, my name is Lieutenant
21 Colonel Adam Czekanski, commander of the Buffalo
22 District, U.S. Army Corps of Engineers.

23 With me today is Craig Forgette, who's
24 our planning management team chief. And, also,
25 Miss Bridget Brown. She is one of our regulators

1 from our -- leading regulators out of the Auburn
2 field office, southwest of Syracuse.

3 And I appreciate the invitation to speak
4 tonight.

5 I want to cover two different areas, really,
6 two primary areas of focus.

7 First of all, I just want to talk briefly
8 about the actions that the corps has been part of,
9 with respect to response to the high water levels on
10 Lake Ontario during these past months.

11 But then more importantly, I want to talk
12 about what the corps can do, moving forward.

13 And we talk about, and you hear in the news,
14 a lot about coastal resiliency.

15 We like to think about, you talk about, the
16 East Coast and the West Coast.

17 We think about the Great Lakes, really, as
18 the "North Coast."

19 So it's just as important on the north coast
20 to look at shoreline or coastal resiliency, and,
21 really, it's important, as we move forward, to look
22 at what can be done in the future to mitigate
23 hazards, as we move forward.

24 So just a very brief background, and I don't
25 have a slide for this, but just to give everyone an

1 idea, when we talk about the Buffalo District for
2 the Army Corps of Engineers, the Corps of Engineer
3 districts, in general, are delineated not by
4 political boundaries, but by watershed.

5 So our watershed is the watershed that drains
6 into Lake Erie, Lake Ontario, and the St. Lawrence
7 Seaway.

8 So our boundaries go from Messina, New York,
9 in the east, all the way out to the Ohio-Indiana
10 state line in the west. 38,000 square miles.

11 I bring that up because a big part of what we
12 do is, obviously, what goes on on great -- on the
13 lower Great Lakes.

14 On Lake Ontario, that includes navigation.

15 We have authority to dredge and maintain
16 federal navigation channels, a number of
17 recreational and commercial harbors on Lake Ontario,
18 but also to maintain the brick-wall structures and
19 a lot of those harbors, as you saw probably in
20 Oswego just a couple years ago.

21 In addition to the navigation mission, a
22 number of other missions we have, a number of other
23 projects we have, to include ecosystem restoration.

24 Some of you may be familiar with the
25 Braddock Bay project we're working on, just to the

1 west of Rochester, as one example of the work we do.

2 Our district has been around for 160 years.
3 And, really, for 160 years, we've had a close tie to
4 the communities on Lake Ontario.

5 So when the water level started to rise in
6 April, we were very much in tune with what was going
7 on on the ground. And our emergency-management
8 folks were in close coordination with the state's
9 regional emergency-management leadership, and, also,
10 with a number of the county emergency-management
11 chiefs.

12 On the 2nd of May, when the Governor declared
13 a state of emergency in the eight counties that
14 border Lake Ontario, we also activated our emergency
15 operations center, and requested funding from our
16 headquarters to support that activation, so that we
17 could be more responsive to the collective response
18 efforts to the high water levels on Lake Ontario.

19 One week after doing that, the Governor
20 formally requested assistance from the corps.

21 Within 48 hours we were able to provide
22 almost 200,000 sandbags for use in the communities
23 around Lake Ontario.

24 [Slide show begins.]

25 LT. COL. ADAM CZEKANSKI: Within 72 hours --

1 if you look on the map here, what's highlighted is,
2 within 72 hours, we were able to launch teams --
3 technical teams to a number of the communities who
4 were experiencing some of the most extreme high
5 water and flooding conditions on Lake Ontario.

6 Those teams, during the course of the
7 following weeks, were able to visit 17 different
8 communities on 20 different visits, and they were
9 able to provide assistance with respect to the flood
10 plight.

11 Technical assistance, as far as materials
12 being used and techniques being used, and provided
13 to the leadership of those communities, formal input
14 and feedback on what was being done, and what could
15 be done, to improve the situation.

16 So what the corps did, again, that's in the
17 May and June time frame, that technical assistance
18 to these communities you see highlighted, the direct
19 assistance with respect to sandbags. And, also,
20 regulatory, our regulatory branch, was very well
21 nested with the New York State DEC.

22 When the State DEC issued their regional
23 general permit on the 2nd of May, we were nested
24 with them to ensure that the process was very -- as
25 streamlined as possible for applicants so they could

1 protect their property.

2 And I want -- I'm going to turn it over to
3 Bridget right now so she can speak a little more
4 clearly, and a little more in detail, about those
5 efforts on the regulatory front, both, initially,
6 but also in the subsequent months, how we were
7 nested with the DEC, and how we were very much
8 committed to the communities in this area, to ensure
9 that residents could protect their property as
10 effectively as possible.

11 Bridget.

12 BRIDGET BROWN: Good evening.

13 I just wanted to mention that Lake Ontario
14 and the St. Lawrence River are regulated under
15 Section 10 of the Rivers and Harbors Act, as well as
16 Section 404 of the Clean Water Act.

17 And, therefore, all work in, over, or under
18 those waterways, including the discharge of dredge
19 or fill material, requires a Department of the Army
20 permit.

21 Once the regulatory branch was made aware of
22 the damages from the high water, we immediately
23 activated the regulatory emergency team.

24 In that case, we set up teams of project
25 managers to field all the phone calls, to do site

1 visits, and to expedite permitting.

2 The -- our nationwide permit program includes
3 two nationwide permits. One is Nationwide Permit 3
4 for maintenance, and Nationwide Permit 13 for bank
5 stabilization, which cover most of the anticipated
6 work reasonable to confirm the high-water damage.

7 The vast majority of those permits do not
8 require the corps to review those before work can
9 commence over there.

10 So they're out and available for the public
11 to use.

12 We confirmed that those activities would
13 qualify for the emergency permit that the DEC
14 authorized for storm recovery, would also qualify
15 for Nationwide Permit 3 and 13.

16 So at that point, we worked in conjunction
17 with the DEC to prepare joint application process
18 and permit materials so that we could provide a
19 united front.

20 At that same time, we developed a plan to
21 funnel all the applicants through DEC, so to ensure
22 that only the ones that really needed to be reviewed
23 by the corps came our way, to reduce the amount of
24 delay that would happen during the permitting
25 process.

1 In addition, we worked with the
2 New York State Department of State to modify their
3 nationwide permit coastal consistency requirements
4 that are set on the nationwide permits, which,
5 normally, would require individual review by the
6 Department of State for any activities that included
7 lakeward encroachment.

8 Further, we also consulted with the U.S. Fish
9 and Wildlife Service, to develop a streamlined
10 process for any projects we have -- that may have a
11 potential effect on endangered species.

12 With that, we were able to allow for the
13 endangered-species consultation process to be
14 completed in one to two days versus the normal
15 30-day process.

16 So, overall, in general, it was a cooperative
17 effort between our state and federal agencies, to
18 try to make a very streamlined permit process, to
19 ensure that there was very minimal red tape as
20 possible, and to make sure that people were able to
21 implement their protection measures as soon as
22 possible.

23 LT. COL. ADAM CZEKANSKI: Thanks, Bridget.

24 So we're very proud of the fact that we were
25 able to assist very quickly, and, really, along

1 with -- I want to clarify one point, that throughout
2 this response effort and floodplain effort, we the
3 corps was, at all times, supplementing the State-led
4 effort.

5 The entire time, it was led by the State of
6 New York. And, again, as resources were being
7 utilized at the local level, county level, state
8 level, the corps was supplementing that effort.

9 I was able to visit a number of communities
10 along the shoreline, from Ogdensburg, all the way
11 down to Old Fort Niagara. And so, again, I can
12 sympathize with what was going on with respect to
13 the high water and with respect to damage to
14 property.

15 And, again, we were committed to assisting as
16 best we could throughout that effort.

17 But now the more important part I would say
18 is:

19 What can we do, moving forward?

20 What can we do, moving forward, to be more
21 resilient?

22 Because, as was mentioned earlier, in the
23 earlier briefings, you know, this is bound to happen
24 again.

25 We don't know if it's going to be to the same

1 extent, but there will be high water again at some
2 point.

3 So, it's most important to look at how can we
4 be more resilient along the Lake Ontario shoreline?

5 And Craig's gonna talk a little bit more
6 about that, as far as where the corps can assist.

7 Craig.

8 CRAIG FORGETTE: So the corps has a number of
9 authorities where we can help out, and do good
10 things on Lake Ontario.

11 And the first of these is the Streambank &
12 Shoreline Protection Authority, and this is for
13 public infrastructure, for significant public
14 infrastructure.

15 An example is this site at Western Reserve in
16 Cleveland, Ohio. It was completed, 775 feet of
17 shoreline protection, which was done back in May of
18 2005.

19 The general scope, is for us to provide for
20 developing and constructing streambank and shoreline
21 protection projects for highways, bridge approaches;
22 public-work facilities, such as water, wastewater
23 treatment plants, sewer lines; churches, public and
24 private and non-profit facilities. And that's
25 limited to a cost of \$5 million, federal.

1 The -- we begin at the bottom of the slide.

2 The first step is a letter of intent.

3 And in the case of this flooding here on
4 Lake Ontario, we've received three letters of intent
5 back in May and June of 2017:

6 One from the Town of Greece. On
7 Edgemere Drive, which was discussed earlier, has had
8 a history of flooding;

9 Also at the Golden Hills State Park
10 Lighthouse;

11 And the Old Fort Niagara at the French
12 Castle.

13 So those are just a couple of the spots that
14 we've already received requests to help on using
15 this authority.

16 The first part of our process was to do a
17 feasibility study, environmental assessment, and
18 public involvement.

19 Then we move on to -- and that can take about
20 18 months, or, once from the time we get funded,
21 maybe a little longer.

22 And then we move into design and construction
23 phase.

24 That phase is cost-share. It's 65 percent
25 federal, 35 percent non-federal. So there is a

1 cost-sharing requirement to this.

2 But this is just one way that we can work to
3 help solve some of the problems along the coastline,
4 to help prevent further damage from future flooding.

5 Another authority we have is the planning
6 assistance to states and tribes.

7 These are non-structural solutions; meaning,
8 that it's not something that we're ever going to
9 design and construct. But it's -- some examples
10 are: Water-quality studies, wetland-evaluation
11 studies, floodplain-management studies, coastal-zone
12 management, harbor and port studies, or any other
13 water-resource planning investigation that may be
14 valid.

15 We -- those are cost-shared, 50 percent
16 federal, 50 percent non-federal, and has a maximum
17 of \$2 million per state or federal funds for these
18 studies.

19 Again, these are not things that we can
20 design and construct, but we can certainly provide
21 support and the factors I just discussed.

22 And then one other way that we can help -- so
23 those are kind of mid-term solutions, things that we
24 can do to help on specific locations.

25 But in taking a broader approach and looking

1 at things on a larger scale across the Great Lakes
2 or across Lake Ontario, there's a proposal out for a
3 Great Lakes Coastal Resiliency Study. And, it can
4 certainly look at the things we just talked about,
5 that would be done on a specific site-by-site
6 location. But this is trying looking at things
7 across Lake Ontario or a Great Lakes-wide approach.

8 You know, all the things that we've been
9 talking about today, lake-level fluctuations,
10 changes in rain patterns, coastal storms, the
11 agricultural and stormwater runoffs, and invasive
12 species, and even aging infrastructure, some of the
13 flood-control structure -- or, the storm damage --
14 the breakwalls, all the other things that we've
15 built, are getting older and may need repairs.

16 So this is a way to look at coastal
17 resiliency.

18 How do -- what's the ability of coastal areas
19 to withstand, recover from, and adapt to changes,
20 while making sure that we take a look at the
21 economic, environmental, social, and cultural
22 values?

23 So, balancing all of those things out --
24 looking at those problems, and trying to look at a
25 holistic approach across all of those factors on

1 Lake Ontario -- is a goal of the study.

2 We look at an array of measures, a spectrum
3 of things, everything from:

4 Those structural-type components, whether
5 it's armoring, or putting more stone in;

6 Non-structural, meaning, we're not going to
7 build a real structure, but we may do dredging, or
8 add sand, or look at how the sand moves through the
9 system;

10 To just doing wetland or plantings, and those
11 types of activities;

12 To just land-use planning.

13 So all of those will be looked at as part of
14 this study.

15 We've received letters of intent from all of
16 the Great Lakes states to work towards this, and
17 this is something we would be working through,
18 through our investigations authority.

19 And we've requested federal funds to move out
20 on this effort.

21 Are there any other questions for us?

22 SENATOR O'MARA: Thank you.

23 SENATOR RITCHIE: Can you tell me how many
24 permit applications you received?

25 BRIDGET BROWN: I don't have the -- a number

1 on that at this point, because, again, a lot of it
2 was funneled through the DEC, to kind of get that
3 first tier out of there. And then we are still
4 receiving applications.

5 One issue for a regulatory permitting is
6 that, because the water was high, not a lot of
7 assessment could be done to what damage was there,
8 and to figure out exactly what needed to be done.

9 So our bigger lift of permit applications
10 will be coming. So we're expecting that to be
11 coming, you know, after the waters go down and
12 people starting assessing, and figuring out what
13 they can do.

14 And we'll be seeing the applications rise at
15 that point.

16 SENATOR RITCHIE: Do you have a large request
17 for people who have no shoreline stabilization in
18 place, now looking to do that?

19 BRIDGET BROWN: Yes.

20 Yes, we're getting lots of requests in.

21 We do lots of site visits to take a look at
22 those things.

23 And, yeah, so there are people who are now
24 looking at those measures.

25 SENATOR RITCHIE: So the corps will go out

1 and make recommendations of what should be done?

2 BRIDGET BROWN: We don't necessarily make
3 recommendations, what should be done. But we're
4 assessing what they're proposing to do, to see what
5 types of permits that was to require.

6 SENATOR RITCHIE: Okay.

7 Thank you.

8 ASSEMBLYMAN BARCLAY: I don't have any
9 questions.

10 I just want to say, thank you.

11 I've heard from many of my constituents, and
12 from municipalities, how great the corps has been
13 through this.

14 So thank you for what you've done so far.

15 SENATOR O'MARA: Bob.

16 ASSEMBLYMAN OAKS: Nothing for them.

17 Go ahead.

18 SENATOR O'MARA: Did the corps have any
19 involvement in the formulation of Plan 2014?

20 LT. COL. ADAM CZEKANSKI: No, sir.

21 I mean, we have members who are part of the
22 board of the -- International Lake Ontario and
23 St. Lawrence River Board.

24 But as far as actual formulation, we were not
25 directly involved with that.

1 SENATOR O'MARA: Do you have any estimate of
2 what the Army Corps has expended as a result of the
3 extensive flooding this year along Lake Ontario?

4 LT. COL. ADAM CZEKANSKI: I don't have a
5 figure with me, sir.

6 But, again, we did receive supplemental funds
7 from our headquarters, specifically for our
8 involvement with response to the flood event.

9 SENATOR O'MARA: Thank you.

10 Thank you very much for being here today.

11 LT. COL. ADAM CZEKANSKI: Thank you, sir.

12 SENATOR O'MARA: Next up, we have
13 Mr. Ken Lynch, executive deputy commissioner from
14 the New York State Department of Environmental
15 Conservation.

16 KENNETH LYNCH: Good evening, Senator O'Mara,
17 Senator Ritchie, Assemblyman Barclay, and
18 Assemblyman Oaks.

19 Thank you for the opportunity to discuss
20 the serious issue of this year's flooding along
21 Lake Ontario and the St. Lawrence River.

22 And I also want to personally thank you for
23 bringing me back to my home region for tonight.

24 My name is Ken Lynch. I'm the executive
25 deputy commissioner for New York State Department of

1 Environmental Conservation.

2 Commissioner Seggos sends his regrets that he
3 could not be here today.

4 I appreciate the opportunity to discuss the
5 State's approach to addressing these impacts, and
6 how to make our shorelines and neighborhoods more
7 resilient.

8 This spring, New Yorkers living along
9 Lake Ontario and the St. Lawrence River faced the
10 devastating impacts of a slow-moving disaster,
11 ultimately resulting in record-level water levels
12 according to NOAA data.

13 Heavy rainfall and snow melt throughout the
14 Great Lakes system caused flooding that inundated
15 houses and docks; eroded dunes, bluffs, and
16 backyards; threatened wastewater infrastructure in
17 low-lying areas; and flooded streets.

18 Based on a close scrutiny of the facts and
19 science, it appears that the International Joint
20 Commission, which manages Plan 2014 and determines
21 the water levels of Lake Ontario and the
22 St. Lawrence River, exacerbated the impacts of high
23 water levels by failing to increase outflows from
24 the lake, and by not properly using the flexibility
25 they have within their authority.

1 The IJC's actions over the course of the
2 spring and summer clearly illustrated that they
3 favored the interest of commercial waterborne
4 shipping interests over the homeowners, businesses,
5 and municipalities along both sides of the boundary
6 waters.

7 Such an action exacerbated the suffering of
8 the people who live and work along the lake and
9 river, particularly New Yorkers on the south side of
10 the system who faced more erosion and flooding due
11 to the system's hydraulics.

12 As flooding levels reached the peak,
13 Governor Cuomo took swift and decisive actions to
14 help communities cope with the -- this emergency,
15 and recover from the damage caused by this
16 historically high water levels.

17 Beginning in early May, before water levels
18 had reached their peak, Governor Cuomo,
19 Commissioner Seggos, Department of Homeland Security
20 and Emergency Services Commissioner Parrino, and
21 other state officials, including myself, were on the
22 scene of flooded properties along Lake Ontario and
23 the St. Lawrence River to review firsthand the
24 devastation that these high water levels were
25 causing.

1 The Governor stood up for our waterfront
2 communities and demonstrated his commitment through
3 several bold actions since day one.

4 And both the Governor and commissioners have
5 upheld our responsibility to assist these
6 communities, repeatedly visiting this area, to
7 ensure people receive the help they need.

8 Recognizing the gravity and the extent of
9 this emergency, Governor Cuomo issued Executive
10 Order Number 165 on May 2, 2017, which declared a
11 disaster for counties bordering Lake Ontario and the
12 St. Lawrence River, and directed state agencies,
13 including DEC, to assist the people and local
14 governments affected by it.

15 Since that time, the State has deployed
16 New York State emergency response mobile command
17 centers to provide swift aid to people in need of
18 assistance in dealing with floodwaters, including
19 one here in Mexico, implementing the Lake Ontario
20 Flood Assistance Hotline to help people with
21 insurance-related issues; assist homeowners with
22 flood-mitigation measures, such as sand bags, and
23 help them obtain technical guidance regarding
24 on-site repairs to property.

25 We expedited and streamlines permits to

1 enable property owners to quickly undertake
2 projects.

3 To date, we have issued 93 emergency
4 authorizations, nearly 1,300 general permits, and
5 more than 400 individual permits, for projects to
6 protect and restore the shoreline.

7 DEC also completed more than
8 300 coastal-erosion hazard area inspections.

9 The State deployed nearly 1.6 million
10 sandbags to protect the properties of residents and
11 businesses, as well as temporary removable dam
12 systems in the town of Greece and the village of
13 Sodus Point.

14 We provided 1 million for emergency repairs
15 and upgrades to wastewater treatment systems in
16 Sodus Point and Greece.

17 We requested, and received, assistance from
18 federal agencies, including the U.S. Army Corps of
19 Engineers and U.S. Geological Survey.

20 We imposed a 5-mile-per-hour speed limit to
21 control damaging wakes within 600 feet of Lake
22 Ontario and the St. Lawrence shoreline.

23 With your support, we made \$45 million
24 available to municipalities, homeowners, and small
25 businesses to repair the damage caused by sustained

1 flooding.

2 And, we called upon President Trump to
3 provide federal disaster relief to this beleaguered
4 region, and demanded that he replace the current
5 U.S. IJC members.

6 New York's swift, comprehensive, and
7 effective efforts to address the high water levels
8 demonstrate our ability to quickly respond to
9 emergency situations.

10 The water levels experienced this year
11 throughout the Lake Ontario-St. Lawrence River
12 system are among the highest ever recorded.

13 Waves created by strong winds intensified the
14 impacts of the water levels to the detriment of
15 properties along Lake Ontario's southern and eastern
16 shores.

17 The impact on these communities was
18 staggering, as Governor Cuomo and other
19 administration officials saw during their tours of
20 the region.

21 I visited lake communities on several
22 occasions myself, to help address area needs with
23 our regional staff.

24 And I just want to take a moment to recognize
25 some of many regional staff that worked on this

1 project in this area, led by Regional Director
2 Matt Marko;

3 His regional permit administrator,
4 Dave Bimber, who was in all of our communities,
5 helping people with permits, together with his
6 staff;

7 Our information officer, Stephanie Webb, who
8 got a lot of the information out to the public, and
9 made sure they were educated on what programs we had
10 to offer;

11 And, Tim Walsh, who was our lead technical
12 assistant, helping property owners with protective
13 measures along the shoreline.

14 During his tenure, Governor Cuomo has
15 witnessed flooding in many parts of the state, and
16 he recognized that these natural disasters are the
17 reality of living in a water-rich state, exacerbated
18 by climate change.

19 Statewide, the Governor has directed state
20 agencies to take actions that are making flood-prone
21 regions more resilient to future storms.

22 Our challenge now is to address the impacts
23 of climate change and more frequent flooding on the
24 Lake Ontario-St. Lawrence River shoreline.

25 We all acknowledge that high water levels

1 have occurred before on the lake and river.

2 They devastated the region this year, and we
3 must plan for their reality that water levels will
4 rise and fall again.

5 It is essential that we work closely with all
6 levels of government to prepare for future flooding
7 by making the region as resilient as possible.

8 Already, DEC and our sister agencies
9 have opened up a dialogue with the Army Corps
10 of Engineers, FEMA, USGS, and EPA on new
11 short- and long-term activities to make the
12 Lake Ontario-St. Lawrence River shoreline more
13 resilient to future storms and flood events.

14 While this discussion follows the pattern we
15 developed in response to the state's recovery from
16 other natural disasters, the solutions developed
17 must be uniquely suited to the needs of this river
18 region.

19 To do so, we are exploring measures to help
20 reduce and mitigate the impacts of flooding if water
21 levels, again, are again high in the near future,
22 and longer-term measures to make the shoreline more
23 resilient to flooding.

24 Based on our experience with coastal storms,
25 such as "Superstorm Sandy," we recognize that

1 natural features can improve shoreline resiliency;
2 for example, wetlands act as natural sponges to
3 absorb floodwaters and protect property, and are
4 particularly helpful in urban areas.

5 Where natural features are less likely to be
6 effective, we will work with our federal partners to
7 develop structural measures to protect both people
8 and property.

9 Should the federal government issue the
10 disaster declaration the Governor requested in July,
11 we will work with local governments to help rebuild
12 smarter and more resilient.

13 We are also working closely with the Army
14 Corps to evaluate additional permanent steps to
15 protect and prepare for future high water levels and
16 flooding.

17 Thank you for the opportunity to discuss the
18 State's response to the Lake Ontario-St. Lawrence
19 River corridor flooding this year, and we look
20 forward to working with you to advance needed
21 resiliency measures in the near future.

22 I'll take any questions.

23 SENATOR O'MARA: Thank you, Mr. Lynch.

24 Assemblyman Oaks.

25 ASSEMBLYMAN OAKS: Yes.

1 Deputy Commissioner, I was just, both with
2 the Army Corps' presentation and then yours, you
3 talked about resiliency issues and, in essence,
4 trying to provide more protection to current
5 shoreline.

6 Some of the areas along the lake are publicly
7 owned.

8 Port Bay, for instance, has a barrier bar.
9 It's had a breach in it. It was fixed. But then we
10 had a new breach this year. And, so, efforts trying
11 to make that more secure, to protect some of the
12 bays or the properties off Lake Ontario.

13 There's other ones that may be publicly
14 owned, and also that may be privately owned; for
15 instance, Crescent Beach barrier bar for Sodus Bay
16 is all privately owned.

17 The question I guess I would ask both, you
18 know, of yourself and the department and the corps
19 is:

20 Is there -- I can see using public dollars,
21 and the legitimacy of that of protecting those
22 publicly-owned barrier areas.

23 But, also, I think there's been a strong case
24 made, even for some of the privately owned, not
25 necessarily for the protection of the individual

1 property that's privately owned, but the property on
2 the other side in the bay.

3 Is there any definitive type of policy on
4 that which could show strengthening, or using public
5 dollars for barrier bars that protect our bays along
6 Lake Ontario?

7 KENNETH LYNCH: Yeah, and I think we've heard
8 tonight that it is much more difficult to find
9 specific funding for private-property owners and
10 private protection.

11 Although, I will say, you and the Governor
12 have already found an exception to that with the
13 45 million ways to help those individual property
14 owners.

15 There is no definitive prohibition or
16 allowance of that type of activity.

17 I think in this case we need to be creative.

18 Obviously, it's easier to construct on public
19 property, with public entities joining the state and
20 federal government to help fund and construct those
21 projects.

22 But I think if we can find a connection
23 between private work and public protection, there
24 may be ways to fund those projects also with public
25 money.

1 ASSEMBLYMAN BARCLAY: Most of your remarks
2 tonight were on resiliency, the issues of things
3 that you did, obviously, in relation to this year's
4 flooding challenges.

5 They didn't go directly to challenging or
6 changing, you know, policy that may, you know,
7 lessen that in the future.

8 In other words, some -- we -- earlier
9 speakers we've talked about, who were talking about,
10 specifically, Plan 2014, or answering questions
11 along that.

12 I guess I would focus on, one, was -- did
13 DEC, as an agency, take a stand or provide public
14 direction on Plan 2014 before it was adopted?

15 KENNETH LYNCH: We did not take a formal
16 position on 2014.

17 We were out in the community, listening to
18 concerns.

19 We heard a lot about the environmental
20 benefits that 2014 provided.

21 We also heard a lot about the concerns that
22 property owners had, especially in this area, about
23 the potential impacts.

24 We passed those messages on to the federal
25 government as part of the process, but the plan

1 itself was adopted by the federal government.

2 ASSEMBLYMAN BARCLAY: Is there a role now, do
3 you think, for state government to take a reaction?

4 I know the Governor made some comments about,
5 you know, how it was this specific crisis was
6 handled, or, how it might have been created,
7 et cetera.

8 Is there -- is it appropriate now for the
9 State to push, perhaps, more strongly of future --
10 as we look at what any future issues might be, that
11 encourage changes and/or any alternatives to the
12 existing plan?

13 KENNETH LYNCH: Well, again, it's a federal
14 plan, so we don't have a direct input into it.

15 But, certainly, I think there's always an
16 opportunity for us to participate with both our
17 federal, state, and local partners, to lend our
18 position and our perspective, representing the
19 people of the state of New York, towards changing or
20 adapting plans.

21 ASSEMBLYMAN OAKS: Thank you.

22 SENATOR RITCHIE: First, I would like to
23 thank you and the Commissioner and your department
24 for being on the ground with the Assemblymen and
25 I at the workshops, and trying to help to turn

1 permits around as quickly as possible, along with
2 the Army Corps.

3 The Army Corps was very helpful also.

4 When you opened up, you did say that either
5 the Governor or the department had beliefs that the
6 IJC did not act soon enough.

7 Given what we heard during the first two
8 testimonies, saying that they don't believe that
9 would have changed, I think the consensus in this
10 room is that we all believe that, maybe, if water
11 would have been increased during the outflow, some
12 of the damage may not have happened.

13 Can you give us some information that would
14 help refute what was told during the first two
15 testimonies?

16 KENNETH LYNCH: Well, I -- you know, the
17 issue of when releases should have begun, and
18 whether or not the plan allowed that flexibility, is
19 debatable.

20 But I think what's very clear is that, once
21 releases started, and we reached certain thresholds,
22 that there was a clear requirement to balance the
23 various perspectives.

24 The Governor was very clear and the
25 Commissioner was very clear that the most important

1 aspect that should have been balanced were the
2 property owners.

3 And I think that is part of the plan.

4 We heard a lot about shipping interests, and
5 we couldn't increase the flows because of shipping
6 interests.

7 The Governor and Commissioner were clear that
8 the interests of the property owners should come
9 first.

10 SENATOR RITCHIE: And do you believe that the
11 interests of Montreal was taken, potentially, at a
12 higher level than the people in this district?

13 KENNETH LYNCH: Well, certainly, there were
14 flooding impacts downstream too.

15 But I think the Commissioner's and Governor's
16 point was that, IJC, just don't look at downstream,
17 just don't just look at shipping interests.

18 We have a lot going on here on the shores of
19 Lake Ontario and New York State that you have to
20 also be very aware of, and give that as strong, if
21 not more, consideration, certainly, than some of the
22 other interests.

23 SENATOR RITCHIE: Will you be making a --
24 some kind of presentation to the federal government,
25 or at least sending on a letter, asking them to take

1 a look at this?

2 KENNETH LYNCH: Well, both the Commissioner
3 and Governor have already sent letters in respect to
4 our position that more should have been done.

5 And I would anticipate that, going forward,
6 we will work with the IJC to have them better
7 address the situation in advance of it occurring
8 again.

9 SENATOR RITCHIE: And can you just give me an
10 update on the dunes in the Sandy Pond area, where
11 we're at with the dunes there?

12 KENNETH LYNCH: As you know, Senator, we flew
13 the dune area, at least on two days, with our new
14 drone technology. We got some great footage.

15 We helped state parks do improvements and
16 stabilization to their property, which, in turn,
17 protected some of the residents behind that.

18 We've worked closely with several property
19 owners in the Sandy Pond area to get their permits
20 so they can protect their shoreline.

21 We also put out a fact sheet, with some
22 guidance to property owners on how they can help
23 protect their shorelines, and talking about both
24 hardening the shoreline and resiliency projects to
25 protect it over the long term.

1 The dunes are very dynamic. They change
2 every year whether there's flooding or not.

3 But we're here to offer our technical
4 guidance, and work specifically with, not just
5 private-property owners, but the communities in the
6 Sandy Pond area, to see if we can get better
7 protection of those dunes.

8 SENATOR RITCHIE: Thank you.

9 ASSEMBLYMAN BARCLAY: Thanks for being here.

10 I just want to echo the Senator's comments
11 about how well Dave Bimber and region -- Matt did
12 with the permitting.

13 I know Dave worked a lot of weekends and late
14 at night, and they really were very responsive.

15 So we appreciate that.

16 I don't have any real questions, Ken.

17 The only thing I would just mention, if the
18 department or the Governor would come out publicly
19 against 2014, I think that would help our cause
20 immensely.

21 I know, during the whole process, we didn't
22 hear much from state government. And I know he does
23 have the property owners in the southern and eastern
24 part of Lake Ontario, their interests, at heart.

25 So it would be nice to hear from him publicly

1 about Plan 2014.

2 KENNETH LYNCH: Okay. I'll take that back,
3 Assemblyman.

4 ASSEMBLYMAN BARCLAY: Thank you.

5 SENATOR O'MARA: Ken, can you touch on the
6 fact that we have approved, between -- negotiations
7 between the State Legislature and the Governor for
8 this \$45 million to be expended for relief and
9 damages, why there has been no FEMA declaration for
10 the damages in this flooding incident?

11 KENNETH LYNCH: Yeah, I mean, the Governor
12 made the request, I believe in June, or July, for
13 that declaration.

14 We have not seen that yet.

15 I know (indiscernible) is working closely
16 with the Governor's Office on putting together all
17 of our damages.

18 But, I'm not intimately familiar with the
19 status of that, but we have not heard back
20 definitively from FEMA at this point.

21 SENATOR O'MARA: Do you -- can you -- are you
22 in a position here tonight to outline what damages
23 we've seen at our state parks along the shoreline?

24 I know Senator Ritchie just touched on
25 Sandy Island State Park, but, there's many others as

1 well.

2 And, can you touch on what damages resulted
3 at other parks?

4 And, also, what the impact of this flooding
5 was on the activity at those parks this summer?

6 The campgrounds, was usage down, were state
7 revenue down, because of the flooding issues that we
8 had?

9 KENNETH LYNCH: Yeah, I don't have any of
10 those specific numbers for our sister agency.

11 But I do know, and I mentioned Sandy Pond,
12 and the impact that the nearby park had, and the
13 erosion of the shoreline and the considerable work
14 they had to do there.

15 I was in Fair Haven with the Senator,
16 I believe, one day, and watching the bank erode from
17 that small state park in Fair Haven.

18 I know the damage was significant.

19 I do know that, certainly, usage was down
20 because of the flooding, not only state parks, but
21 DEC had to close some of our boat launches, for
22 safety reasons, because the water was so high. Just
23 didn't know what was under the water, so we couldn't
24 have people launching in certain areas. We tried to
25 keep as many open as possible.

1 So, it was considerable across the state.

2 And I'm sure state parks could provide you
3 with some more detail.

4 SENATOR O'MARA: Which is one of the reasons
5 I wanted state parks to be here tonight, but
6 somebody else had another idea on that.

7 So, on the wetlands, and the higher levels of
8 wetlands, good environmental purposes, but, you
9 know, we've seen a lot of damage around the lake
10 this year, not just from the direct lake waves
11 hitting, but coming around from behind, in a lot of
12 cases, from these elevated wetlands.

13 KENNETH LYNCH: Uh-huh.

14 SENATOR O'MARA: What is the department
15 doing, or looking at, in regards to how to mitigate
16 those types of damages, coming in from behind, so to
17 speak?

18 KENNETH LYNCH: Yeah, you know, it's really
19 the same approach that we use from the lakeshore,
20 although, you don't have as many of the hardening
21 interests that you have on the backside.

22 But, certainly, you try to find those
23 resilient measures, that you can build natural
24 barriers to protect the individual property owners
25 while, at the same time, preserving the integrity of

1 the wetland, and making the connections between the
2 lake and the wetland as fluid as possible, if you
3 will, so that, you know, you don't have restricted
4 activity that will cause water to go in other
5 directions; for example, to neighboring properties.

6 So, it's looking holistically at the design
7 and improvements to those wetlands, to make sure you
8 can get the benefits of those wetland areas while,
9 at the same time, protect private property.

10 SENATOR O'MARA: Thank you.

11 KENNETH LYNCH: All right.

12 Thanks for having me.

13 SENATOR O'MARA: Next up, we have Chris Leo,
14 acting president of New York State Homes and
15 Community Renewal.

16 CHRIS LEO: Good evening, Senator O'Mara,
17 Senator Ritchie, Assemblyman Barclay, and
18 Assemblyman Oaks.

19 On behalf of Governor Cuomo and
20 Commissioner Visnuskas, I am pleased to offer this
21 testimony regarding New York State Homes and
22 Community Renewal's response to the Lake Ontario
23 2017 flooding.

24 In the spring of 2017, the southern coast of
25 Lake Ontario experienced historic flooding, with the

1 lake rising 30 inches above normal levels.

2 The flooding impacted the counties of Cayuga,
3 Jefferson, Monroe, Niagara, Orleans, Oswego,
4 St. Lawrence, and Wayne.

5 The Governor immediately recognized the
6 impact that this flooding would have on the region's
7 residents and businesses.

8 On May 2, 2017, the Governor declared a state
9 of emergency and deployed the National Guard and
10 other state resources to help deal with the impacts
11 of the flooding.

12 As the impact on homeowners came into
13 specific focus, Governor Cuomo announced the
14 availability of \$7 million for homeowners impacted
15 by flooding on Lake Ontario and the St. Lawrence
16 River, and directed HCR to develop programs to help
17 residents rebuild their homes.

18 At the same time, Governor Cuomo also
19 announced \$10 million in support for public
20 infrastructure repairs and \$5 million in support for
21 small businesses.

22 HCR subsequently tasked its Affordable
23 Housing Corporation to assist with its response.

24 Through AHC, HCR deployed state resources to
25 help qualified homeowners to purchase and repair

1 their homes.

2 AHC's operating model is to contract with
3 local not-for-profit corporations to conduct
4 community outreach, help with applications,
5 determine eligibility, suggest contractors, verify
6 construction, among the many services that they
7 offer.

8 For this initiative, AHC issued a request for
9 proposals. We evaluated submissions, and selected
10 the following not-for-profit organizations to
11 administer the program:

12 Sheen Housing, covering Cayuga, Monroe, and
13 Wayne counties;

14 Niagara Falls Neighborhood Housings Services
15 in Niagara County;

16 Pathstone in Orleans County;

17 And Neighbors of Watertown in Jefferson,
18 Huron, Oswego, and St. Lawrence counties.

19 Each of these not-for-profit organizations is
20 a pillar of their local communities, with the
21 expertise and a wide range of state and federal
22 housing and community-development programs.

23 Thanks to the Governor's and the
24 Legislature's bipartisan efforts, the Lake Ontario
25 Relief Bill was passed, and signed by the Governor

1 on July 6, 2017, making a total of 15 million
2 available to local homeowners impacted by the flood.

3 Homeowners that sustained flood-related
4 damage are eligible to receive up to \$50,000 in
5 reimbursements for eligible losses, including for
6 repairs to and restoration of structures, equipment,
7 and other physical damage.

8 Throughout the application period, which
9 concluded on September 29th, the not-for-profit
10 organizations conducted extensive outreach to ensure
11 that communities were aware of the resources made
12 available.

13 The not-for-profits participated in a total
14 of nearly 50 public meetings and town halls to share
15 information, answer questions, and provide
16 application assistance.

17 We recognize that this is a difficult time as
18 communities work to rebuild.

19 The not-for-profits continue to review and
20 process applications as expeditiously as possible.

21 We encourage homeowners to reach out to their
22 local not-for-profit organizations with questions
23 about their applications.

24 The Governor is committed to ensuring that
25 communities have the resources they need to complete

1 their repairs.

2 Last week, the Governor and the Legislature
3 announced that all necessary funding will be
4 available to support eligible homeowners,
5 businesses, and communities, and we will continue to
6 work hand in hand with our colleagues across state
7 government, including Empire State Development, the
8 Division of Homeland Security and Emergency
9 Services, and the Department of Environmental
10 Conservation, financial services, and tax and
11 finance, to ensure a comprehensive whole of
12 government response.

13 We are also grateful to our colleagues in
14 local government at the front lines of this
15 response, and continue to work closely with them to
16 ensure that they have the resources they need to
17 respond effectively.

18 Thank you again for the opportunity to
19 testify in this important matter.

20 We share your commitment to helping these
21 communities rebuild, and we look forward to working
22 with you in the months ahead.

23 I'd be happy to take any questions that you
24 might have.
25

1 SENATOR O'MARA: Thank you.

2 Go ahead.

3 ASSEMBLYMAN BARCLAY: Thank you.

4 How many -- do you know the number of
5 applications that were submitted?

6 CHRIS LEO: Yeah.

7 The application deadline was September 29th,
8 which was recently.

9 We received, roughly, 3400 applications. And
10 there was a big uptick as the deadline was amplified
11 towards the end of the program.

12 So these applications are now being reviewed
13 by the not-for-profits.

14 We do expect that number to drop maybe a
15 little bit, as we suspect that some of the final
16 applications that were submitted may or may not be
17 eligible.

18 So, thirty-four is a rough number.

19 ASSEMBLYMAN BARCLAY: You know, I understand,
20 when we did the legislation, with all legislation,
21 there gets to be holes, that you don't see it when
22 you're writing it. And we rely on, obviously, the
23 agencies to kind of fill in some of the, you know,
24 spaces that inevitably occur with legislation.

25 I -- I've had a lot of people reach out to my

1 office that have manufactured homes on leased
2 property.

3 CHRIS LEO: Uh-huh.

4 ASSEMBLYMAN BARCLAY: They're not eligible,
5 is your understanding, for this type of relief that
6 we're providing?

7 CHRIS LEO: Yeah, that's my understanding, is
8 that we need -- we are looking for ownership of the
9 unit and the land to qualify for --

10 ASSEMBLYMAN BARCLAY: Some of these have very
11 long-term leases. You know, it's not -- it's almost
12 like they do own it.

13 CHRIS LEO: Oh, like a 99-year lease?

14 ASSEMBLYMAN BARCLAY: Yeah. Leases --

15 CHRIS LEO: Yeah, yeah.

16 ASSEMBLYMAN BARCLAY: -- right.

17 So is there a way to relook at that, maybe?

18 CHRIS LEO: Yes, we can certainly --

19 ASSEMBLYMAN BARCLAY: I can do it more
20 formally in a letter, telling you, specifically, the
21 issues and where they are?

22 CHRIS LEO: Yes.

23 ASSEMBLYMAN BARCLAY: But -- if you would be
24 willing to look at that, because I think, if you
25 read the legislation, they may or may not have been

1 included in there.

2 But I think, when the regulations came out,
3 or -- you know, I don't know if they're official
4 regulations, whatever your decision-making on it,
5 they got left out.

6 So I would appreciate that.

7 CHRIS LEO: Absolutely.

8 ASSEMBLYMAN BARCLAY: The only other thing,
9 and it's not maybe a question, but it's more of a
10 comment:

11 I hope -- you know, when we talk about
12 Plan 2014, and some of the winners and losers in
13 this whole thing, I hope you're coordinating with,
14 and you mentioned ESDC, and just the total cost out
15 there.

16 And -- is there any hope that there's going
17 to be a report at the end of this about -- so we can
18 really track how much damage was done --

19 CHRIS LEO: Sure.

20 We're still processing, and we won't know the
21 tally on the homeowners' side. That will become
22 clearer first.

23 The application deadlines for the municipal
24 infrastructure program and the ESD small-business
25 program are at the end of December.

1 So I would expect that it would be at that
2 time that, you know, the cost would be -- come into
3 greater focus.

4 ASSEMBLYMAN BARCLAY: And you mentioned the
5 fact that the Governor is trying to reach agreement
6 to add more money to this program.

7 CHRIS LEO: Yes.

8 ASSEMBLYMAN BARCLAY: Do -- can you opine on
9 how much money is needed?

10 CHRIS LEO: Well, based on our estimates for
11 the homeowner portion, I believe that the total of
12 \$50 million, so that would be what we have already,
13 plus the additional funding that I believe was
14 agreed to by the Legislature.

15 ASSEMBLYMAN BARCLAY: So you're comfortable
16 with that?

17 CHRIS LEO: I am comfortable with that
18 number.

19 We've been having weekly meetings with the
20 not-for-profits, and we're almost getting live-time
21 reporting on kind of what the damage estimates are.

22 So we're fairly confident with that number.

23 ASSEMBLYMAN BARCLAY: Okay.

24 Thank you.

25 SENATOR RITCHIE: Can you tell me how many

1 applications have been funded up to this point out
2 of the 3400? Do you have that number with you?

3 CHRIS LEO: Out of the, roughly,
4 3400 applications that we've received, right now
5 I would say just over 60 percent have been reviewed
6 and processed by the not-for-profits.

7 They've conducted, roughly, 1,000 site
8 visits.

9 And we are looking, so far, at disbursements,
10 roughly, \$3 million to date.

11 You know, as the application deadline
12 approached, the not-for-profits had to focus their
13 resources on actually processing the applications.

14 So we fully expect them now to pivot towards
15 recovery, to see the rate of expenditures increase.

16 SENATOR RITCHIE: I know in the beginning you
17 were focusing on primary homes --

18 CHRIS LEO: Uh-huh.

19 SENATOR RITCHIE: -- which, of course, is
20 something that's critical.

21 CHRIS LEO: Absolutely.

22 SENATOR RITCHIE: Because we were all worried
23 that there was not going to be enough funds in
24 place.

25 Now, with last Friday's announcement, will

1 you start looking at secondary homes, and also
2 shoreline stabilization, to be funded at the same
3 time, instead of putting them further down the list?

4 CHRIS LEO: Sure, absolutely.

5 In regards to prioritization, obviously,
6 primary homes, where it was an issue of habitability
7 of the home, would be a top priority.

8 But as far as lakeshore hardening, if that
9 proved to be an imminent threat to the home, then
10 that would have received a higher priority.

11 So we are trying to work both in tandem.

12 What we're finding here is, you know, there
13 is a bit of a contractor shortage that we are trying
14 to deal with here.

15 And that was one of the side benefits of
16 having these not-for-profits, is some of them have
17 wide coverage areas where they are able to bring
18 more contractors into the picture.

19 So we are working on the issue.

20 SENATOR RITCHIE: So at this point, given,
21 now, all the applications are gonna -- going to be
22 in at the same time --

23 CHRIS LEO: Uh-huh.

24 SENATOR RITCHIE: -- will you be hiring or
25 putting on extra temporary staff to deal with the

1 applications, to get the money out as quickly as
2 possible?

3 CHRIS LEO: We won't hire necessarily at HCR.

4 And the not-for-profits know that if they
5 need resources to fully meet the, you know,
6 customer-service expectations, quite honestly, of
7 the Legislature and Governor, that they are free to
8 do so.

9 SENATOR RITCHIE: And are you keeping track
10 of how quickly the actual check disbursements are
11 going out?

12 CHRIS LEO: Yes, absolutely, we are.

13 And, you know, it's worth noting that the
14 legislation was signed on July 6th.

15 We started -- the not-for-profits started
16 issuing checks in the last week in -- in, basically,
17 the first week of August.

18 So, you know, we hope now, as -- again, as
19 I mentioned earlier, that as the initial intake of
20 applications and review of those applications
21 subsides, that you will see an uptick in the
22 delivery of funds.

23 SENATOR RITCHIE: Okay.

24 Thank you.

25 SENATOR O'MARA: You said you had a big

1 uptick in the applications towards deadline.

2 CHRIS LEO: Uh-huh.

3 SENATOR O'MARA: Do you see any need to open
4 up that deadline a little bit longer, to allow those
5 that might have not gotten to it?

6 CHRIS LEO: I think that the message was
7 fairly well amplified and advertised before.

8 You know, if there are homeowners who feel
9 that, if they were denied for some reason, or if
10 there is some special case that they would seek to
11 make, there is an appeals process that homeowners
12 can avail themselves of.

13 But I don't see a need right now to open that
14 up.

15 SENATOR O'MARA: With second homes, I've
16 heard diverging opinions on the multiple-owner
17 situation --

18 CHRIS LEO: Yes.

19 SENATOR O'MARA: -- and the income threshold,
20 (indiscernible).

21 Can you tell us how that is working?

22 CHRIS LEO: We -- we've heard the same
23 confusion, where the -- just to settle on the policy
24 now: When there is more than one person on the deed
25 of the home, an owner will be eligible for

1 assistance so long as no individual, or married
2 couple if they file their taxes jointly, on the deed
3 has an income of more than \$275,000 in the
4 taxable-year 2016. The applicant need not be the
5 individual with the highest income among those on
6 the deed.

7 So, essentially, you know, we will look, to
8 check the income of the owner submitting the
9 application.

10 They would need to provide their tax returns
11 so that we can make sure that they're within the
12 income threshold set forth in the legislation. And
13 then there would just be a certification that no
14 other owner of the property makes more than the
15 threshold limit of \$275,000.

16 [Inaudible comments from the audience.]

17 SENATOR O'MARA: So -- yeah, can you speak
18 closer to the microphone?

19 CHRIS LEO: Oh, I'm sorry.

20 Sure.

21 SENATOR O'MARA: So now that the
22 interpretation is, you're not just checking the
23 income of the -- one of multiple owners, the one
24 applying, you're not just checking theirs -- their
25 income?

1 CHRIS LEO: We would just check -- I'm sorry.
2 We would just check the income of the person
3 submitting the application.

4 SENATOR O'MARA: Okay. But I thought you
5 just said that you would then certify that no of the
6 other owners made more than \$257,000 --

7 CHRIS LEO: Then they would be asked to
8 certify that no other owner makes more than
9 \$275,000.

10 SENATOR O'MARA: So if one of the owners
11 makes more than \$275,000, their property is not
12 eligible?

13 CHRIS LEO: That's our interpretation of the
14 legislation, yes.

15 SENATOR O'MARA: Do you think that that
16 income threshold is necessary, to have it in there
17 at all?

18 CHRIS LEO: I believe that there should be
19 some threshold on second homes.

20 I mean, it was lifted for primary homes,
21 where we are certainly dealing with issues of people
22 becoming homeless.

23 And we understand that a lot of these
24 secondary homes are legacy cottages.

25 You yourself mentioned earlier, you know, how

1 special that residence was to you.

2 But we do feel that there should be certain
3 cost controls in place as we're giving out this
4 assistance.

5 SENATOR O'MARA: Well, I happen to disagree
6 with that. And if somebody has damage to their
7 property from something that, in this case, was at
8 least partially government-aggravated, anyways,
9 I don't agree with that threshold on that.

10 But, I want to move on to the businesses.

11 CHRIS LEO: Yes.

12 SENATOR O'MARA: I've heard multiple
13 complaints from businesses in the area here about
14 the process being onerous, voluminous documentation
15 being required to be provided, that many businesses
16 are just opting to not pursue it, because of that.

17 And I understand that the business
18 applications for relief were, pretty much, below
19 what was anticipated.

20 Is that correct?

21 CHRIS LEO: It's my understanding.

22 But, again, the deadline for that
23 applications has not expired yet, so there is still
24 time for applications to be submitted.

25 SENATOR O'MARA: What is the deadline for

1 that?

2 CHRIS LEO: I believe it's the -- the end of
3 December, December 29th.

4 SENATOR O'MARA: Can you outline for us,
5 generally, what is required of a business to
6 provide?

7 CHRIS LEO: You know, I'm sorry, it's not my
8 area of expertise, so I cannot.

9 But I can -- you now, we have conferred --
10 and we know that you have concerns, Senator.

11 I know that we have brought them back to ESD,
12 and my colleagues at ESD are working on streamlining
13 that.

14 SENATOR O'MARA: I've heard concerns that a
15 1099 would be issued to the grant recipient.

16 Can you discuss that?

17 CHRIS LEO: Yes.

18 We've certainly looked into that issue in
19 regards to the 1099s.

20 Again, I would defer to my colleagues at ESD.

21 But it's my understanding that the small
22 business recovery program will be sending 1099s to
23 grant recipients, and that that's consistent with
24 federal law.

25 So that there has been -- we've understood

1 those concerns, but we think now it's a matter of
2 federal law.

3 SENATOR O'MARA: Is that just to businesses,
4 or is that to property --

5 CHRIS LEO: It's just to businesses,
6 actually. So it does specifically state for
7 businesses. But that --

8 SENATOR O'MARA: So they'll get a 1099 for
9 the grant and be taxed on that?

10 CHRIS LEO: It's my understanding that that's
11 consistent with the federal law, sir.

12 SENATOR O'MARA: I've also heard, in regard
13 to the business process, that a business owner is
14 not allowed to get reimbursement for having paid
15 their employees to do some of the recovery work.

16 CHRIS LEO: Uh-huh.

17 SENATOR O'MARA: Is that being reviewed?

18 CHRIS LEO: Well, again, you know, it's not
19 with the ESD program, but we have consulted with our
20 colleagues there. And I believe that -- well,
21 actually, I'm not sure.

22 I would have to get back to you.

23 I don't know the answer to that, about the
24 labor issue.

25 SENATOR O'MARA: It was my understanding

1 that -- and you're talking about ESD (Empire State
2 Development). Correct?

3 CHRIS LEO: Yes. Uh-huh.

4 SENATOR O'MARA: And it was my understanding
5 somebody was coming this evening, but, nobody is on
6 this witness list today.

7 So, do you know what happened there?

8 CHRIS LEO: No, I don't.

9 I was never aware that ESD was invited to
10 attend.

11 SENATOR O'MARA: I've also heard, with
12 regards to the business program, that a business
13 that paid cash for supplies, materials, or wages, is
14 not eligible to be reimbursed, even if they have
15 receipts?

16 CHRIS LEO: Right.

17 Well, there, I do have news for you, sir.

18 That the ESD has clarified that cash payments
19 will, in fact, be eligible for assistance as long as
20 those payments can be verified.

21 SENATOR O'MARA: Okay.

22 Thank you.

23 CHRIS LEO: Thank you, sir.

24 SENATOR RITCHIE: I have one follow-up
25 question.

1 Just one with follow-up question.

2 CHRIS LEO: Yes.

3 SENATOR RITCHIE: I know that we've had many
4 conversations over the multiple dwelling.

5 And I appreciate the Governor and his staff
6 making sure that what was agreed to was how this is
7 unfolding now.

8 My only concern is that, there probably are
9 some individuals who came to a workshop, who were
10 told they were eligible, and then went to apply, and
11 found out that, you know, 10 members had to turn in
12 their tax returns, and they decided not to do it.

13 So, for those individuals, how do we get the
14 information out to them, since that changed?

15 And, is the deadline now extended so that
16 they can make sure their application is included?

17 CHRIS LEO: Sure.

18 I'd like to assure you that any homeowner who
19 was either given incorrect information or had an
20 incorrect understanding of the regulations, and did
21 not submit an application because of that, will be
22 eligible to apply.

23 We'd like to direct them to, kind of, our
24 appeals process, and that can start as simply as
25 sending an e-mail to LakeOntario@nyshcr.org, at

1 which point we will consider, kind of, their
2 circumstances, and allow them access to the program,
3 should they be eligible.

4 SENATOR RITCHIE: And do you have any way to
5 actually disseminate this information, so that if
6 they don't come to the flood hearing tonight, that
7 they would have access to the change in the
8 regulations?

9 CHRIS LEO: Absolutely.

10 One of the benefits of working with the
11 not-for-profits is they have lists of all the
12 people.

13 SENATOR RITCHIE: They have lists.

14 Okay.

15 CHRIS LEO: HCR, also my office, received
16 1,000 calls the first three weeks, so we also have a
17 robust contact list.

18 And we would be more than happy to send
19 emails to every person that we have on our list and
20 the not-for-profit's lists.

21 SENATOR RITCHIE: And I would be interested
22 in that appeals process, how that is actually going
23 to work, and how many people apply for an appeal.

24 CHRIS LEO: Oh, absolutely, we will keep
25 track.

1 We've received, I think, four or five appeals
2 so far.

3 We expect that to increase as the processing
4 of the applications continues, and ends.

5 So we will --

6 SENATOR O'MARA: Up to the microphone,
7 please.

8 CHRIS LEO: Oh, sorry. Yes. I apologize.
9 Yes, we will actually keep track, and let you
10 know.

11 SENATOR RITCHIE: Thank you.

12 CHRIS LEO: Yes.

13 SENATOR O'MARA: Thank you very much for
14 coming this evening.

15 CHRIS LEO: Thank you, sir.

16 Next up is Frank Sciremammano.

17 LT. COL. ADAM CZEKANSKI: Senator O'Mara,
18 sorry to jump in again here, but I want to correct
19 the record real quick before Frank takes the stand.

20 SENATOR O'MARA: Sure.

21 LT. COL. ADAM CZEKANSKI: So you had asked me
22 earlier if the corps was involved in the development
23 of Plan 2014.

24 So, my colleagues just corrected me.

25 So the Buffalo District did provide some

1 technical assistance during the study phase that was
2 occurring. And then our headquarters, the Great
3 Lakes and Ohio River Division, did have a little
4 more direct involvement in the development of that
5 plan.

6 So I apologize for the confusion.

7 I just wanted to set the record straight.

8 SENATOR O'MARA: Okay.

9 Thank you.

10 Frank Sciremammano is a Ph.D., professional
11 engineer --

12 FRANK SCIREMAMMANO, JR.: I'm sorry?

13 SENATOR O'MARA: "PE," is that professional
14 engineer?

15 FRANK SCIREMAMMANO, JR.: Yes.

16 SENATOR O'MARA: Yeah.

17 -- with F-E-S Associates, a retired professor
18 of engineering at Rochester Institute of Technology,
19 and International Lake Ontario-St. Lawrence River
20 Board.

21 Thank you for being here this evening.

22 FRANK SCIREMAMMANO, JR.: Good afternoon, or
23 I guess this is good evening at this point.

24 I apologize.

25 I probably should have talked earlier when we

1 were talking about Plan 2014, rather than the grant
2 process, because I won't be dealing with that,
3 obviously.

4 SENATOR O'MARA: I agree.

5 FRANK SCIREMAMMANO, JR.: So, again, my name
6 is Frank Sciremammano, Jr. I'm a retired full
7 professor of engineering at RIT, and a principal at
8 F-E-S Associates in Rochester, New York.

9 Of more relevance to this hearing, I'm
10 currently, and have been since 1995, a member of the
11 International Lake Ontario-St. Lawrence River Board,
12 which was formerly called "The International
13 St. Lawrence River Board of Control."

14 I am now the senior member on that board,
15 over 20 years, dealing with this issue directly.

16 I also served, from 2000 to 2006, on the IJC
17 Lake Ontario-St. Lawrence River Study Board, which
18 examined and reported on alternative methods for
19 regulating outflows from the lake.

20 And Bill gave you -- Bill Werick gave you
21 some history on that.

22 I will fill in some of the holes that he left
23 out.

24 And for the record, I do not live on the
25 lakeshore. I live 10 miles in.

1 I do not have any financial interest in
2 property or businesses on the shoreline.

3 So you can think of it as a hobby, if will
4 want. More of an academic interest.

5 Today I speak as an individual.

6 I want to be very clear, I'm not speaking on
7 behalf of the Lake Ontario-St. Lawrence River Board,
8 I'm not speaking on behalf of the IJC, or any other
9 organization.

10 Mr. Stephen Durrett did speak on behalf of
11 the board, and I generally concur with his formal
12 statement, although, I do have some different
13 answers to some of your questions than he had.

14 Let me start by stating very clearly, that
15 Plan 2014 did not cause the flooding experienced
16 this year on Ontario.

17 However, it's also just as clear that
18 Plan 2014 did not protect against extreme water
19 levels on the lake, as was stated by the IJC, while
20 promoting Plan 2014.

21 Further, I would argue that Plan 2014 is not
22 capable of protecting against extreme levels on
23 Lake Ontario, because the entire plan is purposely
24 biased to protecting the downstream areas of the
25 St. Lawrence River at the expense of the shoreline

1 communities of Lake Ontario, and especially those
2 along the south shore of the lake in Western
3 New York.

4 Further, Plan 2014 does tie the hands of the
5 board in dealing with taking preventive measures and
6 dealing with lake levels, until it's too late to
7 avoid them.

8 I want to be very clear on that.

9 As opposed to Plan '58D, the board is
10 prohibited from taking -- making deviations that
11 will benefit the lake, although we're allowed to
12 take deviations that will benefit others.

13 The only time we're allowed to do it is after
14 we hit the trigger levels, and at that point,
15 I would argue it's much too late.

16 To illustrate how this bias was created in
17 Plan 2014, I want to give you a short summary of how
18 Plan 2014 came about.

19 In 1999, the IJC appointed a study board, of
20 which I was a member, and Dr. Dan Barletta who's in
21 the audience, to examine the whole issue of outflow
22 control on the St. Lawrence.

23 The study acted in a transparent, open, and
24 public way to develop guidelines, and to come up
25 with recommendations to the IJC, which were

1 contained in a report delivered in March of 2006.

2 The study recommended consideration of three
3 plans:

4 Plan A+, the economic plan, maximized
5 economic benefits.

6 Plan B+, the environmental plan, maximized
7 the environmental benefits.

8 Plan D+, the balanced plan, which as the name
9 implies, balanced these things.

10 Plan 2014, and I want to be very clear about
11 this, Plan 2014 is not one of the recommended plans
12 from the IJC study, and, in fact, it violates three
13 of the principal guidelines of that study.

14 Those guidelines stated that, if damages
15 result from any plan, they should not fall
16 disproportionately on any one geographic area or
17 interest group.

18 Well, almost all the damages from Plan 2014
19 fall to the Lake Ontario shoreline, with a smaller
20 damage to boating in the Thousand Islands area.

21 But it's, basically, all to Lake Ontario and
22 the Thousand Islands.

23 All other geographic areas and interests are
24 held harmless or benefit.

25 The guidelines also state, that if damages

1 are anticipated, mitigation and compensation
2 measures should be in place prior to implementation.

3 Plan 2014 has none.

4 Finally, the guidelines state, that any plan
5 should be developed in an open process with wide
6 public participation.

7 Plan 2014 was developed in secret by a group
8 that only consulted with environmental advocates.

9 So how did this all happen?

10 Well, after the study was completed, the IJC
11 announced the proposed new order and plan that
12 consisted of a revised Plan D+ from the study.

13 That was the balanced plan.

14 They renamed it Plan 2007, and then 2008, and
15 they stated at that time, quote, Plan 2008 is an
16 improvement with respect to the environmental and
17 overall economic benefits, and takes a more balanced
18 approach to all interests.

19 They further stated that: The environmental
20 benefits of Plan B+, the environmental plan, are
21 desirable, but implementation of Plan B+ is not
22 possible, quote, without unduly reducing the
23 benefits and protections currently accorded to other
24 interests, so that the environmental plan would
25 cause too much damage.

1 After holding public hearings, and facing
2 demands from environmental groups and the
3 New York State DEC --

4 I see the assistant, or, whatever,
5 commissioner, has left.

6 -- but, they demanded that the environmental
7 plan would be the only thing acceptable to them.

8 So the IJC withdrew its proposal, and formed
9 a new secret working group of representatives only.

10 They worked in secret. Nobody knew who was
11 on the committee. Nobody knew when they met. No
12 minutes. No freedom of information.

13 After a while they came out with a new
14 version of Plan B+, which they recommended, which
15 was termed "Bv7" for Plan B, Version 7.

16 After some further secret negotiations, the
17 working group came up with Plan 2014, which is just
18 Plan Bv7, but with a slight modification to add
19 trigger levels.

20 When I examined Plan Bv7 and Plan 2014,
21 I found that the environmental benefits were almost
22 the same as the original Plan B+.

23 And I'll direct your attention to the graphs
24 I have --

25 I would have put them up here. I wasn't sure

1 you had a projector available.

2 -- on the back of my -- the last page of my
3 testimony.

4 I have the environmental benefits of the
5 plans: B+ from the study, Bv7, and 2014 from the
6 secret negotiations.

7 They're almost identical, the environmental
8 benefits.

9 However, if you look at the damages to the
10 coastal areas, both downstream on Lake Ontario --
11 or, upstream on Lake Ontario, and downstream on the
12 lower river, Plan B+, because of the guidelines from
13 the study, distributed the damages between the two,
14 and they were almost equal.

15 However, Bv7 and Plan 2014, all the damages
16 are to Lake Ontario, and the downstream areas have
17 none.

18 So why did that happen?

19 I believe this was the result of the fact
20 that the Providence of Quebec stood up for its -- by
21 its commitments -- stood by its commitment that its
22 citizens in downstream areas of the St. Lawrence
23 should receive no less protection under any new plan
24 than they did under the previous plan of operation,
25 1958D.

1 As a result, all the damages were shifted to
2 the lake.

3 And, apparently, the New York State
4 government representatives, and in particular, the
5 New York State DEC, that were on the secret working
6 group were fine with this shift.

7 The shift is clearly illustrated in the
8 graphs that I have attached.

9 The environmental benefits again remain the
10 same, yet the damages to Lake Ontario were increased
11 dramatically, and those to the lower St. Lawrence
12 River were eliminated.

13 I'll give you just one example in which the
14 way Plan 2014 achieved this shift.

15 The F limit that Mr. Durrett talked about,
16 that we worked under during April and May, seeks to
17 balance flooding between downstream and upstream.

18 True.

19 However, the downstream level has a
20 not-to-exceed maximum. We can't go over that.

21 Lake Ontario has no maximum.

22 So this spring, while we held their levels
23 steady, by either maintaining low flows or reducing
24 flows dramatically, Lake Ontario jumped
25 28 centimeters, almost a foot.

1 And this was done to hold the downstream
2 level to its maximum; thus, downstream is protected
3 while Lake Ontario is not.

4 There are other ways, both subtle and not-so
5 subtle, in Plan 2014, that show its imbalance, with
6 a bias against protection for the shoreline
7 communities of the lake.

8 And I would be happy to explain these to you
9 in an appropriate forum, with sufficient time,
10 because it takes a while.

11 Let me just summarize by stating that:

12 Contrary to many of the IJC's statements,
13 Plan 2014 will not protect from extreme levels on
14 Lake Ontario.

15 Further, in my opinion, the primary
16 responsibility for this lies with the New York State
17 government, in the form of the New York State DEC
18 and the current administration which negotiated
19 Plan 2014. And if they didn't approve it, they at
20 least acquiesced in it.

21 They didn't stop it.

22 Whenever I point out the inequities in the
23 plan to my colleagues, I'm told, simply, that my
24 New York State government negotiated and approved
25 the plan, so what's the problem?

1 I thank you for your time today.

2 I invite you to look further into this
3 matter.

4 If New York State does not act forcefully to
5 modify the terms of Plan 2014, you should be
6 prepared to budget continuing sums of State funding
7 to address the direct damages and the economic
8 degradation of our shoreline communities that will
9 result from future operations under 2014.

10 Again, I'm happy to answer any questions you
11 might have.

12 You may get slightly different answers than
13 you got earlier.

14 [Applause.]

15 SENATOR O'MARA: Do you want to start?

16 Go ahead.

17 ASSEMBLYMAN BARCLAY: Thank you for your
18 testimony. It's been very enlightening.

19 And as I told you earlier, I was able to see
20 you on that Facebook video that you did with the
21 Democratic & Chronicle, so that helped -- it gave me
22 a great perspective of your opinion too.

23 Just for this year's flooding, could anything
24 have been done to prevent the flooding, or make it
25 less than what it turned out to be, by the control

1 board?

2 FRANK SCIREMAMMANO, JR.: Not, in my opinion,
3 to prevent it completely.

4 We would have had flooding under the old
5 plan, under this plan.

6 We may have been able to make a difference of
7 a few inches, especially on the rising part of it.

8 And as you heard from the DEC commissioner,
9 who was speaking about shipping, we may have been
10 able to get it down a little quicker, but only at
11 the expense of stopping the St. Lawrence Seaway from
12 operating.

13 So I think, within a few inches, we probably
14 would have had the same flood.

15 ASSEMBLYMAN BARCLAY: Right.

16 You know, I find your testimony interesting.

17 Potentially, it could get you in trouble, I
18 guess, with various parties that may have a
19 different opinion, and this goes back to my original
20 question.

21 I'm a little confused about the whole
22 hierarchy of how this works.

23 I understand the control board answers to the
24 IJC.

25 But how are -- how -- who's on the control --

1 how many people are on the control board?

2 How are you appointed?

3 Can you get fired from the control --

4 I suppose you could get fired.

5 How does this work?

6 FRANK SCIREMAMMANO, JR.: So here's how it
7 works:

8 The IJC, six members: three U.S., three
9 Canadian.

10 On the U.S. side is presidential appointees,
11 so they turn over with the administration.

12 One is full-time, the chair; and the others
13 are part-time.

14 They appoint the control board.

15 They have 18 boards, because they deal with
16 the boundary orders from coast to coast.

17 We're one of the more controversial ones, so
18 we have a large membership, 10 members. We're
19 appointed on the base -- by the IJC, and we serve at
20 their pleasure, on the basis of our personal and
21 professional capacities, not to represent any one
22 group.

23 We can be fired, and we can be terminated, at
24 any time.

25 And I fully expected to be terminated when

1 I came out in opposition of Plan 2014 strongly, but,
2 they reappointed me. And, so, I'm trying to work
3 with it.

4 The IJC sets the policies, adopts the plan,
5 and we implement. So we're the guys turning the
6 crank, if you will.

7 ASSEMBLYMAN BARCLAY: Right.

8 FRANK SCIREMAMMANO, JR.: And Plan 2014 does
9 not allow us to deviate the way Plan '58D did,
10 I think I mentioned that, until we hit the trigger
11 levels.

12 ASSEMBLYMAN BARCLAY: Right.

13 FRANK SCIREMAMMANO, JR.: And to me, that's a
14 real problem.

15 ASSEMBLYMAN BARCLAY: I think from your
16 testimony, the thing that I was most surprised, and
17 maybe hadn't heard, is the fact that the
18 environmental benefits of Plan 2014 aren't that more
19 superior than the other potential plans out there.

20 FRANK SCIREMAMMANO, JR.: Well, it was not
21 different than the environmental plan that was
22 recommended, which distributed the damages.

23 ASSEMBLYMAN BARCLAY: Okay.

24 FRANK SCIREMAMMANO, JR.: So the
25 environmental benefit was the same, but the damages

1 were all shifted to the lake.

2 ASSEMBLYMAN BARCLAY: Okay. All right.

3 FRANK SCIREMAMMANO, JR.: But the
4 environmental benefit was greater than Plan D, which
5 was the balanced plan, which had environmental
6 benefits, but not to the same extent.

7 So Plan D --

8 ASSEMBLYMAN BARCLAY: So was the -- who
9 they -- what I'm getting at, because I've heard, you
10 know, the issue is, Plan 2014 was implemented at the
11 behest of the environmentalists.

12 So -- but they -- they probably want to
13 (indiscernible) -- they like the environmentalists'
14 plan anyways.

15 So, I guess I'm not misled by the fact that
16 they were pushing -- they didn't care about the lake
17 interests, or maybe the shipping interests of the
18 St. Lawrence. They didn't have Quebec.

19 They really just cared about the
20 environmental issues, so they would have gone with
21 Plan 2014 --

22 FRANK SCIREMAMMANO, JR.: Well, they
23 represented --

24 ASSEMBLYMAN BARCLAY: -- over the
25 environmentalists' plan?

1 FRANK SCIREMAMMANO, JR.: -- but they
2 represented the entire state in the secret
3 negotiations.

4 ASSEMBLYMAN BARCLAY: Right.

5 FRANK SCIREMAMMANO, JR.: They didn't
6 represent just the DEC and just the environmental
7 groups.

8 They should have represented the homeowners,
9 the businesses, along the lake and along the river
10 as well. And that was absent.

11 My understanding, again, this was a secret
12 process.

13 I got some secondhand accounts of what went
14 on. And, basically, you know, this area was sold
15 down the river, in my opinion.

16 ASSEMBLYMAN BARCLAY: Well, certainly, you
17 can say, from the Governor's Office, there was
18 certainly a lot of -- I don't know what happened
19 behind the scenes, but there was, certainly, nothing
20 done publicly.

21 I never heard them come out against any of
22 the plans, or, obviously, endorse any of the plans.

23 But, you know, I've read and seen that they
24 had to have some sort of tacit type of approval on
25 it.

1 Did they go -- what other -- was it,
2 I guess -- New York is the only one affected,
3 I guess, by this plan. Right? There's is no other
4 governmental --

5 FRANK SCIREMAMMANO, JR.: That's right.

6 It's New York, province of Quebec, and
7 province of Ontario, and then the two federal
8 governments, that's who was negotiating.

9 ASSEMBLYMAN BARCLAY: Right.

10 FRANK SCIREMAMMANO, JR.: That's who were
11 negotiating.

12 And, again, I repeat, Quebec stood up for
13 their citizens. They said, We will not accept any
14 more damage.

15 New York State, from what I heard, said,
16 Fine.

17 ASSEMBLYMAN BARCLAY: Hmm.

18 All right.

19 Thank you very much.

20 SENATOR RITCHIE: Could you just explain to
21 me, when you're talking about being able to deviate,
22 that's the question we asked numerous times, and got
23 a different answer?

24 So could you explain that?

25 FRANK SCIREMAMMANO, JR.: So I'll try and be

1 clear.

2 Under '58D, the board could deviate from --
3 the plan is just a calculation. It tells you how
4 much water to let out every week.

5 And so, under '58D, we were allowed to
6 deviate from the plan, higher or lower, in response
7 to our providing a benefit for one interest group if
8 we didn't significantly harm another.

9 That was the old way.

10 Under Plan 2014, we are not allowed to
11 deviate from the calculated value -- so the computer
12 program runs the show -- unless we go above the
13 trigger level or below the lower trigger level;
14 except, we can deviate for a request from the River.

15 If a ship is coming into Montreal, then we're
16 allowed to deviate.

17 This weekend we did a deviation to allow boat
18 haul-outs on Lake St. Lawrence.

19 Now, generally, those are fairly minor.

20 But I think the whole idea that we can
21 deviate for everybody else, except the lake, just
22 grates on me a bit.

23 And, again, we cannot deviate until we
24 actually hit the trigger.

25 We could have a perfect forecast, a month in

1 advance, that we're going to exceed the trigger.

2 We're not allowed to do anything, until we
3 hit it.

4 And that's in the order, and it says that
5 can't be changed unless they go back to the
6 governments and get approval.

7 So, that's a hard-and-fast.

8 SENATOR RITCHIE: So do you believe, if that
9 authority still existed, that it would have helped
10 the situation this year?

11 FRANK SCIREMAMMANO, JR.: Again, I think this
12 it might have helped.

13 It's hard to judge what actions the board
14 would have taken and when.

15 But the most difference it would have made
16 was a few inches, I believe, because things did
17 happen very quickly in the month of April.

18 SENATOR RITCHIE: So do you believe, in the
19 future, without that ability to deviate, that you
20 could end up with flooding in a year that, maybe,
21 flooding is not something that would happen?

22 FRANK SCIREMAMMANO, JR.: I do.

23 I believe it's true, and especially with the
24 bias in the plan with the F limit.

25 I believe that, even without the flooding

1 downstream on the Ottawa, we could have a problem in
2 future, and the board could see it coming, and
3 wouldn't be able to do anything.

4 SENATOR RITCHIE: And so I assume you do
5 believe that Montreal's interests were taken over
6 this area's interest?

7 FRANK SCIREMAMMANO, JR.: I think they
8 were -- they were taken over that in the development
9 of Plan 2014, and it has to do with the
10 representation and the secret negotiations that went
11 on, in my opinion.

12 SENATOR RITCHIE: Thank you.

13 FRANK SCIREMAMMANO, JR.: And that nobody was
14 there standing up for New York State beyond the
15 wetlands, if you will.

16 SENATOR RITCHIE: Thank you.

17 ASSEMBLYMAN OAKS: In some of the discussions
18 today, or comments back to us, I was given some hope
19 that, you know, there's analysis.

20 We had the event. We've been through that.
21 Analysis is going to take place. We're gonna get a
22 report. And, that we might have some changes in the
23 way things -- you know, what we learned from that,
24 we can move forward with that information, make some
25 changes, and go forward.

1 But, in some of your remarks you were just
2 making, of the -- how you're constrained on the
3 control board, you're saying it's written into the
4 plan. It's not something that simply,
5 administratively, we can do this better if we do
6 something -- you're not going of be able to make
7 that change without Plan 2014 itself being amended?

8 FRANK SCIREMAMMANO, JR.: That's my
9 understanding, the way it's written.

10 Not only that, the IJC can't make a change in
11 our deviation authority until they go back to
12 governments and ask.

13 But I am hopeful.

14 You know, I do not believe 2014 will be
15 thrown out, and it does have some good features. It
16 does bring it up to date, it's more modern than
17 '58D.

18 But, I've already suggested some changes.

19 One: The F limit needs to be extended so
20 that the lake and the river are balanced better in a
21 high-water event.

22 Number two: I think the board should have
23 discretion to deviate if we have a good forecast.

24 And we do probabilistic forecasts that go out
25 six months.

1 But, you know, in a month forecast, on six
2 weeks, if we have a good forecast, where we're going
3 to see the trigger level, then maybe we should be
4 able to deviate at that point, instead of waiting
5 till we actually get above it.

6 And, in addition, I think the trigger levels
7 are set too high, and I had pointed that out in the
8 hearings.

9 [Applause.]

10 FRANK SCIREMAMMANO, JR.: On the upper end,
11 they're set at the 2 percent level. At the bottom,
12 95 percent.

13 You see a bias right there against high
14 water.

15 And, when we pointed that out at the
16 hearings, the answer I got is: Well, we tried
17 5 percent, we tried 1 percent, we tried...

18 But, the group, the secret working group,
19 didn't feel the environmental benefits were adequate
20 then.

21 So my question was: Who was at the table
22 saying that the damages were too much with the
23 2 percent?

24 Nobody.

25 ASSEMBLYMAN OAKS: Thank you.

1 [Technical difficulties.]

2 [No audio or video.]

3 FRANK SCIREMAMMANO, JR.: [No audio or
4 video]... A year earlier, the level was exactly the
5 same at the end of the winter.

6 The board took no action at that point.

7 We looked at the snowpack.

8 We looked at what had been happening, in
9 terms of the precipitation figures, and whatever
10 outlooks we could find.

11 We decided in 2016 not to take any action.

12 In 2017, there was really no discussion
13 because we didn't have that authority.

14 So it's hard to say what the board would have
15 done at that point.

16 But, no, that was not an unusual -- it was
17 not unusual to be about 11 inches above average,
18 given the warm, wet winter. We had very little
19 snowpack.

20 So, the anticipation was, that all that
21 runoff that we would normally get in April, say, was
22 already in the lake.

23 SENATOR O'MARA: What -- can you talk a
24 little bit about Lake Erie levels, and that's been
25 high for several years, and that's impact on what

1 we're dealing with here on Lake Ontario?

2 FRANK SCIREMAMMANO, JR.: Yeah, I can't give
3 you the exact figures.

4 It was high, but it wasn't unusually high.
5 And the supply from Lake Erie, while above average,
6 was nothing that we were super-concerned about,
7 because it wasn't that much above average.

8 And, again, that's just the kind of action,
9 that we're prohibited from taking any action at that
10 point. Even if we saw Lake Erie very, very high,
11 we're not allowed to do anything until we hit the
12 trigger level.

13 SENATOR O'MARA: Yes.

14 Again, back to these negotiations, just to
15 clarify for me:

16 So they started around 2008.

17 What was the end time frame of that --

18 FRANK SCIREMAMMANO, JR.: You know, I don't
19 know for sure. It was all secret.

20 We had no way of even finding out they were
21 meeting, and who was on the group.

22 So I would ask the IJC these questions. Or,
23 the State of New York, because they participated
24 fully on it. They had representatives on this
25 negotiating team.

1 I can't give you precise dates.

2 It's roughly that time frame, roughly, 2008,
3 2009, ending up around 2012, '13.

4 SENATOR O'MARA: Thank you.

5 We definitely should have had you testify
6 earlier.

7 However, we hope you will be at our next
8 forum.

9 FRANK SCIREMAMMANO, JR.: Anytime.

10 I appreciate the opportunity, and I thank you
11 for taking up this issue, and I hope you will follow
12 up on it.

13 [Applause.]

14 SENATOR O'MARA: Next we have Mary Austerman
15 from the New York Sea Grant, Wayne County
16 Cooperative Extension.

17 MARY AUSTERMAN: Good evening.

18 My name is Mary Austerman, and I'm the
19 coastal community development specialist for
20 New York Sea Grant.

21 I would like to thank the Senate Standing
22 Committee on Environmental Conservation,
23 particularly Senators O'Mara and Ritchie, for
24 the invitation to testify on the impacts of the
25 2017 Lake Ontario record high water level event.

1 New York Sea Grant is one of 33 state
2 sea-grant programs in the United States, and is a
3 cooperative program of the State University of
4 New York, Cornell University, and NOAA.

5 As an extension professional with New York
6 Sea Grant, it is my job to provide science to my
7 stakeholders that will allow them to make better
8 informed decisions.

9 My comments today are intended to provide
10 preliminary results from the 2017 Lake Ontario
11 High Water Level Impact Survey coordinated by
12 Cornell University and New York Sea Grant.

13 This survey was developed in response to
14 stakeholders' requests for standardized impact
15 reporting.

16 New York Sea Grant awarded funding to
17 Drs. Scott Steinschneider and Richard Stedman at
18 Cornell University to develop and implement a high
19 water level impact survey.

20 The survey was live from May 26th until
21 August 31st of this year.

22 Various outreach methods were used to
23 advertise the survey. These included newspaper,
24 social media, TV, radio, flyers, municipal e-lists,
25 and agenda time at related meetings.

1 The goals of the survey were documenting the
2 parcel-level impacts of the event on waterfront
3 properties, providing municipalities with
4 information that can assist them in community-based
5 planning to reduce flood risks, and verifying
6 existing flood-risk modeling.

7 The survey targeted all waterfront
8 properties.

9 We collected qualitative data about parcel
10 location, severity of inundation, severity of the
11 erosion, damage to shoreline protection, flood
12 insurance, business impacts, and severity of overall
13 impacts.

14 In addition, pictures of the waterline, and
15 of property damage, were provide by respondents.

16 This survey did not collect economic data
17 because many impacts would not be known until the
18 water levels recede, and inundation reports during
19 peak or near peak water levels are necessary to
20 verify existing flood-risk modeling.

21 In a moment I'm going review some of the
22 preliminary results from the survey.

23 And as I go through those, I'd just like to
24 you please keep in mind that we did conduct a
25 separate St. Lawrence River survey. Those data have

1 not been analyzed at this point.

2 Although this survey was available for all
3 waterfront properties, it is possible that those who
4 experienced impacts were more likely to respond than
5 those who did not.

6 These results have not been published.

7 This report out is on preliminary analyses.

8 This report out is in percentages, and
9 removed all instances of "does not apply" or
10 "I don't know" before calculating those percentages.

11 I also would like to note that these results
12 were provided by my survey partner,
13 Dr. Scott Steinschneider.

14 So what I'll do is, you all have these
15 graphics in the testimony that was provided. But
16 I do want to also put some slides up so everyone in
17 the audience can see what we're talking about.

18 [Slide show begins.]

19 MARY AUSTERMAN: This first graphic is a
20 distribution map showing our response.

21 I will say that the map does show all
22 507 "true" responses.

23 We did receive almost 900 responses in the
24 Qualtrics online database, but many of those were
25 screened out.

1 Some of those reasons were: Because they
2 were not on the lake itself. Some of those were
3 St. Lawrence and Canada. They were incomplete, or
4 duplicates.

5 Some of these preliminary results that I can
6 share with you, again, these are in percentages, and
7 first we'll look at the inundation of different
8 areas on the property.

9 And so if you'll look here, you'll see that
10 this is this near-shore area. Almost 100 percent of
11 survey respondents indicated that they were
12 experiencing inundation in those near-shore areas.

13 I would like to note that fewer respondents
14 reported experiencing inundation on their first
15 floor; however, many, nearly 50 percent, were still
16 experiencing inundation impacts to their foundation.

17 The next graph shows erosion damage to
18 different aspects of the property again.

19 And I know this is a little confusing to look
20 at.

21 So some of the take-homes on this:

22 If you look over here to the left, this is
23 "no impact."

24 So here you can see that 71 percent of people
25 were responding that they did not have

1 erosional-damage impact to their main structure.

2 Over here, in the most severe impacted areas,
3 as you can imagine, most of the erosion damage that
4 was experienced is in the shore areas.

5 But I would also mention that, here, we still
6 do have impacts as well in the small- and
7 moderate-impact categories.

8 The next thing I'd like to show you is land
9 loss from erosion. Again, this is percentages.

10 And the take-home here is that over
11 80 percent of people were reporting at least some
12 degree of land loss from erosion.

13 The next slide is showing the damage to
14 shoreline protective features, and this is
15 specifically talking about either sloping or
16 vertical walls.

17 And, again, you can see that, of the
18 respondents that responded that they did have these
19 types of structures, nearly 90 percent were
20 reporting some type of impact to those structures.

21 And one of the questions I always ask in
22 these types of survey are: Taking the full event
23 into account, what is your perception of the overall
24 impact?

25 And as you can see, right here:

1 From 7 to 10 being the most extreme.

2 So, 1 is no impact, 10 is substantial.

3 Over 50 percent of respondents indicated that
4 the severity level was 7 or greater.

5 I also mentioned that we collected pictures
6 from survey respondents, and I will share some of
7 those with you.

8 And, again, we were looking at the impacts
9 of -- well, we were looking at the location of the
10 waterline on the property, the overall impact of
11 water on the property.

12 And these images are being used for
13 validation of an existing flood-risk model, and that
14 work will begin in 2018 with Sea Grant funding to,
15 again, Drs. Steinschneider and Stedman.

16 We'll also be archiving these photos and
17 making them available. And this is only 6 of over
18 500 responses.

19 The lighting in here is not great, so I'll
20 try to explain what's happening here.

21 So this red area here is where the
22 property -- the property line. This is the lake.

23 And these pictures are showing where each of
24 these features on the property are located.

25 This is in Orleans County, the end of May.

1 And you can see that they are experiencing
2 inundation impacts to a lot of those near-shore
3 areas that was described earlier in the
4 presentation.

5 Again, in Orleans County, this here is also
6 water. That this is lakefront.

7 You can see on the left, they're experiencing
8 wave action on a wall.

9 And, here, this is pretty inland, and you can
10 see inundation that far back, from here to here.

11 In Monroe County, again, here is where the
12 property is located.

13 On this particular day in May, there was
14 inundation back as far as this location, and here as
15 well.

16 Moving east to Wayne County, again, property
17 location. Water from the bay or lake.

18 This is from the lake.

19 And you can see again, these are the
20 locations of these images, and we have inundation
21 impacts, at least foundational impacts as well.

22 Again, in Wayne County, Sodus Point, we have
23 foundation inundation. Potentially, structural
24 inundation. And, again, location of images on those
25 property -- on that piece of property.

1 Oswego County, beginning of May, the images
2 were taken here on the shoreline, and here inland.
3 And you can see here, this is inundated.

4 This is a structure, and the water is at
5 least at the foundation, if not in the structure,
6 and threatening this wall.

7 So just to -- I'd like to just mention a few
8 of the uses of this data.

9 Some immediate uses include:

10 Documenting this record high water level
11 event, providing standardized results that will
12 allow for lake-wide reporting;

13 Identifying areas that are most vulnerable to
14 high water levels for future community-based
15 planning;

16 Validating an existing flood-risk model that
17 could inform community-level flood-resiliency
18 planning, which, again, initial steps are underway
19 with that, with the 2018 Sea Grant-funded project;

20 And assisting in the leveraging of
21 competitive funds for making communities,
22 businesses, and private landowners more adaptable to
23 high water levels.

24 As an extension associate representing
25 New York Sea Grant and Cornell University, it is my

1 job to provide science-based information so
2 stakeholders can make better informed decisions; in
3 this case, about reducing risks to future coastal
4 flood events.

5 I'm grateful for this opportunity to share
6 these results with you today, and am hopeful that
7 they will empower communities to begin improving
8 their coastal-flood resiliency.

9 Thank you.

10 SENATOR O'MARA: Go ahead, Bob.

11 ASSEMBLYMAN OAKS: You mentioned that this
12 does not include economic impact to this point.

13 Is that within the plans, or not?

14 Not really?

15 MARY AUSTERMAN: It's not within our current
16 scope.

17 One, this was -- this happened quick, and so
18 we had to get money out, to get the survey out
19 quickly.

20 We had to go through institutional review
21 board approval to conduct the survey, which also
22 takes time.

23 And to include an economic component to that,
24 we'd have to also come up with a way to validate
25 those figures.

1 And in the interests of time, and also the
2 expertise that we had on our limited team, we just
3 couldn't do it at that point.

4 ASSEMBLYMAN OAKS: I was asking that as
5 much -- I know we -- the Governor put in for FEMA
6 disaster declaration, and that is economic-based.
7 You have to meet thresholds, and -- and -- you know.

8 So I was wondering if those might be
9 connected at all.

10 The other thing you showed, 506 properties.

11 Do you have any sense how many properties
12 there are along there, or what percentage you are,
13 you know, dealing with, in showing this survey?

14 MARY AUSTERMAN: That is a good question.

15 That's one of the ones that
16 Dr. Scott Steinschneider and I have been talking
17 about. And he's working on analysis at this point,
18 to see what percentage of folks were actually
19 reached and responded.

20 ASSEMBLYMAN OAKS: The number of people that
21 had in -- in your analysis, do you feel like -- you
22 said you did reject some --

23 MARY AUSTERMAN: Uh-huh.

24 ASSEMBLYMAN OAKS: -- because they weren't
25 appropriate, or something.

1 So were these on -- if you were on a bay,
2 would have you -- off Lake Ontario, would you have
3 been included, or no?

4 MARY AUSTERMAN: Yes, waterfront.

5 So, bay communities were included.

6 Some of the examples of screen-out responses
7 were either:

8 Not complete;

9 Some were clicked-through;

10 Some people stopped at the initial upload of
11 photos, so none of the other information was
12 collected;

13 We did have a couple of Canadian responses,
14 and we had some St. Lawrence responses as well.

15 But we did collect bay responses.

16 ASSEMBLYMAN OAKS: Your sense -- would it be
17 your sense that it's enough of a representative
18 group that, perhaps, those doing the study might be
19 able to project that out, showing, you know,
20 complete impact, or, you know, of the whole south
21 and east shore?

22 MARY AUSTERMAN: Well, again, when we started
23 this, we weren't sure what the response rate would
24 be.

25 One reason, knowing that it was an extremely

1 challenging time for those waterfront property
2 owners, so we didn't know if people would even take
3 the time to respond to the survey.

4 We're happy with the results that we got, the
5 response number that we got.

6 I can't really -- I can't really provide an
7 answer, if someone could make the jump from what
8 we've collected to putting economic dollars to that.

9 But the data is available.

10 ASSEMBLYMAN OAKS: And did you do any
11 connection, or will there be any, with -- we've been
12 told there were 3400 people that made application to
13 the State.

14 Do you know what -- you know, will there be
15 any connection between the properties that you
16 researched and those 3400 who might have made
17 application?

18 MARY AUSTERMAN: Well, our survey rolled out
19 before that funding opportunity was available.

20 It would have been good to put in a question
21 in there, to ask if people were applying for those
22 funds.

23 But our survey was rolled out first, so
24 I don't know if there's a way to make that
25 connection.

1 ASSEMBLYMAN OAKS: Thank you.

2 SENATOR O'MARA: All set.

3 Thank you very much for your work.

4 MARY AUSTERMAN: Thank you.

5 [Applause.]

6 SENATOR O'MARA: Next up is Dale Currier,
7 director of Oswego County Emergency Management.

8 DALE CURRIER: Can you hear me?

9 SENATOR O'MARA: Maybe a little closer.

10 DALE CURRIER: A little closer.

11 How's that?

12 SENATOR O'MARA: That's better.

13 DALE CURRIER: Can you guys hear me?

14 All right. Just don't throw anything sharp
15 or pointed.

16 All right.

17 Good evening.

18 My name is Dale Currier, and I'm the director
19 of emergency management for Oswego County.

20 First, I'd like to thank Senator O'Mara and
21 Senator Ritchie for the invitation to present
22 tonight, as well as thank Assemblymen Oaks and
23 Barclay for your time and interest in this panel,
24 and this event.

25 This is a topic of utmost importance to

1 thousands of Oswego County residents whose daily way
2 of life, livelihoods, standard of living, and
3 properties, both personal and business and
4 municipal, have been severely impacted.

5 This community-wide impact from high water
6 levels has continued for the past six-plus months,
7 and despite the best efforts to reduce the lake
8 level to normal levels, will likely continue for
9 some time to come.

10 There are many who are still experiencing
11 damage, increasing damage, particularly when the
12 high winds on Lake Ontario blow from the north and
13 the northwest.

14 I am not here today to discuss the merits or
15 deficiencies of the Plan 2014. This is an issue to
16 be dealt with by policymakers.

17 Instead, I do speak as an
18 emergency-management professional with
19 responsibility for over 120,000 residents of
20 Oswego County, of which 25 percent of our area is
21 water, most of which is Lake Ontario and its
22 tributaries.

23 As such, much of our county has been built
24 and developed around water-based businesses and
25 industries that rely on having a consistent source

1 and a consistent level of water.

2 I believe it's important to note that the
3 impacts and damage, whether directly through erosion
4 and structural damage, or indirectly through the
5 degradation and outright destruction of businesses
6 that rely on people coming from around the world for
7 recreation, vacations, and summer residents.

8 Since mid-May, I and many other first
9 responders have experienced this flood, at times,
10 7 days a week, 16 hours a day, which pales compared
11 to some of the people who have been directly
12 impacted in their homes.

13 But I could spend hours sharing the
14 experiences we've had standing in knee-deep water in
15 someone's front yard, as they wonder, will local
16 emergency services be able to get to their home, as
17 they're giving care to an elderly resident with a
18 terminal illness?

19 And they don't want to leave their home, the
20 home they've worked their entire life for, and they
21 have no local family.

22 I recently, during the last storm, stood on
23 the shore and watched 10-foot waves throw
24 football-sized rocks 20 to 30 feet past the
25 breakwall into the side of a home.

1 And I've sat and listened patiently while
2 people shared their most personal, financial, and
3 family situations regarding their business, that
4 cannot function, or could not function, because of
5 the high water. They felt totally helpless, and at
6 the mercy of what they believed initially to be
7 solely the result of Plan 2014.

8 Regardless of the underlying initiating cause
9 or causes of the incredibly high water, the outcome
10 has been the same: Severe economic damage which
11 will impact many people's lives for decades to come,
12 which, for some, is the rest of their natural life.

13 And always they ask the question, "Will it
14 come again?"

15 You know, in the interest of time, and
16 previous presenters, I'm cutting out some of my
17 presentation. So, if a few of my notes get a little
18 cryptic here, please bear with me.

19 From what we've heard, it's readily apparent
20 that we can't expect to effectively and safely drain
21 this water system when it's overloaded.

22 It's analogous to draining a full bathtub
23 through that a straw when the faucet is still on.

24 Furthermore, artificially introducing more
25 water into the system will only serve to cause more

1 damage elsewhere in the system.

2 I believe, by definition, what we've
3 experienced is the truest form of a dilemma related
4 to a natural disaster.

5 There's no one answer or solution to the
6 myriad problems, and everyone involved is going to
7 lose something, hence I believe only time will tell
8 if Plan 2014 was, in fact, a significant
9 contributing factor for this event.

10 To me, however, the most important part of
11 these hearings, at least from the perspective of the
12 persons impacted, is to identify, how do they get
13 help?

14 We have heard some information tonight.

15 But in terms of grants and low-interest loans
16 to repair or replace what has been lost, time is of
17 the essence.

18 Oswego County's industrial tax base, compared
19 to the amount of property that is agricultural or
20 tax-free, is not like some other areas that have
21 been impacted by this same flooding.

22 Living on or near the water is not generally
23 a sign of wealth in Oswego County.

24 Instead, it's often the result of a
25 residence, business, or piece of waterfront property

1 being passed through many generations of a family.

2 Numerous people have shared with me that they
3 retain the property as best they can, paying the
4 cost of the taxes on waterfront property, out of a
5 sense of family obligation to continue on with it.

6 Many have said this may well be the
7 proverbial straw that broke the camel's back, as
8 they cannot afford to pay ten, twenty, and, in some
9 cases, fifty to sixty thousand dollars, to restore
10 their frontage to a level that would protect them
11 from this type of event in the future.

12 So let's look at the early response.

13 New York State did very well.

14 We heard from DEC.

15 We know Homeland Security, Office of
16 Emergency Management, worked well with sandbagging.

17 The national guard and the DOT stepped up to
18 the plate, to almost 60,000 sandbags here in Oswego
19 County.

20 Local first responders, coast guardsmen,
21 stepped up to help people who couldn't place
22 sandbags, to take care of that.

23 But we still have a lot of damage.

24 I believe in Oswego County the figure now is
25 in the tens of millions of dollars, with significant

1 damage to the Port of Oswego, not to mention the
2 business losses incurred throughout the county west
3 of Route 81, and the damage to residential
4 properties.

5 Looking ahead to recovery and mitigation,
6 I believe the picture is more dire.

7 This is a seven-month flood.

8 Yes, New York State did appropriate
9 \$45 million for relief; however, accessing this
10 funding has been a struggle for many people needing
11 to make repairs before winter sets in.

12 And many people -- in many cases, people have
13 had to borrow money to hire engineers and pay for
14 stopgap property remediation to prevent further
15 damage caused by the winter storms that will soon be
16 upon us.

17 In many cases, people tell me they cannot
18 start remediation until the water recedes and they
19 can see the true extent of their damage.

20 New York State, as noted, has requested a
21 Presidential disaster declaration back in August.

22 Shortly thereafter, we know the southern --
23 or, the southern U.S., most notably, Florida and
24 Texas, took a major pounding with hurricanes, and
25 other hurricanes have taken other resources and time

1 from FEMA.

2 Despite reassurances from federal officials,
3 however, that financial support for our area is
4 being worked on, no tangible relief has been
5 received yet from them.

6 I believe personally, and professionally, the
7 Lake Ontario flood will go down in the history of
8 modern emergency management as, and I quote, the
9 huge seven-month flood that only the locals knew
10 about, end quote.

11 Therefore, I respectfully ask this panel and
12 all who are witness to these proceedings to move
13 forward on getting financial funding now -- this
14 week, if possible -- so more people can begin
15 rebuilding.

16 With immediate funding, it's likely much
17 rebuilding will be completed a year from now, yet
18 some large projects will take longer.

19 I'd like to end with an old adage from my
20 days as a corporate trainer.

21 When often asked, quote, "What if we spend
22 money to train people, and then they leave us?" my
23 general response was, "What if we don't train them,
24 and they stay? What will that cost us?"

25 Along the same vein I ask, "How much are the

1 people of Oswego County, and all eight impacted
2 counties along Lake Ontario, going to continue to
3 lose if they cannot afford to fix the current damage
4 before more happens?"

5 The answer, I believe, is that providing the
6 needed money now will go a long way to reducing the
7 future costs of reduced property taxes collected,
8 lost business, and the trickle-down effect that will
9 follow, such as lost sales tax, et cetera.

10 With continued inaction, the true costs will
11 only be staggering, but will last for a decade or
12 more.

13 Thank you for your invitation.

14 I trust this has been helpful.

15 Is there anything I can add?

16 SENATOR O'MARA: I'm sure.

17 ASSEMBLYMAN BARCLAY: I just want to say
18 thank you, Dale, for testifying today.

19 And, also, thanks for your office's courtesy
20 shown to my office through, really, the tough -- the
21 really tough parts of the flooding. And I know you
22 and I toured around, looking at some of the damage
23 that was done.

24 Maybe just a quick question, then.

25 If you could change, and now have gone

1 through this whole process, is there something that
2 you would say that we can improve upon, at a state
3 level or a local level, to provide relief to people,
4 especially in regards to emergency management?

5 DALE CURRIER: Well, right now, timing is
6 fortunate, in that we're at the five-year cycle of
7 redoing the county's hazard mitigation plan.

8 And, certainly, we have a very different
9 picture of lake flooding, coastal erosion,
10 et cetera, than we had when we did it seven years
11 ago.

12 So the good news is, we'll be working with
13 all of the towns and municipalities to update that
14 plan.

15 That said, to increase their resilience that
16 we've heard a lot about, to mitigate future damage,
17 it's great to come up with a plan. But as we know,
18 municipalities and individuals are strapped for
19 cash, and the plan is not going to accomplish much
20 unless funding is available, up front, to mitigate
21 this for the future.

22 ASSEMBLYMAN BARCLAY: Thanks.

23 SENATOR RITCHIE: Just more of a comment,
24 Dale.

25 I certainly understand your comment about

1 getting the funding out the door, and frustration
2 some of the people are dealing with.

3 And that is something that, pretty much, on a
4 daily basis, I've been calling to make sure that the
5 money is flowing.

6 With Friday's announcement that they don't
7 have to prioritize what applications are funding, my
8 hope is that many of those applications that are
9 further down the pile will begin to see some kind of
10 disbursements, going forward.

11 So, I would just ask, if you or anybody here
12 has an application in, it doesn't look like it's
13 moving, just please let our office know.

14 DALE CURRIER: Okay.

15 And to Will's question, looking forward, if
16 this were to happen again, it's taken seven
17 months -- and I realize bureaucracy can take time --
18 but it's taken seven months to get to this point.

19 And I can safely say that, probably, four
20 weeks in, a lot of people had a lot of ideas as to
21 how much this was, potentially, going to cost.

22 So if I were going to suggest something
23 different if this happened in the future, is get
24 those pots of money, get that process going, much,
25 much sooner, because you know it's going to be

1 needed.

2 SENATOR O'MARA: This may be outside your
3 area in the county, but, do you have any sense of
4 what the impact to sales-tax collections in the
5 county has been impacted as a result of that?

6 DALE CURRIER: Yeah, I have no idea, and I've
7 not heard any numbers on that.

8 If you'd like, I'll see if I can find out.

9 I don't know if it may be a little too early,
10 at the summer season, to know.

11 SENATOR O'MARA: Thank you.

12 DALE CURRIER: Thank you.

13 [Applause.]

14 SENATOR O'MARA: Next up, Gary DeYoung,
15 director of tourism, Thousand Islands International
16 Tourism Council.

17 GARY DeYOUNG: Thank you.

18 The Thousand Islands International Tourism
19 Council is the destination marketing organization.

20 We play an official role in Jefferson County.

21 We also actively collaborate with the tourism
22 agencies in Oswego and St. Lawrence county.

23 And by the word "International" in our title,
24 we represent and market the Ontario side of the
25 St. Lawrence as well in the Thousand Islands region.

1 Today's topic is particularly important for
2 tourism.

3 Lake Ontario and the St. Lawrence River are
4 at the very core of the tourist industry in the
5 Thousand Islands.

6 Much of the region's tourism is based on
7 water activity, such as boating, paddling, fishing,
8 and scuba diving.

9 Waterfront attractions, including scenic boat
10 tours, lighthouses, museums, and island castles are
11 important parts of drawing visitors to the Thousand
12 Islands, and the waterfront accommodations from
13 campsites to four-star hotels differentiate our
14 destination from others.

15 This year's wet, dreary spring and early
16 summer really resulted in a bad impact on this
17 region's tourism business.

18 In early September, the Thousand Islands
19 International Tourism Council conducted a survey
20 regarding the high-water impacts on business.

21 With 109 stakeholders responding, 47 percent
22 indicated a very negative impact, 35 percent
23 indicated a somewhat negative impact.

24 So on the negative side, 80 percent of our
25 responses came in.

1 The average decline in business from normal,
2 of 29 percent, on average, with many being well over
3 50 percent.

4 The wet weather and high water forced some
5 attractions to open late or to curtail operations as
6 they scrambled to make adaptations.

7 It created huge problems for marine
8 businesses.

9 It impacted the region's tourism in many
10 ways, and at the bottom line, it simply kept
11 visitors away during the crucial summer season.

12 I want to touch on a few points that are
13 sometimes lost in the conversation about tourism and
14 water levels.

15 First, it's important to understand that the
16 impacts of the weather and water go well beyond
17 those that fell directly on the shore.

18 With waterfront activity curtailed, lodging
19 operators, attractions, restaurants, and retailers
20 in tourism-sensitive communities all lost business.

21 With those -- with waterfront had to deal
22 with damages, but businesses a few blocks away, or
23 even a few miles away, also suffered substantial
24 losses.

25 Secondly, for tourism, perception is often

1 reality.

2 If a customer believes an area is flooded and
3 cancels a trip, the businesses lose money even if
4 they were, in reality, not flooded and fully
5 operational.

6 While waterfront businesses in the region
7 took hard hits from the water inundation, many were
8 able to make adaptations and continue operations,
9 and others near the waterfront had little or no
10 physical impact on their operations; however,
11 anecdotal stories of customer misperceptions about
12 the conditions abound.

13 The tourism council saw this trend early in
14 the summer season, and allocated some of its
15 rainy-day funds -- pun intended -- to bolster a
16 social-media program to defeat some of the things
17 that were out there.

18 And the council has also partnered with the
19 tourism agencies in Oswego and St. Lawrence counties
20 to submit a Market New York grant application, which
21 we hope will be successful, and allow to us market
22 Thousand Islands region waterfront activity more
23 aggressively next year.

24 Third, one aspect of the Thousand Islands is
25 quite different from many other areas of the state.

1 It's a vacation-home destination.

2 According to the U.S. census, Jefferson
3 County has 10,800 vacation homes, representing about
4 19 percent of its housing stock.

5 In total, Jefferson, St. Lawrence, and Oswego
6 county have 22,000 vacation homes, while the
7 Lake Ontario south-shore counties have about 5700 in
8 total.

9 But across the area, we're talking about,
10 that's 27,000 vacation homes.

11 The majority of these homes are on the
12 waterfront.

13 They boasted the property-tax base in
14 shoreline communities, some of which actually have
15 more seasonal homes than permanent homes.

16 They usually support a wide range of
17 businesses, and contribute significantly to both
18 employment and local sales income.

19 This year, much of that activity was
20 curtailed due to a variety of impacts from the high
21 water.

22 Despite this year's weather challenge,
23 tourism trends in the region are strong.

24 Our 2016 survey of businesses showed the
25 highest level of business confidence in 20 years.

1 Response to our marketing has indicated
2 strong visitor interest, even in 2017.

3 And the results from the late summer, after
4 the water went down, seem to be bearing out the fact
5 that we can have a good solid season absent the
6 water.

7 Attraction attendance and hotel occupancy
8 have been growing steadily.

9 New tourism-based businesses are opening, and
10 established operators are making fresh investments.

11 The region's craft beverage and egg tourism
12 businesses have expanded, helping to extend the
13 traditional season well into the fall.

14 For example, between 2010 and 2016,
15 annualized employment in Jefferson County's
16 hospitality businesses grew, from 3880 jobs, to
17 4,346 jobs.

18 That's 466 new North Country jobs, with an
19 additional \$17 million in annual wages.

20 More than a decade ago, I served on the
21 technical workgroup, looking at management plan's
22 impacts on recreational boating and tourism.

23 At the time, the existing plan did not
24 formally take into account recreational boating, nor
25 any other impacts of water levels on tourism.

1 Essentially, people who depend upon
2 water-based tourism in the region were not part of
3 the formula at that -- in the 1958 formula.

4 A couple of things came out of that technical
5 workgroup that I want to point out.

6 They did a study of recreational boating on
7 Lake Ontario and the St. Lawrence, and, in 2002,
8 estimated that \$429.7 million was spent on
9 recreational boating trips in the basin.

10 They also found that the greatest incremental
11 gains to recreational boating, when you talked about
12 all those plans, were if higher water levels were
13 achieved in the fall.

14 So there's a couple takeaways from that
15 workgroup that I think are still valid today.

16 First, there's real economic impact from
17 tourism and recreation to consider in this
18 conversation.

19 The plan limits tourism considerations to
20 recreational boating. The vacation-home values and
21 trade waterfront businesses are impacted by the
22 management plan as well.

23 Second, much of the spending tracked in 2002
24 was concentrated in smaller communities. And water
25 levels have critical impacts on those small resort

1 communities which have water-based tourism as their
2 core economic driver; that is to say, the
3 concentration of dollar losses in small communities
4 creates much more stress on that community than in
5 communities with larger populations and more diverse
6 economies.

7 Third, although we're dealing with high water
8 this year, the most negative impacts to boating and
9 tourism over time have been due to low water in the
10 fall.

11 In several recent years, every low water --
12 early low water has curtailed boating activity, and
13 led to closing of seasonal homes, and loss of
14 businesses at marinas.

15 What can the State do?

16 Please recognize that tourism is an important
17 and growing part of a fragile North Country economy.
18 It depends heavily on the lake and the river.

19 Tourism's overall use of the water system
20 should be a significant consideration formulating
21 policies about the system's management.

22 Please recognize that our reputation as a
23 desirable waterfront destination is one of our most
24 precious assets.

25 Simply put, please don't scare off the

1 tourists when a flood is happening.

2 And please keep in mind that different areas
3 have different needs. Craft policies with the
4 flexibility to accommodate those needs.

5 For instance, the 5-mile-per-hour, no-wake,
6 boating rule stayed into place long after waters had
7 dropped on the St. Lawrence River.

8 And within 600 feet on the St. Lawrence
9 River, it's very difficult to navigate at 5 miles an
10 hour.

11 So, although that may -- it made sense
12 with -- as an abundance of caution in some areas, we
13 ended up finding frustrated boaters who were being
14 ticketed for normal operations of their boat under
15 normal conditions on the river.

16 Thank you for your time.

17 SENATOR RITCHIE: Just one question, Gary.

18 Do you think something has to be done as far
19 as marketing early on this spring so that
20 individuals know that it's okay to come back?

21 GARY DeYOUNG: Right.

22 We applied for that grant, and the idea is,
23 we'd get out on social media and really tell
24 individual stories about how individual businesses
25 have recovered, or how experiences can still be

1 enjoyed even though you may have heard differently.

2 But to be candid, if the State can help.

3 After "Superstorm Sandy," there were special
4 federal funds that were heavily spent by the State
5 to promote Long Island, the Adirondacks, and the
6 Catskill regions.

7 I haven't heard any kind of plans to make a
8 special focus on the Lake Ontario counties in the
9 wake of this flood.

10 SENATOR RITCHIE: Thank you.

11 SENATOR O'MARA: A couple of questions.

12 Have you heard from your member businesses,
13 any specific or generalized complaints about the
14 process of the business going after grants?

15 You know, I've heard a lot of anecdotal
16 issues on that, but, what have you been hearing from
17 your members about that process?

18 GARY DeYOUNG: I haven't heard that.

19 And, you know, we did the survey, and the
20 survey has, literally, dozens of comments about what
21 they experienced specifically as a business, and how
22 they were coping with it. But we didn't ask about
23 if they were having any success with getting the
24 grants.

25 SENATOR O'MARA: Where were your -- where was

1 the consensus of your membership on Plan 2014 before
2 it was implemented?

3 GARY DeYOUNG: Well, you know, there's a
4 difference, I think, from what I heard, and this is
5 just my anecdotal listening on the street, we depend
6 heavily on fishing and wildlife biology, you know.

7 So, when we were told that this new plan
8 would really help the fishery, I think it won a lot
9 of supporters.

10 Now, maybe some of the testimony today calls
11 that into question.

12 So I think, especially on the river, there
13 was a feeling that, if we got a little bit of extra
14 water in the fall, and then have those low-water
15 years, where people are hauling out at the end of
16 August and leaving town, and, if the fishery
17 improved, and we could get in the spring and really
18 attract more fishermen, that was a pretty good deal.

19 So I think there was a lot of hope for
20 Plan 2014.

21 SENATOR O'MARA: Thank you very much.

22 [Applause.]

23 SENATOR O'MARA: Next, Scott Aubertine,
24 supervisor of the town of Lyme.

25 SCOTT AUBERTINE: Senator O'Mara and Senator

1 Richie, Assemblymen Oaks and Barclay, thank you for
2 the invitation to speak here tonight.

3 Thank you for this opportunity to share the
4 thoughts and opinions of myself, and I believe those
5 of the majority of the residents of the town of
6 Lyme.

7 The town of Lyme is located in Jefferson
8 County.

9 The western side of our town is defined by
10 beautiful Lake Ontario.

11 The year-round population, according to the
12 2010 census, was a whopping 2,185, and more than
13 doubles in the summer due to a large seasonal
14 population.

15 We are comprised of the hamlet of Three Mile
16 Bay and the village of Chaumont, both located on
17 Chaumont Bay, which, at one time, we promoted as the
18 largest freshwater bay in the world.

19 We have since been argued at by residents of
20 Georgian Bay in Huron who says they are the largest.

21 So -- but we will gladly accept recognition
22 as the second or third largest fresh-water bay in
23 the world.

24 We are confident, however, that with over
25 55 miles of shoreline, the town of Lyme has the most

1 shoreline of any town in New York State.

2 Allow me to tell you a little about myself,
3 and, thereby, hopefully, expressing the thinking of
4 our town residents.

5 I have lived in the town of Lyme all my life.

6 In high school, and after, I hunted ducks and
7 geese regularly.

8 As I grew older and began raising a family,
9 I dedicated myself to serving the community and town
10 that I love and have lived in all my life.

11 I worked for five years for the Town of Lyme
12 Highway Department, and for the past 30 years, at
13 Township Telephone Company, the local telephone
14 company serving the towns of Lyme, Brownville, and
15 Cape Vincent, and the three islands of Carrollton,
16 Fox, and Grenadier.

17 I mention this to emphasize my experience in
18 having seen the extensive shorelines in those towns,
19 and my regular interaction with shoreline residents,
20 and our residents in general.

21 I have served on the Lyme Central School
22 Board, the Chaumont Village Board, my church
23 session, and now town supervisor for the last
24 10 years.

25 I feel I have a pretty good understanding of

1 the pulse of our town residents.

2 Having been a young boy in the '50s and
3 '60s, I was unaware of Plan 1958D.

4 I did not understand the purpose of the
5 Moses-Saunders Dam until a middle school field trip
6 there in the late '60s.

7 However, as a senior in 1973, which I think
8 was the year of the previous high-water record for
9 Lake Ontario, I worked several weekends helping
10 shoreline residents fill sandbags.

11 From those days, on, I paid attention to some
12 of the comments of long-time residents and the many
13 commercial fishermen we had living and working in
14 our town.

15 I'm not sure how many people were familiar
16 with Plan 1958D, but I can assure you that when
17 water levels changed noticeably, everyone knew that
18 they were playing with the water levels again.

19 Whenever the water levels went up or down,
20 people said, Must be the people in Rochester or
21 Montreal are unhappy about the water levels.

22 There is no denying that the creeks and
23 marshes that used to have water in them have dried
24 up.

25 This spring we saw water running in creeks

1 that we haven't seen since the 1970s.

2 With water levels rising nearly 3 feet this
3 spring, I heard many long-time residents say, that
4 if the water went down about a foot and a half, the
5 water levels would be at what they were in the '70s.

6 It is strange, though, that in the last
7 10 years, we have noticed a distinct increase in our
8 wildlife population. We are seeing animals never
9 seen years ago.

10 In addition to increased deer and turkey
11 populations, we now have eagles, beaver, raccoon,
12 porcupine, geese, heron, osprey, minks, and fishers.

13 I've been told the DEC denies the existence
14 of panthers and bobcats, but we have seen them and
15 they have been photographed.

16 I will admit, however, that the duck
17 population is lower than in the past.

18 Since the intent of the plan was to help
19 restore plant diversity and habitat for fish, it is
20 hard to determine if Plan 2014 factors into our
21 increased wildlife population, considering that the
22 creeks, marshes, and swamps only returned or saw
23 increased water levels this spring.

24 Restored wildlife was also an intent of the
25 plan, although we have noticed the increase in

1 wildlife long before 2014.

2 In reading the website of the
3 Lake Ontario-St. Lawrence River Plan 2014,
4 it states that:

5 "Plan 2014 is designed to provide for more
6 natural variations of water levels of Lake Ontario
7 and the St. Lawrence River that are needed to
8 restore echo-health system.

9 "It will continue to moderate extreme high
10 and low levels, better maintain systemwide levels
11 for navigation, frequently extend the recreational
12 boating season, and slightly increase hydropower
13 production."

14 According to the website homepage, one of the
15 purposes of the plan is to protect against high
16 water levels.

17 That certainly was not the case this spring.

18 Also, our recreational boating and tourism
19 levels were painfully low this summer.

20 I received many calls from seasonal residents
21 in the spring, wondering how the water levels were.

22 I had several mention that they weren't going
23 to bother coming to their summer cottage.

24 We understand the diverse interest of coastal
25 development, hydropower production, improving

1 conditions for commercial navigation, increasing
2 commercial business opportunities and recreational
3 boating.

4 We cannot argue with 16 years worth of
5 extensive studies performed by professional water
6 managers, environmentalists, and engineers.

7 I am not sure when the process of raising
8 water levels, according to Plan 2014, began;
9 however, last summer, we had a drought and the lake
10 levels were low.

11 Usually, Mother Nature takes care of herself.

12 Trying to keep the lake levels up this
13 spring appears to have gone against the plans of
14 Mother Nature.

15 With heavy wet snowfalls last winter, and
16 more than average rainfall this spring, it appears
17 Mother Nature intended to correct last summer's
18 drought.

19 Trying to set higher water levels this
20 spring, in an effort to follow through with
21 Plan 2014 initiatives, may not have been a good
22 decision.

23 The phrase "It's not nice to fool with
24 Mother Nature" has been quoted quite often in our
25 little lakeside town.

1 The high water levels not only caused
2 property damage, soil erosion, and stress among the
3 residents, but the impact on our volunteer fire
4 department members and budgets was substantial.

5 The Chaumont Volunteer Fire Department
6 incurred unplanned and unbudgeted expenses during
7 the 2017 flooding, which included 2,620 total
8 volunteer manhours, and \$2,460 for meal expenses,
9 and \$7,342 for equipment and supplies for sandbag
10 details.

11 Additionally, the Three Mile Bay Fire
12 Department responded to 56 flood-related incidents
13 and sandbag details, totaling 781 volunteer manhours
14 in May and June.

15 Sandbag totals exceeded 8,000 sandbags placed
16 by fire department personnel. And that is about
17 equal for both of them.

18 An additional, unbudgeted, 138 gallons of
19 fuel was used for fire department vehicles, and
20 80 gallons were used for fire chief and deputy chief
21 vehicles, totaling 218 unplanned and unbudgeted
22 gallons of fuel.

23 The Three Mile Bay Fire Department Auxiliary
24 provided over 100 meals to fire, EMS, and New York
25 State employees, exceeding \$700.

1 The contracting for tractor-trailer delivery
2 of sandbags to residents totaled 460 miles and \$920.

3 In addition to these figures, both fire
4 departments were the ones who began the operation of
5 filling sandbags by hand.

6 This work was performed each evening, for
7 about two weeks or more, before we could get
8 Senator Richie, and Graham and her staff, National
9 Guard, Cape Vincent Correctional Facility, and
10 New York State DOT to assist in the operation of the
11 sandbag center, which I reiterate and emphasize, was
12 initiated by us at the Town of Lyme, the Lyme
13 Highway Department, and the two fire departments --
14 yeah, initiated by us at the Town of Lyme, the
15 highway department, and the two fire departments.

16 Enough cannot be said to commend everyone
17 involved for the services they performed.

18 Approximately 80,000 sandbags came out of our
19 facility.

20 The Town of Lyme Highway Department costs
21 were also substantial.

22 Charges for labor were \$96,981, materials
23 totaled 19,186, and diesel fuel and gas amounted to
24 2,856.

25 We rented an excavator for \$3,300, because

1 ours broke down while we were placing the big rocks
2 on the Point Peninsula isthmus.

3 If it wasn't for the little road going from
4 the mainland to Point Peninsula, Point Peninsula
5 would be an island.

6 This was done to follow the recommendations
7 of the Army Corps of Engineers.

8 So while we were doing that, our excavator
9 broke down, and we are gonna have to pay about
10 \$12,000 to have that repaired.

11 Although some of those expenditures would
12 have occurred through normal operations, by no means
13 would they have been as high as they were.

14 If you talked to the average town of Lyme
15 resident on the street, most likely, you will hear
16 them say that the intent of Plan 2014 allowing for
17 slightly higher water levels in Lake Ontario, in an
18 effort to replenish marshes, streams, and wildlife,
19 may be a good one.

20 Obviously, this past spring, it did not work
21 out to the benefit of anyone, and only caused severe
22 property, shoreline, economic, and environmental
23 disaster.

24 Let's hope it doesn't happen again.

25 Thank you.

1 [Applause.]

2 SENATOR O'MARA: Patty.

3 SENATOR RITCHIE: I'd just like to start off
4 by commending you and your local government.

5 I know you were one of the first
6 municipalities who had things in place when
7 residents started calling, you know, far above many
8 other municipalities in making sure the sandbags
9 were available.

10 You know, when we stopped to look at your
11 operation, and you actually had cones upside down
12 and two boards, and filling sandbags that way, you
13 know, I think that we should acknowledge the fact
14 that you really were prepared, and tried to get to
15 the residents as soon as possible.

16 With that, I know that you said it was two
17 weeks before anyone really kicked in from the state
18 level.

19 So I guess my one question is: What else
20 could we do at the state level to help get the
21 resources to you faster?

22 What were you lacking in getting for help
23 from the State?

24 SCOTT AUBERTINE: I really think that
25 everyone worked as well as they could, as quickly as

1 they could. I know things don't happen overnight.

2 I declared a state of emergency on May 2nd,
3 I think it was, at noon. And Governor Cuomo
4 declared his at 3:00 or so. So, we beat him by a
5 few hours.

6 But, I think everybody did the best they
7 could.

8 You know, thank God for our fire departments,
9 who were the ones that came one the idea of putting
10 the cones upside down.

11 And, you know, we have to thank the Cape
12 Correctional Facility, and -- because we were taking
13 sand down to them, and their inmates were filling
14 sandbags also.

15 I think everything was done fairly well.

16 I don't know how long it takes to get the
17 National Guard there.

18 I was actually please they showed up as
19 quickly as they did.

20 So I think things went as well as they could
21 have.

22 SENATOR RITCHIE: Thank you.

23 SENATOR O'MARA: Thank you very much.

24 And thank you to our great fire departments
25 that we have throughout all of our communities here.

1 So, we rely on them so much.

2 SCOTT AUBERTINE: Thank you.

3 [Technical difficulties.]

4 [No audio or video.]

5 DR. DAN BARLETTA: (No audio or video)...

6 Lake Ontario, and, more specifically, the south
7 shore.

8 A lot of my thunder was taken by Dr. Frank.
9 A lot of his comments were my comments.

10 I promise, if we do this again, I will call
11 him, so that we can coordinate what we're gonna talk
12 about, and so we don't repeat the same stuff.

13 But let me start by giving you a little bit
14 of my background.

15 I've been a lakeshore riparian since 1985.
16 My wife's family's been down there for four
17 generations since the 1940s.

18 Our houses were not recently built. They may
19 have been remodeled, but my house, I date it back to
20 at least 1940.

21 My wife's family has a house that was back
22 probably into the '20s.

23 But, I became a -- very involved with
24 lake-level issues in the spring of 1993.

25 During that high water period, my breakwall

1 was damaged, and I went through, you know, all kind
2 of contortions to get the permits.

3 But -- so after that, I attended many
4 Lake Ontario - St. Lawrence River Board of Control
5 meetings on behalf of my neighborhood association.

6 In 1999, I was asked to serve as a member of
7 the public-interest advisory group as part of the
8 Lake Ontario-St. Lawrence River Study.

9 Within a year, I was chair of the public
10 interest advisory group, and, as well, becoming a
11 member of the study board. I oversaw the whole
12 entire study.

13 I was also co-author of the minority report
14 on the study. Myself and Dr. Frank are the
15 authors of it.

16 Presently, I represent my neighborhood
17 association on lake-level issues, and I'm a director
18 of Lake Ontario Riparian Alliance, which is
19 committed to getting rid of Plan 2014.

20 As a member of the Lake Ontario-St. Lawrence
21 River Study, let me state, as Dr. Frank said, Plan
22 2014 was not a plan proposed by the study, as the
23 IJC would let you -- lead you to believe. The
24 environmental plan proposed, as Dr. Frank said,
25 was Plan B+. It was entirely different.

1 And they stated that they would not implement
2 it -- they would like to implement it, but because
3 of the excessive damages it caused, they couldn't.

4 But, in hindsight, it might have been better,
5 because at least the damages would have been spread.

6 With Plan 2014, the damages are concentrated
7 on the riparians and businesses, primarily along the
8 south shore, whose population constitutes the
9 weakest of all the interests involved with the lake
10 and the river.

11 Unlike the Lake Ontario-St. Lawrence River
12 Study, which was relatively transparent, 2014 was
13 developed by closed-door committee, populated by
14 members that came from government agencies only,
15 mostly environmental agencies from both New York and
16 Canadian provinces.

17 In the references in the back, I actually
18 have the list of the first members of that group.

19 The entities -- the agency stayed the same,
20 but the people might have changed over the course of
21 the workings of that group.

22 We do know, however, that they did consult
23 with environmental groups that wanted Plan B that
24 was put out by the Lake Ontario study, but there was
25 no representation for recreational boaters or

1 homeowners on this committee.

2 They first proposed, as you've heard already,
3 Plan Bv7, which is Plan 2014 without trigger levels.

4 Plan Bv7 caused substantial damages on the
5 lake and on the lower river.

6 Indeed, we learned from a person involved
7 with this committee that representatives from the
8 province of Quebec stated they would not accept any
9 new regulation plan that caused more damage on the
10 lower river than occurred with the old plan.

11 Thus, the committee moved the damages
12 primarily to the south shore of Lake Ontario without
13 regard to the remediation of these damages.

14 Plan 2014 took away the board's ability to
15 deviate from the regulation plan until the trigger
16 levels were surpassed.

17 These trigger levels are at extremes, and
18 do not represent any of the ideal water levels
19 proposed by the technical worker groups of the
20 Lake Ontario-St. Lawrence River Study.

21 And in the references in the back, there's
22 actually a chart that shows what the levels were.
23 And the highest level that was asked for was 247.3.

24 The highest level with Plan 2014, the highest
25 trigger, is 248.1.

1 A recent newsletter article that was in a
2 Rochester paper, that stated that there was
3 1.3 trillion gallons of water at its high point on
4 the lake in late May or early June.

5 This amount only reinforces the fact that the
6 board is not allowed to deviate when it comes --
7 when it sees excess water coming into the system
8 from either Lake Erie or from the local basin.

9 Many of us on the south shore believe that
10 with -- if it was under the old plan, the board
11 might have been able to anticipate and take some
12 action.

13 While it may not have done much to change
14 what happened this year, at least it would have been
15 better doing nothing than being stuck due to issues
16 with Ottawa River flows.

17 Let me give you this analogy, think of this:

18 If you're going down the expressway at
19 60 miles an hour, and the car in front is stopping,
20 but under the new rules of the road, you can't stop
21 and apply the breaks until you were 20 feet away.

22 It's a little too late, and you ignore the
23 facts, telling you what is coming.

24 Plan 2014 triggers are set way too high
25 during wet seasons and too low during dry seasons.

1 Attached as a reference also on this paper,
2 is a spreadsheet created by one of my neighbors's
3 college kids.

4 It's important -- the important message that
5 we learned from this is that, if the board was able
6 to deviate when the lake was a foot above average at
7 the end of the February, beginning of March, the
8 lake may not have reached the levels experienced.

9 By increasing outflows by a minimum of
10 300 cubic meters per second, the effect would have
11 lowered the lake between 3 to 9 inches by
12 April 19th, the day the flooding began in Montreal
13 due to the high water flows in the Ottawa River.

14 I want to put a caveat on that.

15 We're still working on the calculations. We
16 still have to factor in the ice-formation periods
17 that took place in February and March.

18 As I stated already, Plan 2014 does not allow
19 the board to deviate for the lake until triggers are
20 reached, so this oversupply will occur more often on
21 the lake.

22 Based on IJC data itself, levels above 247,
23 which is the level that causes flooding on the south
24 shore, will occur 300 percent more often with
25 Plan 2014 than with the old Plan '58DD.

1 Going forward, if there is no change in the
2 trigger levels in the spring conditions, the spring
3 conditions will be ripe for recurrence of this
4 year's crisis.

5 The Ottawa River's two-part freshets are a
6 known factor occurring every mid-April to mid-May.

7 The Plan 2014 triggers present us with the
8 danger, regardless of how the lake got this high,
9 whether it was the excess precipitation or
10 Plan 2014. But Plan 2014 will continue to cause
11 damage to this lakeshore line.

12 A lot of this damage was not included in the
13 Lake Ontario-St. Lawrence River Study.

14 The costs included were damages to shoreline
15 protection.

16 Public lands, public infrastructure, private
17 properties on embankments like Sodus Bay were not
18 included.

19 Facts on property-tax assessments were shoved
20 under the rug.

21 In addition, where the money to retrofit the
22 shore to the higher levels was not investigated.

23 Who's going to pay for retrofitting the south
24 shore?

25 Moneys that the State has already allocated

1 may not be sufficient to help the 10,000 properties
2 along the south shore.

3 The IJC went as far to say that we're not
4 being damaged, it's a reduction of benefits; thus,
5 getting around the requirement of the boundary
6 (indiscernible) and make whole any interests damaged
7 by any IJC decision.

8 So let me conclude by circling back to where
9 I began and became involved with the lake issues.

10 Back in 1993, as I previously stated, my
11 breakwall was damaged.

12 In the process of redesigning, I took into
13 consideration the operating range used by the board
14 of control at that time; that being, between 243.3
15 to 247.3.

16 With this -- with information obtained from
17 the Army Corps of Engineers, I learned that
18 80 percent of the waves hitting my house -- or, my
19 shore were 6 feet or less. So I built my protection
20 at 253.5 feet.

21 The cost to do this was over \$75,000.

22 I'm presently looking to modify my breakwall
23 to increase its height.

24 The problem is, Plan 2014 does not have no
25 upper limit.

1 Additionally, with Plan 2000 -- with --
2 additionally, with Plan '58DD, my property boundary
3 was set at the upper limit of the range, at 247.3.

4 With Plan 2014, again, there is no upper
5 limit.

6 So where is my property line, and who's going
7 to pay for the property being taken by the
8 government?

9 And I thank you for letting me put my input
10 in.

11 SENATOR O'MARA: Thank you.

12 DR. DAN BARLETTA: And, a little dry mouth.
13 So, sorry for that.

14 ASSEMBLYMAN BARCLAY: Thanks for your
15 testimony.

16 And, actually, you started hitting on it at
17 the very end.

18 Has your association investigated any kind of
19 legal action, as far as the taking by the government
20 on this?

21 DR. DAN BARLETTA: Well, the problem that
22 occurs there is, who do you sue?

23 ASSEMBLYMAN BARCLAY: What's that?

24 DR. DAN BARLETTA: Who do you sue?

25 ASSEMBLYMAN BARCLAY: Well, the federal

1 government, I suppose.

2 DR. DAN BARLETTA: I mean, we've looked at
3 that.

4 There's been other members of our groups that
5 were involved with the lawsuit back in the '80s.

6 They spent \$80,000, and they got the right to
7 go to next stage, which is the discovery stage.

8 We can't afford it.

9 ASSEMBLYMAN BARCLAY: Yeah.

10 I wonder if it's possible to get other
11 associations along the lake to -- work together
12 to --

13 DR. DAN BARLETTA: I know that there are
14 other groups looking it.

15 But, you can't sue the IJC because they're a
16 treaty organization.

17 ASSEMBLYMAN BARCLAY: Right.

18 DR. DAN BARLETTA: The federal government,
19 I doubt will -- you know, who you gonna go after in
20 the federal government?

21 ASSEMBLYMAN BARCLAY: Interesting.

22 Thanks.

23 DR. DAN BARLETTA: Thank you.

24 SENATOR O'MARA: Can you explain to me what
25 you mean, you said towards the end: The problem is

1 Plan 2014 has no set upper range limit?

2 What do you mean by that?

3 DR. DAN BARLETTA: '58D had a range.

4 The range on 2014, just, it can go to 249
5 again.

6 SENATOR O'MARA: Within the plan itself?

7 DR. DAN BARLETTA: There's no set limits.

8 [Indiscernible audience comments.]

9 SENATOR O'MARA: Do you have any questions?

10 Who ultimately approved Plan 2014 on the
11 United States side?

12 DR. DAN BARLETTA: The Department of State,
13 I believe. The Federal Department of State.

14 SENATOR O'MARA: Just the Secretary of State?

15 DR. DAN BARLETTA: Yes.

16 SENATOR O'MARA: Okay.

17 Thank you.

18 Next up is Cathleen Goodnough from Green
19 Point Marina.

20 CATHLEEN GOODNOUGH: Assemblymen, Senators.

21 SENATOR O'MARA: Good evening.

22 CATHLEEN GOODNOUGH: Thank you for the
23 invitation to speak.

24 My name is Cathleen Goodnough, and I'm one of
25 the business owners of Green Point Marina, Mobile

1 Home Park.

2 SENATOR O'MARA: If you could get a little
3 closer to the mic, please.

4 CATHLEEN GOODNOUGH: I'm sorry.

5 It's been in my family and operating for over
6 112 years.

7 We own a unique peninsula consisting of
8 212 acres located in North Sandy Pond in Upstate
9 New York.

10 Our business is seasonal and run by myself,
11 my sister Cheryl Yerson, and our mother
12 Linda Goodnough.

13 This year the high water levels have left our
14 138-site mobile home park and 95-slip marina
15 devastated.

16 We were warned April 18th that the water
17 levels would be up high, and the high winds would be
18 expected until mid-May.

19 Nothing could have prepared us for the height
20 of the water levels and the length of the time that
21 we were flooded.

22 We spent hours and days picking up shoreline
23 debris; parts, tools, in the shop; walking along the
24 shoreline to secure trees; picking up our people's
25 furniture and other items that could float away and

1 become a hazard in the water.

2 Our main marina building had standing water
3 for over 60 days straight.

4 We worked in hip boots daily.

5 Our people in the park could not use their
6 seasonal residence as the water surrounded most, and
7 covered their septics.

8 Roads were flooded with over 9 inches of
9 water.

10 We have 33 private landowners that have a
11 right-of-way over our road to reach their
12 properties. Many evacuated. Some stayed to protect
13 their homes.

14 Access to their home and our business was
15 priority.

16 Along with providing access for fire and
17 ambulance services for anyone that stayed, we had to
18 close our road for over a week, and this led to us
19 building up the road with over 4500 sandbags. And
20 that was hauling in 26 trucks of 20-ton stone to
21 bring the road up out of the water.

22 The main building of over 3200 square feet
23 has been completely emptied of a vast inventory of
24 parts and moved to rental containers.

25 Our concrete floors have heaved and cracked

1 and caused major destruction.

2 We monitor the water levels in the spring to
3 prepare for our docks to be repaired.

4 This year we have photos.

5 March 30th, the water level was a foot below
6 our docks.

7 April 1st, the water was a foot below the
8 docks.

9 And April 5th, it was at the bottom of the
10 docks.

11 That's a foot in four days.

12 April 14th, we raised our docks 13 inches out
13 of the water, and April 24th, the docks were
14 underwater.

15 In essence, that's over 24 inches/2 feet in
16 24 days.

17 While we understand we had a very wet spring,
18 when reviewing the outflows from the IJC on
19 April 13th, they were 7700 cubic meters, and on
20 April 24th, 7800 cubic meters, respectively.

21 With the difference of 2-foot already being
22 seen on our shorelines, we did wonder why the
23 outflows were not at the maximum of 10,200 cubic
24 meters.

25 There is no escaping water. It goes

1 everywhere, and left in an enclosed building for
2 over 60 days, we had black mold, wet insulation,
3 soggy, wet wood shelves, and wet walls.

4 Our days would start out by, what can we get
5 done today?

6 And the main business that we count on to
7 survive stopped altogether.

8 There were no customers, there was no
9 business, there was no foot-track of any kind, and
10 we felt very displaced.

11 We should have been preparing boats to be
12 ready, our seasonal snack bar for people to enjoy.

13 Instead, we had to focus daily on picking up
14 wet, soggy wood, insulation, save what we could in
15 inventory, and move everything into three storage
16 containers and a workshop to save it.

17 We flooded the worst on June 1st with the
18 water levels of 248.9.

19 If the IJC trigger levels are to remain at
20 248.13 for June 1st of next year, we cannot imagine
21 how we will remain in business if this new Plan 2014
22 is not modified.

23 June, historically, the month of high water.
24 And we also have Lake Ontario right to the west of
25 us. And when the wind blows, we can see a

1 difference in the water levels of almost 2 feet if
2 the west wind blows heavy for more than a few days.

3 We were very fortunate to be backed by
4 Pathfinder Bank, and they have waived our principal
5 payments on our mortgage, totaling over 36,000.

6 They've also extended a line of credit, for
7 up to \$100,000, to make repairs needed on our
8 building.

9 Thus far, we have received little or no help
10 from funding from anyone.

11 We have put in for the grants available to
12 us, but you have to expense the money first.

13 We have made many calls to Governor Cuomo's
14 office to find out if this area has been declared a
15 federal disaster so that FEMA might come in.

16 And we have received very little insurance
17 for our flood damage to our building.

18 And to date, we have expensed over \$50,000
19 already, and our marina receipts are down over
20 \$120,000.

21 Our entire summer was non-existent, and our
22 residents have major concerns that this is going to
23 be the new normal.

24 On October 2, 19 -- or, 2017, the media
25 release from the IJC states "The board will assist

1 with boat haul-outs from Lake St. Lawrence by
2 decreasing water flows."

3 With the consideration to assist them, one
4 wonders where the consideration or assistance was
5 for the entire southern shore of Lake Ontario.

6 And also stated in this release "The board
7 urges everyone to be prepared to live within the
8 full range that have occurred in the past, and those
9 that may occur in the future. And based on that" --
10 "historical observations, and projected for future
11 conditions, at a minimum, Lake Ontario water levels
12 are expected to range from a high of 248.95, to a
13 low of 241.3, at infrequent intervals.

14 If these levels remain the same and the
15 trigger levels are not changed within the IJC, our
16 business, and many other businesses and homeowners,
17 will be under water again.

18 Our property taxes are \$58,000 a year, and
19 33 private landowners have -- pay hefty taxes.

20 On an average basis of 7,000 per private
21 landowner, plus our taxes, it's \$289,000.

22 If the water levels remain high, and flooding
23 occurs more frequently, the towns along the lake
24 will no longer be able to count on the
25 waterfront-property taxes that are a large

1 source of their revenue.

2 Our property suffered massive erosion in and
3 around our seven canals.

4 We had several residents flood in their
5 cabanas.

6 Our campers were in eminent danger of being
7 knocked off their cinder blocks with the high winds
8 and the water levels.

9 We have major concerns for the reconstruction
10 of our property.

11 We have miles of shoreline to be rebuilt, and
12 breakwalls to build up, and fill to bring in to
13 level the ground which is uneven from water sitting
14 on it for over two months.

15 If our business is to remain open, we need
16 to:

17 Raise our park road;

18 Convert our 95 docks into floating docks;

19 And raise the level of concrete in our shop,
20 over 3200 square feet, up 7 inches;

21 Raise the breakwalls;

22 Repair existing rock breakwalls;

23 Install a septic removal system throughout
24 the park so that our tenants may use their places.

25 This year we rented (indiscernible) for a few

1 tenants that came up to check on their places.

2 Our tenants pay us lot rent to us each year,
3 on a yearly basis, and most could not use their
4 place this year.

5 With little or no income coming in, and
6 having to refund rental customers' dockage, trailer
7 rentals, boat rentals, because we could not operate
8 within the 248.9 water-level range, was extremely
9 stressful.

10 And we have so much devastation to our land
11 and business, and no funding in sight to help
12 prepare to live within these ranges.

13 The funding we did apply for, through the
14 loss of revenue, will be \$50,000, if granted.

15 And our business is not the only one that has
16 suffered this year.

17 Our neighborhood restaurants, bars, ice
18 distributors, beer distributors, gas-sales vendors,
19 local grocery stores, liquor stores,
20 laundrymats (ph.)... the list goes on and on.

21 They have all suffered a financial loss from
22 the lack of people in our area.

23 The State will see a decrease in their
24 sales-tax revenue, as well as the County and the
25 Town.

1 This year's water levels not only flooded
2 businesses and homes, it hurt everyone in our
3 community in some way.

4 And from the joy and the pride we have of
5 running a family business, to daily stress,
6 uncertainty of finances, and actual horror of
7 watching the water levels come up a foot, and then
8 another foot, and then another foot, has left us
9 with the determination to rebuild our business, but,
10 also, to help to make change to the Plan 2014 so
11 that our once beautiful land and barrier beaches
12 that so many people enjoy, can be seen again.

13 Thank you for the opportunity to express our
14 opinion of the water levels of Lake Ontario.

15 Our hope is that the IJC board and other
16 governing agencies involved see the magnitude of
17 desperation for the need to change the trigger
18 levels of the Plan 2014.

19 [Applause.]

20 SENATOR O'MARA: Thank you.

21 SENATOR RITCHIE: I would just like to say
22 that, when we talk about heartbreaking stories,
23 I don't think anyone could convey how horrible the
24 situation was at your marina.

25 The fact that, where the parts were, you were

1 out there, over your knees in water, trying to go
2 and get parts. And every time we stopped, the
3 situation got worse and worse and worse.

4 So, the fact that you're here, and you're
5 saying that you're looking forward to keeping the
6 family business going, in itself, is a pretty
7 amazing statement.

8 I am concerned, when you said you haven't
9 received any resources yet from the State.

10 So --

11 CATHLEEN GOODNOUGH: We did receive a phone
12 call. They are reviewing the application for the
13 income loss of revenue.

14 They're reviewing it.

15 SENATOR RITCHIE: Okay. Will you keep me
16 posted on that?

17 CATHLEEN GOODNOUGH: I will.

18 SENATOR RITCHIE: Thank you.

19 CATHLEEN GOODNOUGH: Thank you.

20 SENATOR O'MARA: Thank you.

21 Next we have Wendy and Mark LaLonde from
22 Hutchinson's Boat Works.

23 MARK LaLONDE: (Inaudible) and thank you for
24 inviting me.

25 I thought that our situation was dire, and,

1 yet, compared to what I've just heard, you know, it
2 was really not -- it was really nothing.

3 But, I run -- own and run a full-service
4 marina in Alexandria Bay, on the St. Lawrence
5 River --

6 SENATOR O'MARA: Get a little closer to the
7 mic, please.

8 MARK LaLONDE: I own and run a full-service
9 marina in Alexandria Bay, on the St. Lawrence River,
10 with my wife, Wendy.

11 When we opened up at the beginning of January
12 this year, all the indicators were, that we were
13 going to have a banner year, possibly the best we've
14 had since 2007, which was our last really good year
15 in the marine business.

16 I say that because, our pre-season sales were
17 good. We were talking to lots of prospects, and
18 they were talking positively.

19 We had a lot of hope for, you know, moving
20 into the season.

21 So we started launching boats toward the end
22 of April, at kind of a slow pace, because the water
23 was coming up and we didn't know how high it was
24 gonna get.

25 That pace continued to slow until the river

1 peaked out in the first part of June, and it came to
2 a complete halt.

3 We ended up with about 15 percent of our
4 customers not going in the water at all.

5 Our fuel dock was underwater.

6 We lost Victoria Day weekend, Memorial Day
7 weekend. Partially opened the dock on June 18th.

8 And, with the 5-mile-an-hour speed limit, a
9 lot of our customers that were in, were keeping
10 their boat at the dock, or, you know, running much
11 slower.

12 Our gas sales were off 46 percent;

13 Retail labor was down 15 percent;

14 Parts were down 8 percent;

15 And dockage was down 8 percent.

16 At the same time we were dealing with reduced
17 revenues, we were struggling to keep our -- the
18 vertical surfaces of our docks high enough so our
19 customers' fenders had something to ride against.

20 So, we built brackets to accomplish that.

21 We spent, all together, about \$90,000 on
22 doing that, shoring up a seawall, filling one of our
23 gravel parking lots with 14 loads of gravel, to turn
24 it from a swimming pool back into a parking lot.

25 So, that's what we're dealing with.

1 You know, nothing like some other people here
2 are dealing with.

3 We were able to borrow \$100,000 from our
4 local bank, to keep going. And they're working with
5 us on the repayment of that.

6 All those boats that didn't go in the water,
7 we're not going be winterizing. They didn't pay for
8 any dockage. So there's about \$40,000 more in lost
9 sales there.

10 That's all I have.

11 SENATOR O'MARA: Thank you.

12 SENATOR RITCHIE: Could I just ask, did you
13 submit a grant application to the State?

14 MARK LaLONDE: Yes, we did.

15 SENATOR RITCHIE: And how is that going?

16 MARK LaLONDE: It's not doing anything yet.

17 SENATOR RITCHIE: Not doing anything yet.

18 Okay.

19 Thank you.

20 MARK LaLONDE: Thank you.

21 SENATOR O'MARA: How did you find that
22 process of application?

23 MARK LaLONDE: My wife handled that, and she
24 was talking about the detailed information that was
25 required, and, you know, proof of payment for

1 everything that we were submitting. And it was
2 pretty grueling.

3 SENATOR O'MARA: Thank you.

4 SENATOR RITCHIE: Thank you.

5 MARK LaLONDE: Thank you.

6 [Applause.]

7 SENATOR O'MARA: Well, that concludes our
8 hearing this evening.

9 We thank you all for coming out, sticking
10 through it.

11 And we hope to have another one of these
12 hearings in early November, further west down the
13 lake.

14 So, that will remain to be announced.

15 But thank you all for your attention, and
16 your coming out to help us try to get to the bottom
17 of this.

18 Thank you.

19 (Whereupon, at approximately 8:33 p.m.,
20 the joint public hearing held before the New York
21 State Senate Standing Committee on Environmental
22 Conservation and the Standing Committee on
23 Agriculture concluded, and adjourned.)
24
25