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December 5, 1996

Chairman & Council
Municipality of Metropolitan Toronto
55 John Street, 7th Floor
Station 1071
Toronto, ON
M5V 3C6

Re: Long Term Water Project

Dear Chairman Tonks and Council:

The Georgian Bay Association has submitted the attached review and response to the public consultation regarding the proposed Long Term Water Project of The York Region - Consumers Utilities Partnership.

We felt that it was important to share these observations with you and your associates at the earliest possible moment.

Cordially,

Patrick Northey
President
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/jm
att.

The Georgian Bay Association



Founded 1916

**SUBMISSION TO THE
YORK REGION LONG TERM WATER SUPPLY PROJECT**

by
the Georgian Bay Association

December 5, 1996

1.0 THE GEORGIAN BAY ASSOCIATION OPPOSES WATER DIVERSION AND POTENTIAL IMPACTS ON THE BAY AND ELSEWHERE

This report documents the response of the Georgian Bay Association (GBA) to the York Region Long Term Water Supply Study following the November 1996 public meetings.

The Georgian Bay Association is a non-profit, voluntary umbrella organization representing 5,000 families on the eastern and northern shores of Georgian Bay and adjacent lakes. The GBA's mission statement is "to work with our water-based communities and other stakeholders to ensure the careful stewardship of the greater Georgian Bay environment and to promote the quiet enjoyment of its diverse and finite spaces".

The GBA is concerned about York Region's Long Term Water Supply Study from two different perspectives.

First and foremost, the GBA is concerned about the issues of water diversion and interbasin transfer of water within the Great Lakes watershed. The Consumers Utilities proposal to pipe water from Georgian Bay and Lake Simcoe to service York Region is precedent setting and as such should be the subject of the highest level of scrutiny.

Second, as a steward of Georgian Bay, the GBA is committed to ensure that the Georgian Bay environment is not negatively impacted.

The following summarizes GBA's key concerns about the York Region Long Term Water Supply Study.

2.0 WE REQUEST AN INDIVIDUAL ENVIRONMENTAL ASSESSMENT FOR THIS PROJECT

The proponents, Consumers Utilities and York Region, are conducting the planning and evaluation of long term water supply strategies using the Municipal Water and Waste Water Class Environmental Assessment June 1993. According to representatives of Consumers Utilities, this project is proceeding through the Class EA process as a Master Plan for long term water supply. Consumers Utilities staff stated that it is anticipated that the Master Plan will be sufficient for all components of the preferred strategy and that individual EA's for components of the preferred strategy will not be required.

A major proposal for a water pipeline should be the subject of an individual environmental assessment, not a Class EA:

"Class Environmental Assessments are a method of dealing with projects which display the following important characteristics in common:

- recurring
- usually similar in nature
- usually limited in scale
- have a predictable range of environmental effects
- responsive to mitigating measures.

Projects which do not display these characteristics would not be able to use the planning process set out in this Class EA and must undergo an individual environmental assessment." (p.1 Class Environmental Assessment for Municipal Water and Wastewater Projects, June 1993.)

This project does not display the characteristics of a Class EA project for the following reasons:

It is not recurring

A water pipeline which transfers water from one Great Lake water basin to another is a proposal without precedent in this Province and as such is **not recurring**.

It is not similar in nature to other projects

This water diversion proposal is the first of its kind in Ontario and no other project of a similar nature has ever been assessed under the Class EA.

It is not similar in scale to other projects

The diversion of water from Georgian Bay to service York Region is a mega scale project with considerable impacts over a very large area including several Great Lakes; it is in no way comparable in scale to projects which typically undergo assessment under the Class EA.

It does not have a predictable range of environmental effects

The impact of interbasin water transfer between Great Lakes is not fully understood, nor has it ever been assessed as part of the York Region project. As this project is without precedent, it does not have a predictable range of environmental effects.

It is not responsive to mitigating measures

Since there will be an impact on water levels in Georgian Bay, Lake Huron, Lake St. Clair, the St. Clair River, Lake Erie, and the Niagara River, it is difficult to conceive how York Region would be able to effectively implement mitigative measures. This vast area is beyond York Region's jurisdiction. For example, how will York Region mitigate significant changes to water levels in Lake Erie and the resulting damage to fish habitat?

In summary, the proposal to pipe water from Georgian Bay and Lake Simcoe does not display the characteristics of projects subject to the Class EA and therefore, it "must undergo an individual environmental assessment".

3.0 EVALUATION OF ALTERNATIVES VIOLATES EA ACT

Although the evaluation of alternative water supply strategies has not yet been presented to the public, information currently available suggests that inadequacies exist in the evaluation process.

Different Local Environments

The proponents have failed to consider the differences in the environments within which the nine alternatives are situated. The pipeline and intake or source environment for the Metro options is known, and the impacts are understood. For the Durham and Peel options, the source environment is understood and the impacts are predictable. The Georgian Bay options involve interbasin water diversion, the effects of which have not been assessed and have not been included in the evaluation.

Broad Definition of the Environment

The EA Act requires the evaluation of alternatives based on a broad definition of the environment which includes natural, social, cultural, economic and technical aspects.

The proponents' assessment has failed to consider the full impact on the broad definition of the environment, particularly those effects associated with water intake.

The proponents have failed to assess the direct, indirect and cumulative effects of interbasin water transfer on ecological function and linkages, natural features, water levels, hydro generation, and local communities.

Preliminary estimates by a scientist on GBA's Board of Directors, suggest that Georgian Bay water levels may be lowered by .38 inches as a result of the pipeline and that this drawdown will affect water levels even more downstream in Lake St. Clair and Lake Erie, and generation rates at the hydro stations on the Niagara River. Such effects of the Georgian Bay pipeline options are serious omissions in the evaluation.

The Evaluation Process of the Alternative Strategies is Flawed

Staff at the public meetings were unable to clarify how the evaluation of alternatives would be conducted. Some indications were given that a "generic algorithm", used in the past by North West Water, would form the basis of the evaluation as it related to cost and technical issues and that environmental data would be added to the evaluation manually after the algorithm was used. Given that, under the guise of confidentiality, details about the "generic algorithm" were not provided with the proponents' technical reports, the replicability and traceability of this approach, as required by the *EA Act*, remains to be seen.

No information was provided at the public meetings regarding the factors or criteria to be used, the data collected for evaluating alternatives, or the impacts predicted for each alternative. Yet the cost data were presented very well and in great detail, as if they were the only important factor.

Given this lack of clarity in the process presented in early November, the lack of adequate information being provided for public comment, and the extremely short time frame for the evaluation, the GBA and its technical review staff are eagerly awaiting the opportunity to review, in detail, the proponents' evaluation efforts vis-à-vis the guidelines of the Environmental Assessment Branch, and the precedents set by EA practice and Environmental Assessment Board decisions.

In summary, the proponents have failed in their evaluation of alternative strategies to consider the broad definition of the environment. Further, the evaluation process appears to lack replicability and traceability as required by the *EA Act*.

4.0 YORK REGION HAS NOT CONSULTED ADEQUATELY WITH THE PUBLIC

Inadequate Consultation with Affected Communities

The public consultation program undertaken for the Long Term Water Supply study is inadequate because it has failed to provide for consultation with all affected communities. The proponents have failed to seek input actively from those communities that will be most affected by the pipeline proposals; namely, those communities through which the pipe will run, and those which will be home to the water intake and treatment plant.

- Source communities within Peel, Metro, Durham and Simcoe County were not consulted on the development of a facility which will directly affect them.
- No opportunities for public meetings or open houses within the affected communities outside of York Region were provided. Precedent within the practice of environmental assessment suggests that "the onus remains on the proponent to make the EA process open to all throughout and to attempt to remove any barriers to participation" (p.6 Public consultation document), and that consultation must occur with all affected parties (p.7 interim guidelines).

Given the precedents within the practice of environmental assessment for public consultation, the proponents' public consultation program is inadequate in its scope, and would not stand up to the scrutiny of an Environmental Assessment Board Hearing.

Public Meetings and Questionnaire

Although many of the people in attendance at the open houses and public meetings were requesting a more formal question and answer session, it was not provided.

The information presented at the open houses did little to inform the public about how the alternatives were to be evaluated and on the basis of what criteria. Project staff failed to give clear responses with regard to how the alternatives would be evaluated.

Attendees at the meetings were asked to fill in a questionnaire which was wordy, difficult to understand, and misleading.

The questionnaire implies that the criteria to be used to evaluate the alternatives are: water source, complications from the Great Lakes Charter, degree of water supply independence, number of water sources and intakes utilized, and the effect on wholesale water rates and Regional Development charges. However, this set of criteria does not reflect the broad definition of the environment contained within the *Environmental Assessment Act*. Where is the assessment of the impact of each strategy on the natural environment?

Questions 1 through 6 of the questionnaire are difficult to understand. These 6 questions "lead" the reader, thereby biasing the survey. Question 7 seeks public input into the weighting of criteria or factors for the evaluation. However, these factors are not defined, nor do data presented assist the public in distinguishing between the factors and evaluating their relative importance, except with regard to water rates, development charges and system independence.

Effective Public Consultation or Window Dressing?

The public has until December 7, 1996 to submit comments to the proponent. Given that the preferred alternative is being presented to a meeting of the Mayors' Task Force on December 11, 1996, it is difficult to believe that all public input will be integrated into the evaluation prior to the choice of the preferred alternative.

In summary, the public consultation program undertaken for the York Region Long Term Water Supply Study is inadequate.

5.0 THE PROPONENTS HAVE NOT FULLY CONSIDERED ALL FEDERAL AND INTERNATIONAL APPROVALS

York Region and Consumers Utilities do not appear to have taken proper account of the impact of the Great Lakes Charter

A diversion from Georgian Bay will require an international consultation process under the *Great Lakes Charter* of 1985 (GLC). The proponents' public meeting questionnaire did not fully explain the nature of this process. Clearly, the potential for political complications is significant.

The GLC shows that all the Great Lakes States and Provinces are interested parties in any water diversion in the Great Lakes basin. The proponents have not consulted with potentially affected parties outside Ontario. This neglect violates the spirit of full and early consultation embodied in the EA planning process.

Proponents have ignored Federal Environmental Assessment Requirements

It is likely that any diversion scheme would require a review under the *Canadian Environmental Assessment Act* (CEAA).

Under the CEAA Comprehensive Study List Regulations, a water diversion of the proposed magnitude would require a comprehensive study, which is the highest level of study under CEAA and includes mandatory public participation. This process may lead to mediation or a panel review.

Proponents have ignored the need for approval of the International Joint Commission (IJC)

Under Article III of the *Boundary Waters Treaty* of 1909 between Canada and the U.S.A. no diversions of boundary waters which affect the natural level or flow of boundary waters shall be made except by authority of the United States or the Dominion of Canada within their jurisdictions and with the approval of the IJC.

IJC approval involves another set of international consultations, this time including the Canadian and U.S. federal governments.

In summary, the proponents have failed to consider all of the required federal and international approvals associated with a Georgian Bay pipeline and in doing so have failed to recognize the precedent setting nature of this proposal and the level of national and international attention it will receive.