



CANADIAN ENVIRONMENTAL LAW ASSOCIATION
L'ASSOCIATION CANADIENNE DU DROIT DE L'ENVIRONNEMENT

November 25, 2008

**Submission from the Canadian Environmental Law Association
Re: Interim Technical Bulletin Intra-Basin Transfers between Great Lakes Watersheds in
Ontario**

The Canadian Environmental Law Association (CELA) has been extensively involved in concerns leading to *The Great Lakes St. Lawrence River Basin Sustainable Water Resources Agreement* since the 1985 Great Lakes Charter. CELA is very concerned that this Agreement be fully implemented as soon as possible. To this end we would urge the government to give priority to drafting the regulations required for this agreement as soon as possible as a complete package. We have concerns that interim regulations take up time and energy that would be better spent on passage and implementation of the new regulations. Public energy would best be spent consulting on draft regulations at this time. CELA would also urge the government to decouple the Agreement regulations with other measures not central to the terms of the Agreement such as the Province's continuing program to charge for water so as not to delay implementation any longer. We have concerns that interim measures have the potential to create expectations and situations that may not be compatible with the final regulations.

The risk still exists in this interim technical bulletin that approvals can be gained for sections of pipes for transfers that are under the Agreement threshold and can escape notice. Several such proposals from separate neighbouring applicants once combined can create a cumulative taking that should be subject to Agreement scrutiny. As well other incremental growth can lead to pipelines extending right up to the boundary divide between water sheds as the Alliston pipeline has. Later small pipe applications can lead to these proposals jumping the watershed divide. We are not confident that reviewers of individual proposals necessarily have sufficient information to determine that smaller proposals should be aggregated and reviewed as one large withdrawal subject to the Agreement.

While we do agree that EA reform will be needed as one part of the regulatory package, as we have learned in our Annex Advisory Panel meetings, the challenge is to move the consideration of water allocation to the beginning of the Official Plan drafting rather than one of the last steps when the Plan has insurmountable momentum for growth. Adequacy and renewability of water sources should be the first determinant of growth and development. One lesson we learned during the Agreement negotiations is that we do not yet have the science we can rely on to determine water budgets yet in many parts of the Great Lakes. Agreement regulations to frame the science program and fill these information deficits need to be part of the regulatory package and well underway so our decisions are made on sound science on ground and surface water supplies, interactions and renewability in times of

climate change. In many cases we cannot yet confidently determine what baseline we are currently working with.

Ontario has been a leader in the Great Lakes Region in tracking information on withdrawals lower than Agreement thresholds. While six months ago we thought we had time to consider interim measures, we are now falling behind other US jurisdictions in moving ahead with the full legislative package to reach implementation timetables because of early Congressional approval of the US Compact. For these reasons we feel it would be advisable to have a short moratorium and to bring the draft regulatory package forward for review and introduction into the next session of the legislature. For more information on this submission please contact Researcher Sarah Miller by e-mail millers@lao.on.ca or by phone 416 960-2284 ex. 213.