



Canadian
Environmental Law
Association
EQUITY. JUSTICE. HEALTH.



CFUW
Ontario
Council



environmental
defence
INSPIRING CHANGE



DELIVERED BY COURIER AND EMAIL

Hon. Kathleen Wynne
Premier and President of the Council
Legislative Bldg, Rm 281
Queen's Park
Toronto, ON
M7A 1A1

Jason Travers
Director – Natural Resources Conservation Policy Branch
Ministry of Natural Resources and Forestry
2nd Flr S, 300 Water St
Peterborough, ON
K9J 8M5

Leo Luong
Manager – Water Policy
Ministry of the Environment and Climate Change
6th Flr - 135 St Clair Ave W
Toronto, ON
M4V 1P5

January 15, 2016

Re: Request for public consultation in Ontario on City of Waukesha's application to divert water from Lake Michigan

The City of Waukesha has applied for a diversion of Lake Michigan water under the *Great Lakes–St. Lawrence River Basin Water Resources Compact* (“Compact”). Waukesha’s diversion proposal is the first time that the exception standard of the Compact will be applied. The application has now been forwarded to the Regional Body for review. We seek to ensure that the Compact and corresponding *Great Lakes – St. Lawrence River Basin Sustainable Water Resources Agreement* (“Agreement”) are given a robust interpretation so that they serve their intended purpose to protect, conserve and manage the Great Lakes ecosystem for future generations.

Background

We are a group of seven public-interest organizations and individuals with longstanding expertise and interest in preserving our shared Great Lakes resources. Many of the signatory organizations and individuals were members of the Annex Advisory Panel, providing input to the Ontario government both before and after the signing of the Agreement.

Canadian Environmental Law Association

The negotiation and establishment of the Compact and Agreement arose out of the 1998 issuance of a water-taking permit by the Ontario Environment Ministry to Nova Group Ltd. without notification to other Great Lakes states and provinces. The Nova Group was proposing to export and sell Great Lakes water to water-short regions using tanker ships. After there was a strong public outcry in Canada and the United States, the Ontario government ultimately cancelled the permit. The Nova Group incident made clear that the Great Lakes states and provinces needed to manage diversion applications from the Great Lakes collaboratively.

During the negotiations of the Agreement, Ontario took a principled leadership role. In particular, Ontario took the direct advice of its Annex Advisory Panel. Ontario's position resulted in a better and stronger Agreement.

It is now essential that Ontario ensure that its efforts to strengthen the Agreement are reflected in its review of this first diversion application under the Agreement.

Ontario should hold a public hearing on the City of Waukesha's application

We request that Ontario establish a public hearing on the City of Waukesha's water diversion application. In our view, Ontario's position on this water diversion application should incorporate the views of the Ontario public.

The State of Michigan's Department of Environmental Quality has committed to conducting its own formal review of the application and will be holding a formal public hearing on February 9, 2016. It will also be accepting public comments on the proposal. We strongly encourage Ontario to establish a similar process for public participation.

The decision on this application will have very significant implications for the effectiveness of the Compact and the Agreement going forward. The exceptions to the prohibition on diversions in section 4.9 of the Compact must be strictly interpreted or the Compact will fail to deliver on its promise to allow only those diversions that are truly necessary. There are many United States communities waiting to request similar diversions. The impacts of climate change may well increase challenges for sustainability of Great Lakes waters.

As a signatory of the Agreement, Ontario now has an opportunity to present its position on this water diversion application during the Regional Review process. It is critical that Ontario use this opportunity to ensure that the Compact and Agreement are strictly interpreted.

Ontario will present its views on Waukesha's proposal at the meeting of the Regional Body on April 21, 2016. Accordingly, the Ontario public consultation should be held well in advance of that date to allow the government to consider and incorporate the views of the public in its submission to the Regional Body.

Request for a meeting with Premier Wynne

We have significant concerns about the Wisconsin Department of Natural Resources' analysis of Waukesha's application. Since this application will set a precedent for all other diversion applications under the Compact and Agreement, we request a meeting with Premier Wynne to discuss our substantive concerns and Ontario's approach to the application.

Request for disclosure of Ontario's analysis of the application

We understand that the Ontario government intends to conduct its own assessment of Waukesha's proposal. We ask that the province provide information on its proposed approach to review of the application and make its assessment available to the public as soon as possible. At the very least, the assessment should be made public prior to an Ontario hearing on the application to allow the public to comment on both the Waukesha application and Ontario's assessment.

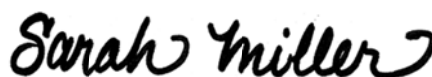
Robust consultations with First Nations are critical

Article 504 of the Agreement requires the Regional Body to consult with First Nations. In order to ensure that robust and meaningful consultations with affected Great Lakes First Nations in Ontario occur, we encourage Ontario to establish a transparent consultation process with Great Lakes First Nations. Ontario's position on the proposal should be informed by input from affected First Nations.

Yours truly,



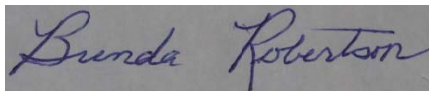
Jacqueline Wilson
Counsel
Canadian Environmental Law Association
416-960-2284 x 213
Jacqueline@cela.ca



Sarah Miller
Former Member
Advisory Committee to the Council of Great
Lakes Governors



John Jackson
Citizens' Network on Waste Management

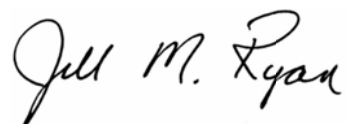


Brenda Robertson
President
CFUW Ontario Council



Natalija Fisher
Manager, Water Program
Environmental Defence

Lino Grima & Wayne Howard
Co-Chairs
Sierra Binational Great Lakes Committee



Jill Ryan
Executive Director
Freshwater Future Canada

cc. David Ullrich, Executive Director, Great Lakes and St. Lawrence Cities Initiative
Kathleen Padulo, Director of Environment, Office of Ontario Regional Chief Isadore Day