

December 6, 2010

Delivered by Fax: 416 325-3745

The Honourable Dalton McGuinty  
Premier of Ontario  
Legislative Building  
Queen's Park  
Toronto, Ontario M7A 1A1  
Dear Premier McGuinty,

**Re: Important Timely Steps Needed to Maintain Ontario Leadership  
In Protecting the Great Lakes prior to December 8, 2010 Regional Body  
Meeting**

The undersigned groups are members of your Agreement Advisory Panel (AAP) established to advise the Province on the drafting and implementation of the historic *Great Lakes St. Lawrence River Basin Sustainable Water Resources Agreement* (Agreement) signed by the eight Great Lakes States and Provinces. The Agreement was one of the most difficult and complex compromises to put in place between ten jurisdictions and consequently does contain some weaknesses that we hope Ontario will overcome in domestic implementation of its provisions.

It is our expectation that Ontario will act very soon to lead the Basin with the strongest water conservation goals and strategy, and will also pass a regulation that will address the exception language in the Agreement. The exception language includes a definition of Connecting Channels which is inadequate to protect Ontario's rich Great Lakes resources from future damaging intra-basin withdrawals.

This month is the deadline for the eight Great Lakes States to have implemented their commitments under the parallel *Great Lakes-St. Lawrence River Basin Water Resources Compact* (Compact). In two days (December 8, 2010) the Regional Body established by the Agreement will meet to report on progress. Our US colleagues are concerned by the weak interpretations some States have taken on their Compact commitments. We have been counting on Ontario to continue to lead by example with the strongest most protective programs in the Basin. We are dismayed that Ontario is now the last jurisdiction to act on regulations to implement their commitments. Quebec recently released their draft regulations for comment.

We are concerned that we may have lost track of Agreement specific obligations and the associated complex challenges for our Province due to other legislative priorities.

**Background**

Ontario has always taken leadership on protecting Great Lakes water resources because we have four of the five Great Lakes, as well as all of the connecting channels and part of the St. Lawrence River, within our borders. This is a sharp contrast to many Great

Lakes States where the Great Lakes watershed is a thin ribbon along the shoreline. Our bounty brings a greater responsibility for Ontario to play in protection of the world's largest freshwater resource. Ontario was one of the first jurisdictions to create a strong water permitting system after the 1985 Great Lakes Charter was signed. Our system, which requires permits for withdrawals over 50,000 litres, is still stronger than what most jurisdictions were willing to enshrine in the Compact and the Agreement. At the negotiation table, Ontario with the support of the AAP was able to convince the US States that they should redraft the Agreement to ban harmful diversions out of and among the Great Lakes.

Initially, the Agreement and the Compact were driven by the short-lived Ontario permit to export water from Lake Superior to the Orient. Federal, State and Provincial governments, and the International Joint Commission recognised that long term sustainability required limiting bulk water not only to distant applicants but within the Basin as well. Should there not be strong regulation within the Basin, the Compact and the Agreement may not withstand challenges from future applicants with severe water shortages.

#### **What is Needed Now**

##### **A Strong Water Conservation Commitment**

During the exhaustive consultation on water conservation which Ontario carried out in 2008-2009, members of the AAP made many submissions on a made for Ontario Conservation Strategy that would be much stronger than the weak, generic one put forward by the Regional Body. It is this weaker version which we now believe is being used as the basis for interpretation of the Compact by some States. Our Region leads the world as the largest wasters of water and we need programs that will lead to tangible actions which will curtail this.

We are writing today to urge you to report to the Regional Body on Wednesday, that Ontario is still committed to framing their own conservation program that will have provisions and targets specific to all sectors of users of Great Lakes water. The recently passed *Water Opportunities and Water Conservation Act*, which we all support, enables our water conservation program, signals the intention to lead on water sustainability and innovation, *and* requires more specificity within the Great Lakes context for Ontario to continue to lead by example.

##### **Commitment to draft a regulation that will protect Ontario's unique problems with Intra-Basin Transfers.**

During the negotiations for the Agreement, it was very difficult for unique problems to be addressed within one document designed to cover all of the Great Lakes. Since the Agreement was signed we recognised and have made detailed submissions on one flaw in the Agreement language: the definition of Connecting Channels. The definition as it exists in the Agreement could lead to future harmful intra-basin withdrawals unique to Ontario. We are concerned that the impact of this loophole is still not well understood. We are urging you to report to the Regional Body on Wednesday that Ontario is still continuing to consult on the means to regulate the exceptions for Intra-Basin Transfers.

Thank you for considering these urgent concerns. We strongly urge you to act quickly and ensure Ontario has a strong water conservation program and regulation respecting intra-basin transfers in place, prior to next year's provincial election. We are anxious to meet with you to explain our concerns in greater detail. Please respond by contacting Sarah Miller of CELA [millers@lao.on.ca](mailto:millers@lao.on.ca) 416 960-2284 ext. 213 or John Jackson of Great Lakes United [jjackson@glu.org](mailto:jjackson@glu.org) 519-744-7503. Thank you for your consideration of these concerns at such short notice.

Yours truly,

*Sarah Miller*

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