

*Rethinking Public Consultation  
From the Inside Out ~  
“a risk worth taking”*



*An Evaluation of the Ontario Advisory Panel  
Process for the  
Great Lakes Charter Annex Agreements*

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## EXECUTIVE SUMMARY

### **Background “A risk worth taking”<sup>1</sup>**

Sometimes controversy leads to unforeseen opportunities. This report explores how one complex and difficult international negotiation led the Government of Ontario to the realization that a new approach to public consultation on complex policies affecting many stakeholders could be beneficial. This report has been assembled from interviews with stakeholders and government participants involved in the Ontario Great Lakes Charter Annex Advisory Panel between 2004 and 2005. Its findings are intended to assist Ontario in exploring and promoting new approaches to public consultation “from the inside”<sup>2</sup> out. Lessons learned from this unique experience have been framed into recommendations that could serve as a model for other consultations and outcomes in the future.

In 2001 the eight Great Lakes Governors and two Premiers announced that they would be entering into negotiations to improve the existing Great Lakes Charter of 1985, a gentleman’s agreement to protect the waters of the Great Lakes. The new agreement would enhance the water management systems in place in order to better protect, conserve and restore and improve “the Waters and Water-Dependant Natural Resources of the Great Lakes Basin”. This negotiation was in reaction to a number of concerns about growing continental and localized areas of water shortage in North America, the spectre of bulk water exports from the Great Lakes to areas outside the region and growing demands within and near to the Great Lakes. A means to deal with emerging challenges also had to be part of the new negotiated plan. These included climate change impacts and a lack of practical knowledge of how the resiliency of the ecosystem will be impacted by lowered water levels.

While Ontario and Quebec had improved their water management systems and had placed a ban on bulk water export, they quickly found in negotiations that the States were reluctant to consider extending the ban to their waters. Consequently, when the first draft of the Agreement was released to the public, the reaction of Ontarians was overwhelmingly negative. Why, they asked, can’t the US ban exports from the Great Lakes if we can? The Canadian media headlines characterised this controversial omission as a “US water grab”.

The other negotiators accused Ontario of being unable to control their public and messaging to the media. When Ontario’s negotiators considered their next steps they decided with the Minister of Natural Resources, David Ramsay and the Premier’s approval to take the risk of inviting those stakeholders with the strongest concerns and those who would be impacted to be partners in the remaining negotiations. They

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<sup>1</sup> Kevin Wilson, Assistant Deputy Minister, Ontario Ministry of Natural Resources Negotiating Team

<sup>2</sup> Rob Messervey, Ontario Ministry of Natural Resources Negotiating Team

decided to form an advisory panel and invited 50 representative stakeholders to join them to assist the province in framing their further negotiating positions. The Province notified the negotiators for the other jurisdictions that they would not be able to return to the negotiating table unless discussions on a ban in the US were reopened. The Ontario Government committed to taking the advice of their panel and in exchange asked for their confidentiality for the remaining year of the negotiating process. The outcome proved to be favourable for all and a “risk worth taking”.

The final draft extended the ban on out of Basin diversions to the US States and dropped other clauses of concern to the public. Ontario was able to represent their public perspective in a much more direct and genuine way in the negotiations and establish a level of trust that is often missing in public consultations. Additionally the Province was able to build a constituency for the long term implementation of the new agreement in Ontario law. Most members of the original Advisory Panel want to continue to work in collaboration with the government on the implementation of the final agreement the *Great Lakes - St. Lawrence River Basin Sustainable Water Resources Agreement* that could take up to 7 years. This Agreement was approved by all ten Great Lakes jurisdictions in December 2005. The new agreement, unlike previous arrangements, will be legally binding and will set new decision-making and conservation standards for sustainable water use within the region.

### **Successful Components of the Process**

There was a high degree of agreement between government and public participants about the components of this process that contributed to its success. Constructive suggestions were also made on how it could be enhanced and used more widely in the future. Those with experience in more traditional consultations felt that this process was far more collaborative, and were gratified that their concerns were heard and acted upon. They gained a better understanding of differing perspectives and accepted compromises because they had agreement on the necessity to move forward together. Some of these components that led to this success were:

- Strong political leadership and support
- Commitment of senior staff
- Sincerity and an atmosphere of respect
- Involvement of a broad based group of affected stakeholders
- Establishment of clear ground rules
- Clear follow through and feedback
- Transparency and open communication
- Using the public as a resource and source of intelligence
- Working toward consensus



## **Future projects using this approach**

- Will need to involve the public and First Nations as early as possible in the process
- Consider what comprises adequate consultation with First Nations
- Provide adequate resources for both government staff and stakeholders involved because this level of commitment demands more time and consequently more resources and support

## **Recommendations**

Increasingly as environmental and resource use and management issues grow with global threats, there will be imperatives to act and resolve differences that hinder actions. The public now has a more profound appreciation of how failure to act can cause irrevocable harm to the environment and their health. New models to bring about consensus on the way forward on complex government policies and programs will be needed. The following recommendations should be used in developing any public consultation process:

- 1) Involve the public early in the process of developing policy and regulations.
- 2) Ensure that all sectors with a particular interest or stake in the policy are fairly represented in discussions with government. It is especially important to include those who are most critical of the policies.
- 3) Rather than coming in with a pre-conceived idea of what the policy or legislation will be, try to reach a consensus through shared decision-making and a balancing of interests.
- 4) Demonstrate that political leadership supports the efforts.
- 5) Maintain ongoing involvement and commitment of senior bureaucrats who have influence internally within government, and include other government departments who have a view and who will be involved later.
- 6) Provide staff and participants with adequate resources to support the additional effort, time and care required.
- 7) Develop clear ground rules for participants and government representatives to follow.
- 8) Provide good information, measures that capture decisions clearly and regular updates to all participants, even allowing for briefings and meetings outside the

formal processes so that no one who wants to participate is left behind in the discussions and so that stakeholder input is maximized.

- 9) Create an atmosphere of respect for those involved in the discussions and ensure that consultations are open and transparent.
- 10) Follow through on the advice of the stakeholders and public, or provide reasons why advice was not accepted. Report back on progress.

# RETHINKING PUBLIC CONSULTATION FROM THE INSIDE OUT ~ “A RISK WORTH TAKING”

## *An Evaluation of the Ontario Advisory Panel Process for the Great Lakes Charter Annex Agreements*

“Constructive public deliberation is the means by which opinions can be revised, premises altered and common interests discovered.”<sup>3</sup>

### **1. Purpose**

The purpose of this report is to evaluate the Great Lakes Charter Annex Advisory Panel by the Ministry of Natural Resources (MNR), to examine this process as a case study for an alternative approach to public consultation, and to identify the elements critical to the success of this process and ways in which it could be improved that could be applied to future government consultations.

### **2. Objective**

Increasingly public policy issues are complex, multi-faceted, highly technical and political, and involve regulatory components. There is usually a broad cross-section of stakeholders with direct and indirect interests whose perspectives need to be taken into consideration when policy is developed. Consulting each of these sectors individually can be time-consuming, expensive and ineffective in building an informed and enduring constituency for public policy reform.

The Ministry of Natural Resources' Great Lakes Charter Annex Advisory Panel was created to assist the Ministry's negotiators in the process of negotiating the Great Lakes Charter Annex Agreements. This Advisory Panel broke down many of the usual barriers to effective public consultation. It created consent on Ontario's input at the international negotiating table that significantly influenced the outcome of those negotiations. As well, it developed a broad-based constituency, which has continued to shape the implementation of the Charter Annex Agreement both in Ontario and in other jurisdictions.

The objective in evaluating the Advisory Panel process is to identify the key ingredients that contributed to its success in order to inform and improve future public consultation processes in Ontario. Although the Advisory Panel continues to advise the Ministry of

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<sup>3</sup> Steven Daniels and Gregg Walker (1996) “Collaborative Learning: Improving Public Deliberation in Ecosystem-Based Management”, *Environmental Impact Assessment Review* 16, p. 74.

Natural Resources, the discussion of the Advisory Panel process in this report primarily covers the time period from the release of the draft basin-wide agreement in July 2004 to the signing of a substantially revised agreement in December 2005.

### **3. Methodology**

The methodology that was used in evaluating the Advisory Panel process included the following:

First, in consultation with Ministry of Natural Resources' staff, two questionnaires on the Advisory Panel process were developed – one tailored to members of the Great Lakes Charter Annex Advisory Panel, and another directed at key government participants. The first questionnaire was emailed to all members listed as part of the original Advisory Panel. The second questionnaire was distributed to key government negotiators in the Ontario Ministries of Natural Resources, and Intergovernmental Affairs. As well the Ontario Ministry of the Environment, the Canadian Federal Government and other government agencies such as the International Joint Commission and the Council of Great Lakes Governors were asked to participate.

Secondly, the distribution of questionnaires was followed up by telephone calls to those members of the Advisory Panel who attended meetings most frequently and to selected government representatives. Telephone calls were also made to some people who were listed as members of the Advisory Panel but who participated in a more limited way. The telephone interviews with panel members were chosen to ensure that members from the range of sectors were covered. Telephone interviews were also conducted with government and agency representatives in both Ontario and the United States. Additional telephone interviews were conducted with the Advisory Panel's facilitator and with a First Nations participant.

An analysis of the Advisory Panel process based on the information collected through questionnaires and telephone interviews was then carried out. Of the original approximately 60 contacts identified, including government representatives, Panel members and alternates, 39 participated in this evaluation. Several additional Panel members who were not active participants in the process were also contacted. The complete list of those who contributed is listed in Appendix I.

### **4. Background to the Great Lakes Charter and Annex Agreements**

In the 1980's concerns began to emerge in the states and provinces around the water-rich Great Lakes and St. Lawrence River that the region could be vulnerable to emerging trends in North America. Population growth, industrial and agricultural intensification in water-scarce sunbelt areas of the United States were depleting the Ogallala aquifer much faster than it could be replenished, and plans for importing Great Lakes' water to the region were being investigated. In response, jurisdictions in the

Great Lakes began to address the spectre of large scale withdrawals and diversions from the region.

In June 1984, Ontario Premier William Davis promoted regional action by hosting a Futures in Water conference in Toronto where Ontario voiced its opposition to diversions out of the Great Lakes Basin as well as concerns about growing consumptive uses within the Basin. These concerns resulted in an endorsement of a cooperative management approach to the Great Lakes water resources. Consequently, on February 11, 1985 the eight Great Lakes Governors and the Premiers of Quebec and Ontario signed the Great Lakes Charter.

This Charter was a non-binding agreement based on management principles of:

- Recognition of the integrity of the natural resources and the ecosystem of the Great Lakes Basin as a single hydrologic system;
- Cooperation among local, state and provincial agencies, the federal governments of Canada and the US, and the International Joint Commission in the study monitoring, planning and conservation of Great Lakes water resources;
- Protection of the Great Lakes from the serious concerns of new or increased diversions by seeking to implement legislation and establish programs to regulate and manage the resource;
- Prior notice and consultation with other jurisdictions prior to approval or permit of any major new or increased diversion or consumptive use over 19 million litres (5 million gallons) a day; and,
- Commitment to the development of a common database and information on the use and management of the resource and the establishment of a Water Resources Management Committee and Program to coordinate information exchange, research efforts and improved information for future water planning and management decisions.

The Ministry of Natural Resources represented Ontario on this Water Resources Management Committee. However, many jurisdictions never followed through with legislation to implement the Great Lakes Charter. Under the Water Resources Management Committee, several diversion proposals were approved on the US side for communities that straddled the surface water boundaries of the Great Lakes Basin. Ontario and some states as well as environmental groups objected to these proposals. During this same period it became apparent that large consumptive uses of water to irrigate crops within the basin were circumventing the Charter provisions. There was no data on the cumulative impacts of the many water uses that did not require approvals under the Charter "trigger levels", and scientists were warning that climate change would mean significant lowering of lake levels.

Then, in March 1998 the government of Ontario granted a permit to take water to a small private venture in Sault Ste Marie, Ontario, the Nova Group, to export water in bulk by ship from Lake Superior to Asia. Although the permit was eventually withdrawn, this relatively modest proposal to export 600 million litres (158 million gallons) a year,

one ship at a time, led to the eruption of a political and a public relations crisis for the Ontario, US and Canadian governments that challenged them to revisit virtually all their water management laws. In addition, new worries about how trade agreements might impact the ability of the jurisdictions in the Great Lakes and beyond to manage their waters captured media attention in Canada. In 1999, the International Joint Commission (IJC), a binational body set up by the Boundary Waters Treaty of 1909 to oversee boundary and transboundary water management between Canada and the United States, carried out a reference on these new concerns and about the impacts of bulk water withdrawals from the Great Lakes. The report in 2000 concluded that there were not adequate protections in place in the States and Provinces to meet these new water management challenges.

To address these concerns, the Council of Great Lakes Governors proposed the development of a new binding agreement that would be an annex to the original Great Lakes Charter. On June 18, 2001, the 8 Great Lakes Governors and the Premiers of Quebec and Ontario signed Annex 2001 to the Great Lakes Charter. They thus signalled their intention to negotiate binding agreements that would protect, conserve, restore and improve the Great Lakes for the use and benefit of its citizens.<sup>4</sup> Each jurisdiction selected a negotiating team that reported to their Governors and Premiers. Ontario's negotiating team was made up of staff of the Ministry of Natural Resources and one staff from Intergovernmental Affairs. The Council of Great Lakes Governors, which was facilitating the negotiations on the Annex, set up the Great Lakes Water Management Advisory Committee and invited each jurisdiction to select stakeholders with a regional focus.<sup>5</sup> While this Advisory Committee was not party to the negotiations, they were asked to make periodic submissions on issues and attend meetings with the negotiators on a confidential basis.

This first round of negotiations was challenging for the Ontario negotiators. Their mandate was to "negotiate on the basis of the current Ontario policy and framework".<sup>6</sup> Ontario already had one of the most protective water permitting systems in the region, requiring a permit for all uses above 50,000 litres per day, and did not want to sign an agreement that was less stringent than its own laws. Most importantly Ontario had banned all diversions out of the Great Lakes Basin and the province's other major basins while Quebec had banned diversions out of the province. Ontario's efforts to get similar bans extended to the US were dismissed because the States maintained that this would violate interstate commerce laws. As one negotiator put it "when you are negotiating with the States, at the end of the day they will all agree and you will be left out of it". Furthermore, Ontario and Quebec had concerns that the Annex ignored the cumulative impacts of all water withdrawals on the integrity of the ecosystem.

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<sup>4</sup> Chapter 1, Article 100.

<sup>3</sup> Three groups suggested by Ontario were selected. They were Ontario Power Generation, the Ontario Federation of Agriculture and the Canadian Environmental Law Association. The bi-national Great Lakes United was also selected. These groups also participated in the Ministry of Natural Resources' Charter Annex Advisory Panel. The Council refused Ontario's efforts to include First Nations and a representative of the Municipal sector

<sup>6</sup> Paula Thompson, Ontario Negotiating Team, Ministry of Natural Resources.

Three years later, in 2004 the proposed draft agreements to implement the Great Lakes Charter Annex were released for public comment. There were two agreements -- the Great Lakes-St. Lawrence River Basin Sustainable Water Resources Agreement (referred to in this report as the Agreement) which included Ontario and Quebec, and the Great Lakes-St. Lawrence River Basin Water Resources Compact, which included only the eight Great Lakes states. The Agreement is a good-faith agreement among the Great Lakes States and Ontario and Quebec that will be implemented through legislation in Ontario and Quebec, and implemented in the United States through the binding interstate compact into state laws. In the US, the compacts between the States also need Congressional approval.

In Canada, public meetings were held on the draft agreement in Thunder Bay, Sault Ste. Marie, London, Kingston, Toronto and Windsor during the 90 day comment period. Although the public in the United States was generally supportive of the Agreements, the Canadian public expressed strong concerns. Meetings in Toronto and London were particularly acrimonious. First Nations were concerned that they had not been included in negotiations. Others were critical that the Agreements would not prevent large-scale water diversions outside the Great Lakes Basin, and that the Canadian Federal Government would be excluded from the right to approve or veto diversions. They were also critical of the "improvement standard" included in the Agreement that encouraged applicants for water withdrawals to pay for local improvements as part of the terms of their proposal. At the end of the public consultation period the Council of Great Lakes Governors had received over 10,000 submissions directly from the public or passed on from each of the jurisdictions. This convinced the Ontario Government that their public had overwhelming concerns with the Agreement and an appetite for deeper involvement.

Ontario negotiators were criticized by their counterparts in the US as being unable to control their public or messaging to the Canadian media. However, the Ontario negotiators saw the public concerns as supportive of issues that had fallen off the negotiating table. Discussions were held among the Ontario negotiators and senior government staff about the best way to move forward. The decision was made to move ahead using a new level of inclusion of stakeholders as direct advisors to government. This methodology was endorsed by the Minister and the Premier.

## **5. The Advisory Panel Changes History**

As a result, the Minister of Natural Resources David Ramsay announced that Ontario would not sign the agreements as drafted. In November 2004, the Minister established the Great Lakes Charter Annex Advisory Panel, with 50 representatives of different sectors, in order to advise the government through the remainder of the negotiations.

The formation of the Advisory Panel in Ontario resulted in a marked change in Ontario's role in the negotiations. As one negotiator put it, at the international negotiating table it was "now known that Ontario's position had more weight than one voice". Ontario's



strong message was that if you really want to go forward you have to go back to reconsider a ban on diversions. This resulted in the US seeking new legal opinions, which concluded that indeed it was possible for them to commit to a ban. This broke the log jam and negotiations resumed on an Agreement that included a basin-wide ban.

The final agreements, released in 2005, evolved significantly from the first draft Agreements in response to public input in Ontario. Throughout the next year the negotiators worked in partnership with this Panel on all issues to have the Agreements finalized for the November 2005 deadline. In Canada, this included two separate public consultations, meetings with First Nations and the on-going input of Ontario's Charter Annex Advisory Panel, which advised negotiators during the final year of negotiations.

All did not go smoothly in the next round of negotiations in which the Advisory Panel was involved. The new controversial concept of exempting cities and towns situated within counties straddling the boundaries of the Great Lakes Basin from the diversion ban was introduced in the US. It was never made clear how many more users might gain access from this "redrawing" of the boundaries of the Basin. Fundamentals of the Agreements were opened up for debate all over again by one US jurisdiction that had not kept up with the process. Industry lobbyists tried to convince legislators to change key provisions. By the summer prior to the deadline for a final agreement of November 2005, there was no consensus on the working draft. Ontario and other jurisdictions insisted, however, that the latest draft be released to the public anyway so as not to lose commitment or momentum.

Ontario was anxious to alert their public to the changes in the new draft and to the fragility of the status of the negotiations. They decided to go out early to the public and arranged meetings in July 2005. These meetings were in London, Kingston, Thunder Bay, Sault Ste. Marie, Windsor, St. Catharines and Toronto. This second public consultation period yielded one hundred and thirty-seven responses in Ontario. Most of these responses were supportive of having such an Agreement in place and offered constructive criticisms. The contrast between this response and the outcry of the first consultation can be credited to the impact of the public involvement in the Advisory Panel.

Once the public consultation period on the second draft of the Agreement closed in September 2005, the jurisdictions continued to negotiate to reach consensus. The Ontario Advisory Panel was in a uniquely privileged position during the fall of 2005 compared to the public in the US. They were aware of the issues still at play and actively worked with the government from the inside to settle outstanding matters. In contrast, concerned US groups were working to apply pressure from the outside to governments who at that point were not indicating publicly what was going on.

On December 13, 2005, Ontario, Quebec and the eight Great Lakes States signed the Great Lakes - St Lawrence River Basin Sustainable Water Resources Agreement. At the same time, the Great Lakes states also endorsed the Great Lakes - St Lawrence River Basin Water Resources Compact.

## **6. First Nations and the Agreements**

In 2002 when the makeup of the Advisory Committee to the Council of Great Lakes Governors (CGLG) was being considered, Ontario proposed that First Nations in Canada and Tribes in the US be included. This was rejected because concerns were voiced that Tribes and First Nations were not organized in a way that representatives and spokespersons could be found.

Despite this, the Ministry of Natural Resources started in the fall of 2003, to go out and inform First Nations in Ontario of the Great Lakes Charter Annex Agreement. A mailing went out to all 60 communities within the Great Lakes watershed (out of 134 Ontario First Nations) as well as to First Nation political organizations. Meetings then were held in five locations; Sudbury, Barrie, London, Thunder Bay and Kingston.

In December 2003, a land claim for the lakebed under Lake Huron and Georgian Bay was made in Ontario Superior Court by the Saugeen Ojibway. The Statement of Claim stated, "The Treaties signed by the Saugeen Ojibway Nation clearly did not include the land under these waters around their traditional territories; nor were they a part of treaty negotiations. The First Nations of the Saugeen Ojibway Territories are therefore claiming aboriginal title to these territories and therefore their return to the Bands' occupation and control".

During the summer 2004 release of the first draft of the Agreement and 90 day consultation period, MNR held a separate series of First Nations meetings in each city they visited, Thunder Bay, Sault Ste. Marie, London, and Kingston. These were followed in October by a meeting of senior MNR officials with the Chiefs of Ontario political leadership.

November 9-11, 2004, the Chiefs of Ontario held a Special Chiefs' Assembly in Thunder Bay and passed a resolution on Great Lakes Water Quality and Quantity opposing export and diversion of water from the Great Lakes. As well they asked for "a full and open consultation process and resources for face to face meetings with their leadership and broad-based community meetings".

On November 23, 2004 in Sault Ste. Marie, Michigan, Tribes and First Nations gathered and issued a Tribal and First Nation Great Lakes Water Accord (See appendix VII).

As well, on January 31-February 1, 2005, 31 members of Tribes and First Nations met for the first time with the Council of Great Lakes Governors in Oakbrook, Illinois to discuss the draft Agreement. The meeting was hosted by the Council of Great Lakes Governors, while the Ontario Government offered resources to assist First Nations from Ontario to attend. The Ontario government participated in this meeting as well.

The Tribes and First Nations met again in Niagara Falls, Ontario in April 2005 where they formed the United Indian Nations of the Great Lakes and initiated a task force to develop a parallel process of aboriginal engagement on the draft Agreements. The meeting was organized by the First Nations and Tribes but government negotiators were invited to attend.

This dialogue came at a time when two precedent setting court decisions in BC clarified the duty of the crown and third parties to consult with First Nations. "Consultation with First Nations affected by decisions of the Crown must be higher, deeper and sooner than previously expected."<sup>7</sup>

First Nations are committed to seeing that these decisions are followed. They felt they were not contacted soon enough after the Great Lakes Charter Annex was announced in 2001. The depth of consultation should happen with the Treaty holders and ideally in all Great Lakes Basin First Nations communities. One Aboriginal Advisory Panel member interviewed pointed out that "Reports and information do not constitute adequate consultation and engagement. A good model agreement used in Saskatchewan gives First Nations input at the conception of policy development.

This model can be viewed at:

<http://www.fsin.com/landsandresources/resourcemanagement.html>.

When Ontario set up the Advisory Panel in the December 2004, First Nations provincial territorial organizations (PTOs) were invited to participate. Several First Nation representatives did attend the first few meetings. Subsequently the representatives did pull back and asked that a separate and parallel Aboriginal engagement process or panel be set up for First Nations. In October 2005 Ministry of Natural Resources officials met with members of the Chiefs of Ontario environment policy/technical committee to discuss the Agreement and how parallel engagement could be achieved. An Aboriginal Advisory Panel to Ontario's negotiating team was established.

Many of the non-native Advisory Panel members interviewed for this report did regret that their Panel would not benefit from directly having First Nations share their perspectives. First Nations acknowledged they had learned a lot about the Agreement from NGOs who made efforts to dialogue during this process.

The Council of Great Lakes Governors and the negotiating team did have conversations about inclusion of Tribes and First Nations on the Regional Body overseeing the Agreement. However some US Tribes declined that option.

Again when the second Draft of the Agreement was released in June 2005, MNR arranged public meetings in locations near to First Nations and held separate meetings for them in London, Sarnia, Niagara Falls, Kingston, Thunder Bay and Sault Ste Marie.

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<sup>7</sup> Billy Garton and Sandra Carter, April 2002, *First Nations Consultation: Higher, Wider, Deeper and Sooner*, article in Bull, Housser & Tupper Barristers and Solicitors Bulletin

Rob Messervey, one of the Ontario negotiating team, credits the Aboriginal input with being instrumental to Ontario in seeking significant changes to the draft Agreements to strengthen protections of Great Lakes Basin waters. The final Agreements do include several provisions committing to consult with Basin Tribes and First Nations on proposed water diversions subject to the regional review process. As well it commits to establish mechanisms for scientific and technical interaction and data exchange and to facilitate dialogue with and input from First Nations and Tribes on matters within the scope of the Agreement.

At the first meeting of the Regional Body in June 2006, a meeting was held with First Nations and Tribes to further this dialogue. Representatives of Ontario First Nations in attendance were the Union of Ontario Indians, the Chiefs of Ontario, Saugeen First Nation, and the Mohawks of the Bay of Quinte.

In July 2006, a letter of intent was negotiated with Minister Ramsay and Union of Ontario Indian Grand Chief John Beaucage addressing a number of resource management issues. It included an agreement "to develop an approach that defines a role for the Anishinabek Nation in protecting the Great Lakes in partnership with Ontario through the implementation of the Great Lakes Charter Annex". On March 27th, 2007 Minister Ramsay and Grand Chief Beaucage signed a Memorandum of Understanding to implement this commitment.

Input from First Nations and Tribes has also been sought in the development of regional water conservation objectives for the Great Lakes Basin, intended to guide the development of water conservation programs in each state and province. On March 15 2007, the Council of Great Lakes Governors released the draft conservation objectives for public review. The draft recognizes the need for greater understanding and consideration of aboriginal traditional knowledge through partnerships with Basin Tribes and First Nations

It is important that Aboriginal Traditional Knowledge (ATK) is a component of all environmental regimes as it has much to offer to western science. Canada is a signatory to the Convention on Biological Diversity and has already started to give the due respect to ATK as federal acts such as the Species at Risk Act have already ensured ATK is in the act and a significant part of protecting the species. To this end, the Chiefs of Ontario are hosting an Aboriginal Knowledge Sharing Session this spring for others in government, conservation authorities and NGOs involved in source water protection.

## **7. The Mechanics of the Advisory Panel**

The Advisory Panel was initially composed of about 50 representatives from many different sectors. Approximately 30 members attended continuously throughout the process. Invitations were sent to selected stakeholders after a preliminary meeting in October 2004 "in keeping with the Government's desire to involve its partners and

clients in the decision making process".<sup>8</sup> The function of the Advisory Panel was to act as advisors to the Minister of Natural Resources, David Ramsay, in the negotiation of a second draft Agreement.

The Ministry of Natural Resources invited representatives from key industrial sectors with particular interests in water issues such as the agricultural sector, waterpower generators, the aggregate sector, and the bottled water sector. Representatives from the municipal sector, from the Ontario water and wastewater association, the groundwater association, and from many non-governmental organizations, including the government's strongest critics, were also invited. As well, the Panel included experts such as Jim Bruce from the Soil and Water Conservation Society, and Ralph Pentland, who had a history of involvement with the International Joint Commission and Great Lakes' issues (e.g. Canadian co-chair of IJC Water Uses Reference Study examining Great Lakes water diversions and consumptive uses). Also, The Walter and Duncan Gordon Foundation, which has a strong interest in enabling water protection, as well as the Munk Centre for International Studies Programme on Water, which hosted an international conference on the Annex Agreements, were asked to be panel members. A complete list of the original participants in the Advisory Panel can be found in Appendix II.

Ontario's intention was to "build a collaborative process to share information and ideas" between the Ministry of Natural Resources and stakeholders in the issues of Great Lakes water quantity management.<sup>9</sup> At the inaugural meeting on December 15, 2004, the Ministry of Natural Resources told the Panel that their specific mandate was:

- To participate in regularly scheduled meetings to receive information from and provide input to the Great Lakes Charter Annex (GLCA) negotiations process;
- To act as a sounding board for the discussion of issues;
- To offer insights, observations, advice and guidance to Ontario staff responsible for the GLCA negotiations process; and,
- To work with staff to insure the GLCA negotiations process meets Ontario's needs.

The key issues that were identified at the first meeting were diversions and consumptive uses of Great Lakes' waters, water conservation, the cumulative impacts of diversions and withdrawals, and the concept of making resource improvements in return for water-taking. The Ministry of Natural Resources staff made a commitment to provide members of the Panel with updates on negotiations and to seek the input of the Advisory Panel before signing the final agreement. The Panel discussed all possible options that the Ministry might take to the negotiations with respect to each issue. The Ministry undertook to provide the Panel with comprehensive minutes of each meeting.

In total, ten meetings, including six face-to-face meetings and four teleconferences, were held between December 15, 2004 and November 21, 2005. For the first few

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<sup>8</sup> Ministry of Natural Resources, Invitation to Stakeholders to Attend Inaugural Meeting, Dec. 3, 2004.

<sup>9</sup> Ibid.

meetings, a facilitator, Karen Wianecki was engaged to promote discussion of the issues. She began the first meeting by presenting a scan entitled Issues, Trends, Possible Futures: Why We Need to Work Together. This power point presentation surveyed demographic, geo-political, economic, socio-cultural, environmental and legal trends and issues in North America. It helped create a common understanding in the Panel of the growing problem of the parallel growth of population with water shortages in the US sunbelt. The collective concern this created for Advisory Panel members established a strong foundation for the collaborative problem solving that followed.

Meetings of the Advisory Panel generally preceded working group meetings of the Ministry of Natural Resources negotiators with their counterparts from Quebec and the eight Great Lakes states. Very late in the negotiations, exceptions for straddling counties (i.e. cities, towns in counties straddling the Great Lakes Basin divide) to take Great Lakes' water was introduced by the US negotiators and necessitated last minute discussions of this new issue. The Ministry of Natural Resources used members of the Advisory Panel who were available for emergency teleconferences to help make the decisions on the final agreement.

## **8. Assessment of the Charter Annex Advisory Panel Process**

From the beginning, the Charter Annex Advisory Panel has been a unique process in the history of consultation in Ontario.

It was born out of a public outcry, which encouraged the Minister and ministry staff "to take the leap to be more democratic".<sup>10</sup> The Ministry of Natural Resources, despite the fact that they were involved in confidential negotiations with the eight Great Lakes' states and the province of Quebec, set up an open and transparent process. They came to the Panel with flexibility in their negotiating positions, the belief that the government did not have all the answers and an invitation to advise them on what policy positions Ontario should put forward.

Many Panel members who had been involved in other government consultations were immediately impressed by the openness and sincerity of the Ministry representatives. They have described their experience on the Panel as a "great process", "top-notch" and a "genuine consultation as opposed to a propaganda exercise". Larry Field of Conservation Ontario called it the "most engaging and most open process that I have ever been involved in". Many Panel members commented that the Ministry took a big risk in opening up the process, one that they appreciated. Ministry staff concurred that the Advisory Panel has proven to be "a risk worth taking".

The overwhelming majority of Panel members interviewed for this report supported the process and believed the result of their discussions led to a stronger second Agreement. Many were extremely enthusiastic about the process and hoped that future

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<sup>10</sup> Karen Wianecki, Facilitator for the Advisory Panel.

government consultations would follow this model. However, there was not unqualified support for this view. Although they generally saw the process as a good one, some Panel members were more guarded in their evaluations, particularly as it enters the next stage of actual drafting of legislation. As Bob Yap of Ontario Power Generation expressed it, “the devil is in the details”. Another Panel member, Paul Norris of the Ontario Waterpower Association, cautioned that this process should not be held up as “the” model but that “it can work in the right situation with the right cross-section dealing with the right issue”.

In this section, the report explores the key ingredients that were identified by Panel members and government representatives as contributing to the success of the process. Similarly, where Panel members expressed hesitations or concerns about the process, they have also been included in the appropriate sections.

The following key ingredients were the ones most commonly cited by Panel members and government representatives as the reasons why the Panel was viewed as a satisfying experience. They can be roughly grouped into three areas – people, procedure and process. The Panel members and the Ministry of Natural Resources’ representatives brought personal commitment, skills and information to the table to help make it work; the procedures that were used to develop policy positions and keep Advisory Panel members abreast of developments were very well executed; and, the process itself with its give and take at the negotiations was vibrant and resulted in a largely successful outcome.

Furthermore what was at stake was compelling. People were galvanized because, as Panel member Adele Hurley of the Munk Centre observed, “Water is a unifying topic”. This unification worked to level the playing field between stakeholders, government and agency representatives. Government participants heard and discussed the full range of concerns and priorities of the stakeholders and struggled with them to come to common positions. Their reward was being able to confidently and emphatically state what the Ontario public wants when they went to the negotiating table. “We no longer had to make weak generalisations and surmise about what the public wanted”, one negotiator observed. Ontario clarity allowed negotiators to categorically state what they could and could not support with authority.

## **8.1**      *Political Leadership*

In the case of the Charter Annex Agreement, there was an alignment of political, bureaucratic and public interests, all supportive of the direction of the process. The Advisory Panel was established by the Minister of Natural Resources, David Ramsay, after the first draft agreements were met with criticism from the public, First Nations and stakeholders.<sup>11</sup> The Minister indicated that he had listened to the public, and that in

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<sup>11</sup> Media Release, Ministry of Natural Resources, “Level of Protection in Draft Great Lakes Charter Annex Agreements Not High Enough: Changes Needed Before Ontario Will Sign”, November 15, 2004.



response to the overwhelming public sentiment he would not ratify the agreement as it was first proposed.

When the Minister made his decision, Elizabeth May, Executive Director of the Sierra Club of Canada who became one of the Panel members, said, "'To have your government actually listen to you and say we're not prepared to sign off on this agreement, we do not think there are adequate protections, and we insist on no diversion, this is really very, very important. Now we have a position with one jurisdiction solidly breaking away, I'm hoping we can get to a fundamental rethink."<sup>12</sup>

The Minister's commitment to considering the input of the Advisory Panel established the importance of its contribution to the process. "It's important to have political support for the process, and to know that they are advocates", observed one government participant. In addition, the attendance of a member of the Minister's staff at meetings allowed Panel members to discuss issues with a representative of his office.

## 8.2 *Commitment of Senior Staff*

In addition to the commitment of the Minister's office, the involvement of the Assistant Deputy Minister (ADM) in the Ministry of Natural Resources also demonstrated the importance of the Advisory Panel's deliberations and ensured their contribution to the process.

Many of the Advisory Panel members cited the Assistant Deputy Minister's active participation as one of the key factors in the success of the process.<sup>13</sup> Peter White of the Ontario Stone, Sand and Gravel Association stated that "the important thing in this process is the integrity that a senior official has lent to this process. They're not just listening. They're actively involved". In addition, it was observed by two Panel members that senior government people such as the ADM are more comfortable than junior staff members with diverse opinions.

Derek Stack of Great Lakes United contrasted the involvement of senior staff members with a consultation where stakeholders were invited to meet with a different Ministry to discuss another far-reaching, cross jurisdictional agreement. Since none of the Ministry's staff meeting with them would be involved in the negotiations, the stakeholders did not feel confident that their input would be meaningful.

In addition, because the ADM was one of the principal negotiators, his presence at the meetings assured Panel members that they were feeding directly into the process. The

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<sup>12</sup> The Globe and Mail, "Won't Sign Great Lakes Water Deal, Ontario Says", November 16, 2004.

<sup>13</sup> In fact, two Assistant Deputy Ministers were involved over the course of the negotiations and in discussing issues with the Advisory Panel. At one point, the first ADM assumed other responsibilities but remained part of the negotiating team and a second ADM joined the negotiations and worked with the Panel. This was important to retain continuity and relationships already established with other negotiators.

full Ontario negotiating team and their staff attended most of the meetings. Negotiators joined in the discussions and this contributed to placing government staff among the stakeholders on equal footing.

### **8.3**        *Sincerity and Atmosphere of Respect*

“Sincerity” was the one word most often used to describe the process and the Ministry representatives by many different Panel members. In part, the importance of sincerity to stakeholders reflects on other consultation processes where people felt that their input was not taken seriously enough and that they were being put through the motions of consultation to no real effect. However, even Panel members who were new to consultation processes were struck by the sincere interest of the people involved in the negotiating process and the engagement of senior Ministry people in the policy discussions.

The response of Ministry staff to concerns put forward by Panel members was described as “appropriate to the scale of concern”. Panel members generally felt that the Ministry representatives tried hard to get everyone’s view. In particular, the Assistant Deputy Minister, Kevin Wilson, was praised for taking the time to listen to everyone, “not just the loudest voices”. It was observed that he could understand when an important point was being made and make time in the meeting to ensure that it was fully discussed, rather than moving on simply to make sure that the agenda was finished. In one instance, Ministry officials apologized to other people who were making presentations and changed the whole day in order to accommodate an important discussion. “It’s not like the telephone messages that say ‘your concerns are important to us’ and then they put you on hold.”, observed Peter White, “important concerns were given the consideration they deserved.”

The commitment to take the views of the group forward contributed greatly to building trust. This way they communicated their respect for the collective intelligence of the stakeholders on the panel and created an atmosphere where everyone learned from each other. Panel members felt that in this consultation the government was not talking down to them, but that everyone was participating on an equal footing.

### **8.4**        *Broad-based Group of Stakeholders*

Both Panel members and government representatives stressed the importance of including a broad range of diverse interests on the Panel, including public and private sector interests and other relevant government departments. It was felt that having diverse players in the room made it possible to discuss, debate and better understand the full range of issues and their varying impacts on sectors. Elizabeth Griswold of the Canadian Bottled Water Association said that “the overall development of the Advisory Panel and having opposing groups work together for common ground and goals was excellent and beneficial.”

In the case of the Panel, both public and private sector interests were represented, as well as the Ministries of Natural Resources, Environment and Agriculture. The Panel included representatives from the agricultural community, from the aggregate and the bottled water industry, from the hydroelectric sector representing both large and small-scale hydro projects, from the municipal sector, as well as a wide range of non-governmental organizations. The Panel had "good people and good representation" in the opinion of one MNR representative. Michael D'Andrea of the City of Toronto described the Panel as a good cross-section of key stakeholders, and said "participants were genuinely committed to strengthening the agreement, providing input to support the negotiations and were objective enough to realize that through any negotiations compromises were also part of the process".

Many people on the Advisory Panel felt that they were representing not only the direct interest of their groups but their own personal interests as well. As Adele Hurley of the Munk Centre observed, water is a personal interest to many of us. Peter White, from the aggregates sector, captured this idea when he said that he aspired to represent not only the interests of the aggregates industry but the interests of Ontario as a whole.

MNR stressed that it was particularly important to include people who disagree in order to stimulate debate and probe the issues until a better understanding is reached. By doing this, the government was able to assess many of the implications of the positions it could take during the negotiations. It also gave the Ministry of Natural Resources the opportunity to experiment with ideas that might be taken forward to the negotiating table.

Three Panel members from different industrial sectors felt that industry was not well enough represented on the Advisory Panel. Elizabeth Griswold, for example, who raised this as one of her concerns said, however, that she did not hold the Ministry of Natural Resources responsible for this; rather, she thought that other industry groups did not fully understand the significance of the agreements and the impact that subsequent legislation would have on their sectors. Bob Yap felt that the Panel overall was heavily weighted with non-government organizations and that it was sometimes intimidating for industry representatives to express their opinions.

For some Panel members, the expanding size of the group was good because of its inclusiveness but there was a concern that as it got bigger, the impact of the Panel was diluted.

## **8.5**      *Early Involvement of the Public*

In the case of the Annex Agreements, the public was not involved in the early stages during the development of the initial drafts. Three of the Panel members felt that timing was an important consideration not only in this process, but in all public consultations.

Peter White suggested that the government should “consult early in the process, when you pick people up keep them with you, and keep reaching out”.

In the case of the Charter Annex Agreements, the government had already committed a significant amount of time and energy to developing an agreement before the public had the opportunity to see the results. Jim Bruce of the Soil and Water Association suggested that the government probably should have started the consultation earlier, but described the first agreement as “something to shoot at”. From the government side, there was a similar view that setting up the Panel earlier would have been helpful. One negotiator suggested that if they had had the Panel in place when they were discussing the Chicago Diversion, “we might have had a chance at a better outcome”.

Panel members who had participated in other government consultations observed that the government often is not receptive to criticism after it has done considerable work in drafting a policy or legislation. As a result, it is much more difficult to set up a process of public engagement. Carolyn Day of the Canadian Federation of University Women said that timing is important and coming in early enough before positions are fixed -- “it is better to start when it’s draft number one before you get to draft number 7 when there’s a lot more ownership”.

## **8.6**            *Ground Rules*

The work of the Advisory Panel benefited from the establishment of a very clear set of ground rules. The first and most important context for the discussions was the Minister’s decision in November 2004 that Ontario would not ratify the first draft agreements without significant changes. The Minister indicated that although the agreements would strengthen the regulation of water in many states, it was not acceptable that they were weaker than Ontario’s laws, which prohibit water transfers out of the province’s three major water basins.

The second important set of ground rules was established at the inaugural meeting on December 15, 2004. The mandate of the Advisory Panel was established primarily to assist Ontario negotiators by discussing issues and offering their guidance that could be taken to the bargaining table, as set out in Section 6.

The Minister’s initial announcement made it clear that Ontario would not go forward without the Panel and that Ontario would use the Panel to inform its negotiating position. As Brenda Lucas of the Walter and Duncan Gordon Foundation said, “it was clear that decisions had not already been made and that government representatives were open to input and influence”.

The mandate was also augmented and extended as a result of suggestions from the Panel. At the inaugural meeting, Panel members expressed a strong concern that the Agreement promote sustainable water use and management with the Basin and Ontario, and that the policy direction not be limited to protecting the Great Lakes from

threats outside the basin. The Ministry of Natural Resources showed flexibility in going back to the table with their resolve strengthened on this issue. Ontario had been advocating for controls on water use within the Great Lakes Basin from the onset. However there was resistance from some US negotiators who saw the Agreement as primarily protectionist against applications for water from outside the Basin only.

The ground rules gave both the stakeholders and the Ministry representatives clarity and guidance for their policy discussions, established the direction of the debates and created an important reference for those occasions when discussions ranged beyond the scope of the Panel's work. These ground rules also brought credibility to the process and assured Panel members that what they were doing was important and integral to the development of the government's position.

## 8.7 *Confidentiality*

Another important rule of the Panel's work was the agreement that members would respect the confidentiality of the discussions. Maintaining confidentiality was also important to other jurisdictions involved in negotiating the agreement with Ontario, especially during sensitive points in the negotiations.

As John Jackson of Great Lakes United commented, confidentiality is sometimes cited as a reason why the government does not release information of interest to stakeholders during consultation processes. However, in this instance, confidentiality was critical to the process and Panel members showed their respect for the Ministry's trust and proved that this trust was not misplaced.

This commitment to confidentiality by the Panel members allowed the Ministry to feel comfortable in being candid, providing information about the technical issues involved and being transparent about their discussions with the states and Quebec. It even allowed the Ministry to discuss openly the political problems presented by a deal made by the US National Wildlife Federation and the Council of Great Lakes Industries.

For their part, the Panel members generally agreed that they did not feel gagged by the confidentiality agreement. Some discussed the issues under negotiation with their groups to ensure that they were properly representing them, while others refrained from even doing this. No member of the Advisory Panel, however, discussed the delicate issues of the negotiations with members of the media while the discussions were underway. The Ministry felt that the confidentiality was absolutely adhered to by the Panel. The only breach of the confidentiality agreement occurred in the United States when members of a US environmental group who were kept informed by its Canadian counterparts divulged information to some media outlets.

Michael D'Andrea of the City of Toronto believes that the commitment to "confidentiality worked because stakeholders could see that leaks could jeopardize negotiations and would mean government would stop being so responsive".

## **8.8**      *Follow Through and Feed Back*

Another feature of the Advisory Panel that contributed to the vitality of the process was the fact that the stakeholders were setting the negotiating position with the Ministry of Natural Resources. The result was a dynamic situation where the Panel members were giving advice, positions were accepted or rejected at the negotiating table and the results were being fed back quickly to the Panel and new positions being adopted. When the negotiations were reaching their deadline, the Advisory Panel developed their primary goal and fallback positions and options should their preference not be accepted.

This had the effect of reinforcing the importance of involvement for the stakeholders who could see that their input had an effect. As one MNR representative observed, the worst thing in a consultation process is when the government goes away and does nothing.

In the case of the Advisory Panel, after the inaugural meeting the negotiators took many of the decisions arrived at in the meeting and presented them to the international working group that was charged with drafting the next version of the agreement. The results of the negotiations were then conveyed back to the Advisory Panel. In this give and take scenario, Panel members could see that their input was being seriously considered and put forward. They were also able to understand why certain positions were rejected, and were given the opportunity to discuss how to respond with another position.

Many of the stakeholders gave considerable amounts of time and energy to the lengthy meetings and teleconferences that were the foundation of the negotiations. Panel members have said that they would not have stayed involved in such a long time-consuming process if they had not seen that their input was meaningful.

## **8.9**      *Transparency and Open Communication*

Many Panel members stressed how important it was that the process was open. Rick Findlay said:

A big signal that the process would be meaningful was when MNR agreed to share confidential negotiating information and strategies. Rather, if MNR had taken the approach, 'thanks for your input, we'll go away and do what we want with it' it would have been a different process with a different outcome. People were participating in the process with a sense that 'I'm a small part of the larger negotiating process.'

MNR also tried to make the process as inclusive as possible by welcoming anyone with an interest and a commitment to participate. Many members were invited to the Panel after they had made submissions to the first public consultation process. Kelly Warner

of the Federation of Ontario Cottagers' Association commented that "there was no test to pass, no beauty contest. It was democracy at its purest."

All questions and suggestions were given a fair hearing – even "out of the box" ones. The Ministry representatives were open to questions and comments at all times during their presentations. One Panel member, Carolyn Day, described the process as developing a feeling of dialogue, rather than a sense of lecturer and audience.

The long period of time during which the negotiations took place also allowed for a slow build-up of trust between the government negotiators and the stakeholders. The effort that Ministry staff made to listen to the stakeholders and consider their views allowed a consensus to emerge. Carolyn Day compared it to other consultations where the government is often defensive when the public expresses a contrary view. In this case, Ministry representatives either explained their position or "let things sink in and filter through". Sarah Miller of the Canadian Environmental Law Association said that too often the government withholds information from the public in other consultations because they are afraid of controversy and described the candidness and trust of the Ministry of Natural Resources as "a refreshing contrast".

The Ministry staff were perceived by Panel members as playing their cards openly without any hidden agenda. The Ministry would ask Panel members "what position would you like us to take", arrive at a shared decision with the Panel and then proceed to take this position to the negotiating table. In addition, trust and transparency were reinforced by the Ministry's regular reporting back to the Panel on developments at the negotiating table. Earl Morwood of the Ontario Groundwater Association called the reporting back after negotiations "first rate".

The transparency and openness of the government allowed the Panel members to have a realistic, first-hand view of the difficulties Ontario faced in the negotiations. As Adele Hurley expressed it, "they pulled back the curtain and we saw how big the dance floor was. It made everyone sober up and understand that if you wanted the Agreements changed, this is what you were up against".

#### **8.10**      *Presentation of Information and Clear Records*

Another key ingredient in engaging the public in the development of complex policy or legislation is the quality of the information presented and clear record-keeping.

The Ministry of Natural Resources used presentations and summaries of material to stimulate discussions on major policy issues. Panel members were generally impressed with the helpfulness of the information. At the initial meeting, a facilitator provided Panel members with an overview of the issues at stake. Kelly Warner of the Federation of Ontario Cottagers Association commended the Ministry for "doing a great job presenting information in layman's terms". Carolyn Day praised the use of "good old-fashioned chart paper" in the meetings. However, Austin Kirkby of the Niagara on



the Lake Irrigation Advisory Committee expressed frustration at how technical the information was and how difficult it sometimes was to understand.

After each meeting or teleconference, “comprehensive and thorough” minutes were written up and circulated to all members of the Panel before the next meeting. For members of the Panel who could not make meetings, it was possible to stay informed about the discussions through the minutes. The objective for the Ministry was to ensure that materials kept people current and in the mind-set, and generally Panel members agreed that the quality of materials and the information provided was very good.

The Ministry was also careful to ensure that the minutes accurately reflected the decisions made by the group by asking Panel members at each subsequent meeting “did we get it right”. Accuracy was particularly important because recorded decisions being taken at the meetings were brought forward to the negotiations. As Karen Wiancki said, “it is logistically important to have clear records, to understand what everyone has agreed to and what’s actionable. It creates a record of common concerns and follow-up”.

Teleconferences were also an important vehicle for quick communication between Ministry staff and Panel members when negotiations were in their final stages and decisions had to be made quickly.

It was noted that electronic communications, particularly email, played an important role in the work of the Advisory Panel. The use of email to keep people up-to-date and informed worked well for most members of the Panel, particularly those who represented professional organizations. However, on the other hand, this created problems for those members of the Panel who did not necessarily have a computer or easy access to one. For them, it was difficult to keep up with the sometimes fast pace of developments and to stay involved to the same degree as other Panel members.

In addition, the Ministry staff was prepared to provide additional information or to meet outside of the scheduled meetings when individuals or smaller groups needed clarification on an issue or wished to discuss an issue in more depth. The Ministry’s lawyer was a valuable asset to the progress of the policy debates. She was available outside of the meetings to all Panel members to help them understand the complexity of the issues under discussion. This was especially helpful to some members struggling with challenging technical issues. Rather than taking up the time of the whole group, the Ministry could assist members with their expertise.

### **8.11**      *Education of the Stakeholders and Public*

From the initial presentations and overview of the water situation in North America to technical and scientific issues related to the protection of the Great Lakes, the Advisory Panel members were being continually briefed on the scientific and technical issues that were being debated at the negotiating table. Larry Field of Conservation Ontario said it

“broadened his knowledge of water-taking and diversions”. Some Panel members described it as “a big learning curve”.

In addition, Panel members learned about the concerns of other sectors and other Ministries. Specific sectors such as agriculture were able to explain their positions on difficult issues such as irrigation giving Panel members a better appreciation of the complexity of water-related problems. Representatives of Ducks Unlimited brought their knowledge of wetlands to the group. The bottled water industry was able to remove language from the first draft agreement that singled out their industry and their impacts on water removal because they argued that other industries such as the beverage industry used water in the same way.

Perhaps most importantly, as a result of the meetings and teleconferences Panel members were educated about the workings of government – how the political process worked and “the complexities that it took to cut a deal”, as Bob Yap of Ontario Power Generation described it. They learned first-hand the problems that the government’s negotiators faced in their deliberations with their US counterparts, and became aware of the compromises that might have to be made. Kelly Warner of the Federation of Ontario Cottagers Association said that her organization “was given the chance to see from the inside the process and understand the limitations of government power in taking a stand against the further erosion of the health of the Great Lakes”.

Being on the inside enabled Panel members to understand that they could not always get what they wanted in a negotiation process. At a certain point in the series of meetings leading up to the second draft agreement, Panel members were asked to consider whether no agreement would be preferable to a less than ideal agreement. The consensus of the Panel was that the agreement being negotiated would provide better protection for the Great Lakes than no agreement at all.

### **8.12**      *Using the Public as a Resource and Source of Intelligence*

Not only did the Panel members learn about government, but government also learned from the Panel members. Carolyn Day of the Canadian Federation of University Women called it “a learning experience on both sides of the table.” In their meetings with the Panel, the Ministry had the opportunity to learn from the research and the points of view that Panel members brought to the table.

They also had access to their networks, which provided valuable intelligence on the policies being discussed. For example, if the Ministry wanted to know what the Sierra Club would think of a certain position, they were able to find out quickly. The Panel, as a resource, allowed the government to gauge people’s commitment to change.

By engaging the Advisory Panel in a dialogue and debate about the policy issues at stake in the negotiation, the Ministry of Natural Resources was able to work through the advantages and disadvantages of different policy options. The Ministry benefited from

the diversity of opinions reflected in the membership of the Panel. It meant that Ontario representatives were able to bring well-thought out positions to the negotiating table with confidence that they would enjoy a level of public support. The Ministry of Natural Resources could also reject certain positions at the negotiating table knowing from their discussions with the Panel that they were unacceptable. This was the key to the Ministry's success in getting a ban on diversions into the Agreement. Because of this relationship with the Panel, Ontario's credibility at the negotiating table was strengthened. As one government member expressed it, the Ministry was not just speculating about amorphous public opinion but was expressing strongly endorsed actual positions.

Once the Ministry and Panel had built up an atmosphere of trust, when the negotiations reached a critical point towards the end, the government was able to get instant feedback from the Panel. John Jackson pointed out that in many consultations, the public is left out at the end when decisions are finalized but in this process, they were integrally involved in the process even during the final negotiations.

The use of the Advisory Panel as a source of public intelligence was not only useful to Ontario's negotiators. It also served as a helpful lens for the Quebec and U.S. negotiators who could use it to consider how certain issues would play in their own communities.

### **8.13**      *Arriving at a Shared View*

One of the most important features of the Advisory Panel process was the collaboration between the Ministry of Natural Resources and the stakeholders. The lengthy meetings and the detailed discussions of issues resulted in mutually arrived at decisions on the positions that were taken to the negotiating table. While many different points of view were expressed by Panel members, there was also an understanding and acceptance that Ontario negotiators had to speak with one strong voice at the negotiating table. For this to happen, the Advisory Panel also had to speak with one voice. Hence, collective efforts were made to shape Ontario's positions.

During the course of the discussions, the Ministry of Natural Resources and Panel members found that fixed positions on issues shifted. For example, for some Panel members the removal of the "resource improvement standard" was an important improvement in the second agreement. Although one Panel member, Rick Findlay of Pollution Probe, had originally been a firm supporter of this concept, he was influenced by the policy discussions and accepted the argument that resource improvement standards were more appropriate for smaller watersheds where it was possible to agree on what an improvement was than for a large watershed like the Great Lakes Basin.

Most Panel members felt that they had been able to influence the final agreement, and were satisfied that the second agreement was an improvement over the first draft. As Peter White observed, "if you can see yourself in it, you think it's good." The most

significant change in the final agreement was a strengthened commitment to prevent diversions. Carolyn Day of the Canadian Federation of University Women felt that “as a single organization, they could never have been as effective in influencing the final agreement as they were being members of this process”.

When the exception of straddling counties was introduced late in the negotiations, it was extremely unpopular with the Ontario negotiators and the Advisory Panel. There was no information on how many more people outside the surface watershed boundaries would gain access to Great Lakes water under this provision. Some States were adamant that rejection of this option would be a deal breaker for them. The Advisory Panel worked with Ontario’s negotiators to draft tough decision-making standards that would apply to applicants from straddling counties. The involvement of the Advisory Panel in this compromise meant that there was better acceptance of the give and take of the negotiations. Consequently, Ontario government received little criticism in the media when the agreement was signed about the straddling counties exception. This was in stark contrast to the responses to the first draft Agreement.

When the final Agreements were developed, most Panel members were able to support them and to provide well-reasoned comments to the media. The process resulted in defining Ontario’s position on key policy issues and building a consensus on the final agreement.

#### **8.14**      *Resources*

An important factor in this process was the government’s commitment of resources. As one MNR staff stated, “it’s important for government to ensure there’s enough money and resources for these projects”. In this case, there was considerable staff time and resources allocated to the ongoing demands of the process. Not only did negotiators have to prepare for international negotiations, brief the government, liaise with Quebec and the federal government and the IJC and hold public hearings, they had to prepare for Advisory Panel meetings and the Aboriginal Meetings and ensure that information was flowing and decisions were captured. The Ministry also funded a facilitator to conduct the several of the first meetings until all parties became comfortable with the process and a foundation of trust was built. This investment was considered by the Ministry to be worth the time and effort.

The only aspect of this consultation that was not adequately covered from the point of view of Panel members from outside of Toronto was the coverage of travel expenses for face to face meetings. In particular, those Panel members that volunteer for their organizations said that this created difficulties for them, and that they would have attended more meetings if the government had assisted them by paying their travel costs.

## 8.15 *Miscellaneous*

Other aspects that were cited by Panel members as contributing to their overall appreciation of the process was the flexibility of the Ministry of Natural Resources in changing the times and locations of the meetings. Many participants in the process who came from out of town, for example, found it difficult to attend meetings in Toronto at 9 in the morning because of rush hour traffic. The Ministry accommodated them by making meeting times later. The Ministry also moved the meeting location from an airport hotel to downtown in response to Panel members' requests.

One aspect that hindered Panel members and others who declined to participate was the issue of limited resources to devote to the many public consultations going on simultaneously. During the period in which the Great Lakes Charter Annex negotiations were underway, many other important consultations took place which demanded the time and energy of key stakeholders. In a similar vein, Panel members such as Thomas Schmidt of Waterloo Region, felt that as a municipal staff he did not have the flexibility to attend meetings that were set up quickly, rather than well in advance.

Peter White also mentioned that having Panel members eat together with Ministry staff at their discussion tables helped people get to know one another and build a sense of ease. One Ministry staff said "friendships were built".

## **9. Positive Impacts of the Process**

Overall, the Advisory Panel process was viewed by both Panel members and government representatives as a positive experience that led to a positive outcome. The initial release of the draft agreements followed the usual formula of public consultation with notice on the Environmental Bill of Rights registry followed by a public comment period and supplemented by public meetings. However, the creation of the Advisory Panel moved the government into a process of direct engagement with the stakeholders and public representatives. As a result of this process, the environment of cynicism directed at the government was transformed into an environment of support.

The successes of the process that have been described by many of those interviewed include:

- The process allowed Ontario to take a very well-informed position with respect to Canadian concerns into the negotiations, based on the Advisory Panel's advice.
- The policy deliberations of the Advisory Panel strengthened Ontario's hand in the negotiations. The negotiators could advise the working group that on a particular issue, they had had a focussed dialogue with the Advisory Panel and had very strong support for this position. Alternatively, they could definitively say "no" to including a certain provision because the stakeholders and the public would oppose it.

- The Advisory Panel gave a stronger voice to Ontarians who were outnumbered by the other Great Lakes jurisdictions, particularly the 8 states, in the negotiations;
- The positions collaboratively arrived at by the stakeholders and the Ministry of Natural Resources led to an improved agreement;
- The final agreement, which was negotiated with the advice of the Advisory Panel, was viewed as more protective of the Great Lakes than the draft agreement, particularly with respect to diversions. It included a ban on diversions that the US states had maintained was not possible. The ban effectively protects the whole watershed from diversions for the first time with a few limited exceptions;
- Because of the involvement of the stakeholders in the negotiations, support for the final agreement was more firm;
- Pressure from the media was eased because well-informed stakeholders from the Advisory Panel influenced the more positive coverage of the final agreement;
- The Advisory Panel process created momentum for the implementation of the Agreements;
- Many of the stakeholders have committed to continuing involvement in the Advisory Panel to work with the government and other sectors in developing the legislation, regulations and their implementation;
- Ontario is better prepared in moving ahead with the implementation of the Agreements through the development of legislation than other jurisdictions because they have informed and involved stakeholders in place on the Advisory Panel;
- The Ministry of Natural Resources built a legacy of trust with the stakeholders, which is likely to have a positive impact on future unrelated consultation initiatives;
- It pioneered a new level of engagement that other government Ministries and agencies can use to involve the public more effectively in the development of future policy and legislation;
- Members of the Advisory Panel are better informed about the mechanics of government and can apply their knowledge and experience to other consultation processes;
- Members of the Advisory Panel will be able to act as informed watchdogs as the legislation is developed and as implementation of the Agreements is carried out

in all jurisdictions. The full implementation of the Agreement could be many years away because it will have to be passed in all 10 legislatures and by the US Congress. The Agreement itself has a staged timetable for provisions to come into force over five years.

## **10. Summary of Lessons Learned**

In establishing the Advisory Panel, the Minister of Natural Resources and the Ministry staff set out to “build a collaborative process to share information and ideas”. Their commitment to sharing information, even when it was confidential, resulted in effective public participation in the decision-making and improved public policy. While most government consultations still follow a model of stakeholder management, this process engaged the stakeholders directly in the process – from the inside out, instead of from the outside in.

Most, although not all, participants in this process agreed that the Advisory Panel process and the features that have been identified as contributing to its success make it an excellent model for future development of policy and legislation. As Carolyn Day of the Canadian Federation of University Women wrote:

It is a perfect win-win scenario. For the different stakeholder groups, it provides an unprecedented and even-handed access to the formation of government policy. It doesn't pit one sector against another or against the government – but involves them all in dialogue to increase their understanding of the others' concerns, to establish their own credibility and to participate in consensus building. For the government, it provides a chance to work “with” not “against” the various stakeholder groups; to make use of their high level of expertise and research; to access and pool their information and research and that of their networks; to establish trust and credibility between the stakeholders and the Ministry staff, their processes and decisions; to guard against misinformation, “spin” and rumour around important decisions; and to enlist the strong voices of the various stakeholder groups to present an informed and hopefully united front to the public when introducing important and complex pieces of legislation.

Karen Wianecki, the facilitator for the Panel meetings, described how values and priorities have changed government consultation approaches over the last thirty years.

During the 1970's the public's role was very limited in public consultations. Public participation was synonymous with a linear process. Public agencies prepared documents and took them out to the public for comment. Given their limited role, the public became disillusioned. In response, public sector agencies adopted a defensive listening approach whereby public meetings were held, comments were solicited but the process remained ineffective, characterized fundamentally by one-way communication.

An increase in the number of conflicts and an escalation in the number of appeals led public sector agencies to look at the role of adjudication and the court system.



Throughout the mid-1980s, largely in response to an increasingly educated public, the number of conflicts continued to escalate and public sector agencies and organizations began to consider dispute resolution methods as an alternative to the court system. The mid 1980s also saw the emergence of mediation and interest-based negotiation philosophies which promoted a more interactive and collaborative method of discourse. These early processes marked the beginning of non-linear approaches and these early concepts, when combined with ecosystem based management and adaptive management began to question the whole theory of linear planning. For the first time, planning and policy development was viewed as a cyclical process rather than a linear one.

The late 1980s saw the emergence of collaborative stewardship and in early 2000, cooperative conservation movements began to emerge across the continental U.S. Today, stakeholder engagement particularly in the public policy arena is considered from a systems perspective.

The challenge for governments now is to deal with a public that is increasingly well informed and distrustful of simple answers to complex problems with widespread impacts. As the public's understanding of policy issues has grown, their concern for future generations has also increased. This evolution of public awareness has built an imperative for a new co-creative consultation model. Karen sees this consultation as such a model. She described the Panel process as "a best practices in public consultation that yielded huge benefits".

"We also increasingly need solutions that can be flexible, that can allow for new information to be applied once we have better scientific understanding. This is true for the Great Lakes Charter Annex where so much still needs to be known about ground and surface water impacts, cumulative and climate change impacts. This calls for communities of interest to remain involved for a longer time in implementation", said Sarah Miller of the Canadian Environmental Law Association.

Those who were strongly supportive of the process felt that it could be applied to complex policy issues that would benefit from many meetings with stakeholders representing all interests. Some Panel members said that it established a trust that could serve as a good foundation for future consultations. It was suggested, for example, that a similar process could be appropriately applied to the redrafting of the Canada Ontario Agreement and for the renegotiation of the Great Lakes Water Quality Agreement. Other Panel members thought this model could benefit the implementation efforts about to begin on the Watershed Plans and regulations prescribed by the Ontario Clean Water Act. One Panel member, Kelly Warner, felt that the government should use this model for significant policy shifts and a long time-frame. She suggested it be tried to determine what should be done about climate change because it gave government the ability to gauge people's willingness to accept changes.

Some Panel members expressed doubt about the wider applicability of this process. Several people interviewed thought the process was mainly ideal for international issues

but might be less successful when applied to domestic policies. In part, they believed this process worked as well as it did because the interests of Ontario industry, non-governmental organizations and government were aligned in this instance against the interests in the United States.

A few members of the Panel thought it was a good process but expressed hesitation about applying it to every consultation. They believed that one of the strengths of the process was the flexibility and that consultations should be tailored to the issue.

## **11. Recommendations**

The principal recommendation derived from this report is that the successful elements of the Advisory Panel set up by the Ministry of Natural Resources in December, 2004 to assist the Province with their international negotiations on and implementation of the Great Lakes - St. Lawrence River Basin Sustainable Water Resources Agreement should be considered as a mechanism for public engagement in future policy development and implementation.

This model is particularly suited for the development of complex policy initiatives that have an impact on many diverse stakeholders, such as environmental, resource and health protection initiatives that need to endure the changing political landscape to be successful because they build a constituency for the issue.

Regardless of whether the "Advisory Panel" model described here is chosen for consultations, the following recommendations should be used in developing any public consultation process:

Involve the public early in the process of developing policy and regulations.

Ensure that all sectors with a particular interest or stake in the policy are fairly represented in discussions with government. It is especially important to include those who are most critical of the policies.

Rather than coming in with a pre-conceived idea of what the policy or legislation will be, try to reach a consensus through shared decision-making and a balancing of interests.

Demonstrate that political leadership supports the efforts.

Maintain ongoing involvement and commitment of senior government staff who have influence internally within government, and include other government departments who have a view and who will be involved later.

Provide staff and participants with adequate resources to support the additional effort, time and care required.

Develop clear ground rules for participants and government representatives to follow.

Provide good information, measures that capture decisions clearly and regular updates to all participants, even allowing for briefings and meetings outside the formal processes so that no one who wants to participate is left behind in the discussions and so that stakeholder input is maximized.

Create an atmosphere of respect for those involved in the discussions and ensure that consultations are open and transparent.

Follow through on the advice of the stakeholders and public, or provide reasons why advice was not accepted. Report back on progress.

## APPENDIX I.

### List of Advisory Panels members and Government participants who were consulted for this report

#### List of Advisory Panel Participants

Mark Bassingthwaite	Tania Monteiro
Jim Bruce	Earl Morwood
Sue Chiblow	Mary Muter
Michael D'Andrea	Paul Norris
Carolyn Day	Ralph Pentland
Larry Field	Terry Rees
Rick Findlay	Thomas Schmidt
Ed Gazendam	Betty Semeniuk
Elizabeth Griswold	Art Smith
Adele Hurley	Derek Stack
John Jackson	Marcia Valiante
Austin Kirby	Mark Wales
Brenda Lucas	Kelly Warner
Dan McDermott	Peter White
Sarah Miller	Rob Wright
	Bob Yap

#### Government Panel Member Participants

Bill Carr	Rob Messervey
David de Launay	Risa Schwartz
Danielle Dumoulin	Paula Thompson
Leith Hunter	Kevin Wilson

#### Facilitator

Karen Wianecki

#### Others Interviewed

Peter Fawcett, Deputy Director U.S. Relations, Foreign Affairs Canada  
David Naftzger, Executive Director Council of Great Lakes Governors  
Sam Speck, Chair of international negotiating team and former Director of Ohio Department of Natural Resources

#### Panel: Unable to Contact

Elizabeth May  
Debby Korolnek or Lloyd Lemons

**Government and others unable to participate**

Louise Lapierre

Murray Clamen

Michael Vechsler

## APPENDIX II.

### List of Original Advisory Panel Members

Advisory Panel Partner	Representative
AGCare	Greg Hannam
Aggregate Producers Association Of Ontario	Carol Hochu Peter White
Alliance of Ontario Food Processors	Jane Graham
Canadian Bottled Water Association	Elizabeth Griswold
Canadian Chemical Producers' Association	Norm Hubbel
Canadian Environmental Law Association	Sarah Miller Theresa McClenaghan
Canadian Institute for Environmental Law and Policy	Anne Mitchell Maureen Carter-Whitney
Canadian Plastics Industry Association	Serge Lavoie
Canadian Steel Producers Association	Bruce Boyd
Canadian Water and Wastewater Association	Kara Parisien
Canadian Water Resources Association	Ed Gazendam Craig Mather
City of Toronto	Michael D'Andrea
Conservation Council of Ontario	Chris Winter
Conservation Ontario	Larry Field Nicole Carter
Ducks Unlimited Canada	Mark Bassingthwaite Jim Anderson
Federation of Ontario Cottagers' Associations	Kelly Warner Terry Reset
Federation of Ontario Naturalists	Heather Webb
Georgian Bay Association	Mary Muter
Great Lakes United	Derek Stack John Jackson
Nature Conservancy Canada	James Duncan
Niagara on the Lake Irrigation Advisory Committee	Austin Kirkby Henry Bennemeer
Ontario Clean Water Agency	Glen Lang
Ontario Farm Environmental Coalition	Ron Bonnett
Ontario Federation of Agriculture	Betty Semeniuk Tina Shankula
Ontario Federation of Anglers and Hunters	Dave Brown
Ontario Forest Industries Association	Allyson Lemire Barbara Mossop
Ontario Fruit and Vegetable Growers Association	Art Smith Madeline Mills
Ontario Golf Superintendents Association	Doug Breen
Ontario Groundwater Association	Earl Morwood
Ontario Lumber Manufacturers Association	David Milton
Ontario Marina Operators Association	Al Donaldson
Ontario Mining Association	Peter McBride

<b>Advisory Panel Partner</b>	<b>Representative</b>
Ontario Municipal Water Association	Mayor Deb Shewfeld Ken Hunter
Ontario Power Generation	Bob Yap Deborah LeBlanc
Ontario Water Power Association	Paul Norris
Pollution Probe	Rick Findlay
Sierra Club of Canada	Elizabeth May Dan McDermott
Sierra Legal Defence Fund	Robert Wright
St. Lawrence Seaway Management Corporation	Luc Lefevre
University of Windsor Faculty of Law	Marcia Valiante
Walter Duncan Gordon Foundation	Linda Nowlan
Munk Centre for International Studies	Adele Hurley
Association of Municipalities of Ontario	Debbie Korolnek Lloyd Lemons
Canadian Petroleum Producers Institute	Faith Goodman Anna Salituro
Region of Waterloo	Thomas Schmidt Kaoru Yajima
York Region	Debbie Korolnek Lloyd Lemons
Ralph Pentland	Ralph Pentland
Soil and Water Conservation Society	Jim Bruce
Lake Ontario Waterkeeper	Mark Mattson Tania Monteiro
Canadian Federation of University Women-Ontario Council	Carolyn Day Linda McGregor
Ministry of Natural Resources – Staff Responsible	Kevin J. Wilson
	David de Launay
	Robert Taylor
	Rob Messervey
	Paula Thompson
	Danielle DuMoulin
	Emily Chatten
	Leith Hunter
	Jennifer Tuck
	Carolyn Dodds
Ministry of Intergovernmental Affairs	Bill Carr
Ministry of the Environment	Risa Schwartz
	Marta Soucek
Ministry of Economic Development & Trade	Michael Helfinger
Ministry of Agriculture & Food	Scott Duff

APPENDIX III.

**Lists of Aboriginal Panel Members**

Walpole First Nation – COO Portfolio Holder	Chief Dean Jacobs
Chiefs of Ontario Office	Sue Chiblow
AIAI	Rolanda Elijah
Union of Ontario Indians	Al Dokis
NAN	Carol Ann Audet



## APPENDIX IV.

### Questionnaires used for Panel Members

#### **Survey of Members of the Ministry of Natural Resources Great Lakes Charter Advisory Panel from October 22, 2004 to December 2005**

The policy community of the Ontario Public Service sponsors regular learning events for its members. These events address a broad range of subjects, and focus on different aspects of policy development, analysis, and implementation. The Ministry of Natural Resources is sponsoring a policy symposium on March 21, 2007, to highlight the process used to develop the Ontario position for the Great Lakes Charter Annex Agreement as an example of a different approach to public involvement in complex, multi-party negotiations. The audience for this event will be Ontario Public Service staff and executives who may be involved in similarly complex endeavours in the future. By demonstrating how a more open process lead to a better result for Ontario and for the environment, we hope to encourage others to consider this approach.

**Name:**

**Affiliation:**

**1. History of involvement with issue:**

- How did you first learn of the Great Lakes Charter Annex and why did you become engaged in the process?
- If you were invited to join the panel but did not participate, please explain why you chose not to. (If you did not participate you need not answer further questions after this one.)
- What sector did you represent?
- Once involved, did you feel you were heard and were able to influence the process?
- Were you able to inform others in your sector of progress as the negotiations evolved?

**2. Level of involvement with other government consultations (to compare and contrast this process):**

- Have you represented your sector in other government consultations?
- How did this one differ and compare?

**3. General satisfaction with MNR's Panel Process:**

- Please comment on the MNR Great Lakes Charter Annex Panel consultation process, considering the following components:
  1. Make-up of Panel
  2. Confidentiality – did it work? Did it present challenges for you?
  3. Was the shared information adequate?
  4. Was the information timely?

5. Facilitation of discussions
6. Records of Meetings
7. Defining general objectives and principles
8. Defining first preferences and fall back for bargaining positions
9. Reporting back after each negotiation
10. Holding emergency calls when quick decisions or changes arose
11. Overall democracy of the process

- Were there facets of the process that you felt were particularly beneficial? Please identify them.
- Were there disadvantages or concerns with the process? Please identify them.
- Did you feel that Ontario was the appropriate level of government to negotiate a Great Lakes' agreement? Please explain.

**4. Impact of the process:**

- How would you rate the success of the process in meeting public expectations?
- Did the process promote better understanding of :
  1. The issues under negotiation?
  2. Of other sectors' views of those issues
  3. Of perspectives of other Ministries represented on the Panel
  4. Of challenges the Ontario government was facing in negotiations with the US and Quebec
  5. Of challenges the Ontario Government might face domestically in drafting the Legislation and in implementation
  6. Of the internal government approval process
  7. Of the challenges faced by other governments?
- Did the process alter your positions on the topics under discussion?

**5. Continued involvement and commitment:**

- Did your participation in MNR's Great Lakes Charter Annex Advisory Panel make you better prepared to advocate for implementation of the final Agreements?
  1. In the US?
  2. In Ontario?
- Will you continue to be involved in the process? If so, how?

**6. Future stakeholder involvement or public consultation processes:**

- Should Ontario establish similar panels for public consultation in the future?
- What recommendations would you make to improve the process?
- In which situations do you think a similar process would be beneficial?

Please add other comments, advice, observations and feedback you might have.

Please indicate if you agree that your name may be used in our report.

## APPENDIX V.

### Questionnaires used for Government and Negotiating Team

**For the Government Participants and other Agency Participants in the negotiations on the Great Lakes Charter Annex from October 22, 2004 to December 2005**

**Questions to gauge how the Ontario Ministry of Natural Resources (MNR) Great Lakes Charter Advisory Panel Process contributed to the Province's Input at the International Negotiating table**

How did Ontario's position in international negotiations change after the establishment of the Ministry of Natural Resources Great Lakes Charter Annex Advisory Committee in the fall of 2004?

What advantages did the Water Panel give the government? Please give examples wherever possible.

Did the Water Panel create specific problems for you in any of the above areas?  
Please explain?

Would you recommend that the government look to this Panel as a model to reform public consultation?

Are there particular recommendations you would highlight from this process?

Are there recommendations you would make to improve a reformed consultation process?

Please add other comments, advice observations and feedback you might have.

Please indicate if you would like your name to be used in our report.

Or, if you would prefer to remain anonymous.

## APPENDIX VI.

### DECEMBER 13, 2005 GREAT LAKES—ST. LAWRENCE RIVER BASIN SUSTAINABLE WATER RESOURCES AGREEMENT<sup>14</sup>

The State of Illinois,  
The State of Indiana,  
The State of Michigan,  
The State of Minnesota,  
The State of New York,  
The State of Ohio,  
The Province of Ontario,  
The Commonwealth of Pennsylvania,  
The Government of Québec,  
The State of Wisconsin,

#### **Recognizing that,**

The Waters of the Basin are a shared public treasure and the States and Provinces as stewards have a shared duty to protect, conserve and manage these renewable but finite Waters;

These Waters are interconnected and form a single hydrologic system;

Protecting, conserving, restoring, and improving these Waters is the foundation of Water resource management in the Basin and essential to maintaining the integrity of the Basin Ecosystem;

Managing to conserve and restore these Waters will improve them as well as the Water Dependent Natural Resources of the Basin;  
Continued sustainable, accessible and adequate Water supplies for the people and economy of the Basin are of vital importance;

The States and Provinces must balance economic development, social development and environmental protection as interdependent and mutually reinforcing pillars of sustainable development;

Even though there has been significant progress in restoring and improving the health of the Basin Ecosystem, the Waters and Water Dependent Natural Resources of the Basin remain at risk;

In light of possible variations in climate conditions and the potential cumulative effects of demands that may be placed on the Waters of the Basin, the States and Provinces must act to

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<sup>14</sup> Retrieved from: <http://www.mnr.gov.on.ca/mnr/water/greatlakes/Agreement.pdf>

ensure the protection and conservation of the Waters and Water Dependent Natural Resources of the Basin for future generations;

Where there are threats of serious or irreversible damage, lack of full scientific certainty should not be used as a reason for postponing measures to prevent environmental degradation;

Sustainable development and harmony with nature and among neighbours require cooperative arrangements for the development and implementation of watershed protection approaches in the Basin;

**Reaffirming,**

The principles and findings of the Great Lakes Charter and the commitments and directives of the Great Lakes Charter Annex 2001;

**Acknowledging,**

Nothing in this Agreement is intended to abrogate or derogate from the protection provided for the existing aboriginal or treaty rights of aboriginal peoples in Ontario and Québec as recognized and affirmed by section 35 of the Constitution Act, 1982 or from the treaty rights or rights held by any Tribe recognized by the federal government of the United States based upon its status as a Tribe recognized by the federal government of the United States, and acknowledging the commitment of these peoples to preserve and protect the waters of the Basin;

The continuing and abiding roles of the United States and Canadian federal governments under the Boundary Waters Treaty of 1909 and other applicable international agreements, that continue unaffected by this agreement, and the valuable contribution of the International Joint Commission;

Effective management is dependent upon all Parties acting in a continuing spirit of comity and mutual cooperation;

*Agree as follows:*

**CHAPTER 1**

## **GENERAL PROVISIONS**

### **ARTICLE 100**

#### **OBJECTIVES**

1. The objectives of this Agreement are:
  - a. To act together to protect, conserve and restore the Waters of the Great Lakes—St. Lawrence River Basin because current lack of scientific certainty should not be used as a reason for postponing measures to protect the Basin Ecosystem;
  - b. To facilitate collaborative approaches to Water management across the Basin to protect, conserve, restore, improve and efficiently and effectively manage the Waters and Water Dependent Natural Resources of the Basin;
  - c. To promote co-operation among the Parties by providing common and regional mechanisms to evaluate Proposals to Withdraw Water;
  - d. To create a co-operative arrangement regarding Water management that provides tools for shared future challenges;
  - e. To retain State and Provincial authority within the Basin under appropriate arrangements for intergovernmental cooperation and consultation;
  - f. To facilitate the exchange of data, strengthen the scientific information upon which decisions are made, and engage in consultation on the potential effects of Withdrawals and losses on the Waters and Water Dependent Natural Resources of the Basin;
  - g. To prevent significant adverse impacts of Withdrawals and losses on the Basin Ecosystem and its watersheds; and,
  - h. To promote an Adaptive Management approach to the conservation and management of Basin Water resources, which recognizes, considers and provides adjustments for the uncertainties in, and evolution of, scientific knowledge concerning the Basin's Waters and Water Dependent Natural Resources.
2. The Parties shall interpret and apply the provisions of this Agreement to achieve these objectives.

### **ARTICLE 101**

#### **SCOPE OF APPLICATION**

This Agreement applies to the Waters of the Basin within the Parties' territorial boundaries.

### **ARTICLE 102**

#### **GENERAL COMMITMENT**

Each Party to this Agreement shall seek to adopt and implement Measures that may be required to give effect to the commitments embodied within this Agreement.

## ARTICLE 103

### GENERAL DEFINITIONS

In this Agreement,

**“Adaptive Management”** means a Water resources management system that provides a systematic process for evaluating, monitoring and learning from the outcomes of operational programs and adjustment of policies, plans and programs based on experience and the evolution of scientific knowledge concerning Water resources and Water Dependent Natural Resources.

**“Agreement”** means this Agreement.

**“Applicant”** means a Person who is required to submit a Proposal that is subject to management and regulation under this Agreement. **“Application”** has a corresponding meaning.

**“Basin”** or **“Great Lakes—St. Lawrence River Basin”** means the watershed of the Great Lakes and the St. Lawrence River upstream from Trois-Rivières, Québec within the jurisdiction of the Parties.

**“Basin Ecosystem”** or **“Great Lakes—St. Lawrence River Basin Ecosystem”** means the interacting components of air, land, Water and living organisms, including humankind, within the Basin.

**“Community within a Straddling County”** means any incorporated city, town or the equivalent thereof, that is located outside the Basin but wholly within a County that lies partly within the Basin and that is not a Straddling Community.

**“Compact”** means the Great Lakes—St. Lawrence River Basin Water Resources Compact.

**“Consumptive Use”** means that portion of Water Withdrawn or withheld from the Basin that is lost or otherwise not returned to the Basin due to evaporation, incorporation into Products, or other processes.

**“County”** means the largest territorial division for local government in a State. In Québec, County means a regional county municipality (municipalité régionale de comté - MRC). The County boundaries shall be defined as those boundaries that exist as of the signing date of this Agreement.

**“Cumulative Impacts”** mean the impact on the Great Lakes—St. Lawrence River Basin Ecosystem that results from incremental effects of all aspects of a Withdrawal, Diversion or Consumptive Use in addition to other past, present, and reasonably foreseeable future

Withdrawals, Diversions and Consumptive Uses regardless of who undertakes the other Withdrawals, Diversions and Consumptive Uses. Cumulative Impacts can result from Individually minor but collectively significant Withdrawals, Diversions and Consumptive Uses taking place over a period of time.

**“Diversion”** means a transfer of Water from the Basin into another watershed, or from the watershed of one of the Great Lakes into that of another by any means of transfer, including but not limited to a pipeline, canal, tunnel, aqueduct, channel, modification of the direction of a watercourse, a tanker ship, tanker truck or rail tanker but does not apply to Water that is used in the Basin or Great Lakes watershed to manufacture or produce a Product that is then transferred out of the Basin or watershed. **“Divert”** has a corresponding meaning.

**“Environmentally Sound and Economically Feasible Water Conservation Measures”** mean those measures, methods, technologies or practices for efficient water use and for reduction of water loss and waste or for reducing a Withdrawal, Consumptive Use or Diversion that i) are environmentally sound, ii) reflect best practices applicable to the water use sector, iii) are technically feasible and available, iv) are economically feasible and cost effective based on an analysis that considers direct and avoided economic and environmental costs and v) consider the particular facilities and processes involved, taking into account the environmental impact, age of equipment and facilities involved, the processes employed, energy impacts and other appropriate factors.

**“Exception”** means a transfer of Water that is excepted under Article 201 from the prohibition against Diversions.

**“Exception Standard”** means the standard to be used for Exceptions that is established under Article 201.

**“Intra-Basin Transfer”** means the transfer of Water from the watershed of one of the Great Lakes into the watershed of another Great Lake.

**“Measures”** means any legislation, law, regulation, directive, requirement, guideline, program, policy, administrative practice or other procedure.

**“New or Increased Diversion”** means a new Diversion, an increase in an existing Diversion, or the alteration of an existing Withdrawal so that it becomes a Diversion.

**“New or Increased Withdrawal or Consumptive Use”** means a new Withdrawal or Consumptive Use or an increase in an existing Withdrawal or Consumptive Use.

**“Originating Party”** means the Party within whose jurisdiction an Application is made.

**“Party”** means a State or Province that enters into this Agreement.

**“Person”** means a human being or a legal person, including a government or a non-governmental organization, including any scientific, professional, business, non-profit, or



public interest organization or association that is neither affiliated with, nor under the direction of a government.

**“Product”** means something produced in the Basin by human or mechanical effort or through agricultural processes and used in manufacturing, commercial or other processes or intended for intermediate or end use consumers. (i) Water used as part of the packaging of a Product shall be considered to be part of the Product. (ii) Other than Water used as part of the packaging of a Product, Water that is used primarily to transport materials in or out of the Basin is not a Product or part of a Product. (iii) Except as provided in (i) above, Water which is transferred as part of a public or private supply is not a Product or part of a Product. (iv) Water in its natural state such as in lakes, rivers, reservoirs, aquifers or water basins is not a Product.

**“Proposal”** means a Withdrawal, Diversion or Consumptive Use of Water that is subject to this Agreement.

**“Province”** means Ontario or Québec.

**“Public Water Supply Purposes”** means water distributed to the public through a physically connected system of treatment, storage and distribution facilities serving a group of largely residential customers that may also serve industrial, commercial, and other institutional operators. Water Withdrawn directly from the Basin and not through such a system shall not be considered to be used for Public Water Supply Purposes.

**“Regional Body”** means the Great Lakes—St. Lawrence River Water Resources Regional Body established by this Agreement.

**“Regional Review”** means the collective review by all Parties in accordance with this Agreement.

**“Source Watershed”** means the watershed from which a Withdrawal originates. If Water is Withdrawn directly from a Great Lake or from the St. Lawrence River, then the Source Watershed shall be considered to be the watershed of that Great Lake or the watershed of the St. Lawrence River, respectively. If Water is Withdrawn from the watershed of a stream that is a direct tributary to a Great Lake or a direct tributary to the St. Lawrence River, then the Source Watershed shall be considered to be the watershed of that Great Lake or the watershed of the St. Lawrence River, respectively, with a preference to the direct tributary stream watershed from which it was Withdrawn.

**“Standard or Decision-Making Standard”** means the Decision-Making Standard for Management and Regulation established by Article 203 of this Agreement.

**“State”** means one of the states of Illinois, Indiana, Michigan, Minnesota, New York, Ohio or Wisconsin or the Commonwealth of Pennsylvania.

**“Straddling Community”** means any incorporated city, town or the equivalent thereof, that is either wholly within any County that lies partly or completely within the Basin or partly in two Great Lakes watersheds but entirely within the Basin, whose corporate boundary existing as of

the date set forth in paragraph 2 of Article 709, is partly within the Basin or partly within two Great Lakes watersheds.

**“Technical Review”** means a detailed review conducted to determine whether or not a Proposal that requires Regional Review under this Agreement meets the Exception Standard following procedures and guidelines as set out in this Agreement.

**“Water”** means ground or surface water contained within the Basin.

**“Water Dependent Natural Resources”** means the interacting components of land, Water and living organisms affected by the Waters of the Basin.

**“Waters of the Basin or Basin Water”** means the Great Lakes and all streams, rivers, lakes, connecting channels and other bodies of water, including tributary groundwater, within the Basin.

**“Withdrawal”** means the taking of water from surface water or groundwater.

**“Withdraw”** has a corresponding meaning.

**CHAPTER 2**  
**PROHIBITION OF DIVERSIONS, EXCEPTIONS**  
**AND MANAGEMENT AND REGULATION OF WITHDRAWALS**  
**ARTICLE 200**

**PROHIBITION OF DIVERSIONS**  
**AND MANAGEMENT AND REGULATION OF WITHDRAWALS**

1. The Parties shall adopt and implement Measures to prohibit New or Increased Diversions, except as provided for in this Agreement.
2. The Parties shall adopt and implement Measures to manage and regulate Exceptions in accordance with this Agreement.
3. The Parties shall adopt and implement Measures to manage and regulate Withdrawals and Consumptive Uses in accordance with this Agreement.

**ARTICLE 201**  
**EXCEPTIONS TO THE PROHIBITION OF DIVERSIONS**

**Straddling Communities**

1. A Proposal to transfer Water to an area within a Straddling Community but outside the Basin or outside the source Great Lake Watershed shall be excepted from the prohibition against Diversions and be managed and regulated by the Originating Party provided that, regardless of the volume of Water transferred, all the Water so transferred shall be used solely for Public Water Supply Purposes within the Straddling Community, and:
  - a. All Water Withdrawn from the Basin shall be returned, either naturally or after use, to the Source Watershed less an allowance for Consumptive Use. No surface water or groundwater from outside the Basin may be used to satisfy any portion of this criterion except if it:
    - i. Is part of a water supply or wastewater treatment system that combines water from inside and outside of the Basin;
    - ii. Is treated to meet applicable water quality discharge standards and to prevent the introduction of invasive species into the Basin;
    - iii. Maximizes the portion of water returned to the Source Watershed as Basin Water and minimizes the surface water or groundwater from outside the Basin;
  - b. If the Proposal results from a New or Increased Withdrawal of 100,000 gallons per day (379,000 litres per day) or greater average over any 90-day period, the Proposal shall also meet the Exception Standard; and,
  - c. If the Proposal results in a New or Increased Consumptive Use of 5 million gallons per day (19 million litres per day) or greater average over any 90-day period, the Proposal shall also undergo Regional Review.

**Intra-Basin Transfers**

2. A Proposal for an Intra-Basin Transfer that would be considered a Diversion under this Agreement, and not already excepted pursuant to paragraph 1 of this Article, shall be excepted from the prohibition against Diversions, provided that:

- a. If the Proposal results from a New or Increased Withdrawal less than 100,000 gallons per day (379,000 litres per day) average over any 90-day period, the Proposal shall be subject to management and regulation at the discretion of the Originating Party;
- b. If the Proposal results from a New or Increased Withdrawal 100,000 gallons per day (379,000 litres per day) or greater average over any 90-day period and if the Consumptive Use resulting from the Withdrawal is less than 5 million gallons per day (19 million litres per day) average over any 90-day period:
  - i. The Proposal shall meet the Exception Standard and be subject to management and regulation by the Originating Party, except that the Water may be returned to another Great Lake watershed rather than the Source Watershed;
  - ii. The Applicant shall demonstrate that there is no feasible, cost effective and environmentally sound water supply alternative within the Great Lake watershed to which the Water will be transferred, including conservation of existing water supplies; and,
  - iii. The Originating Party shall provide notice to the other Parties prior to making any decision with respect to the Proposal.
- c. If the Proposal results in a New or Increased Consumptive Use 5 million gallons per day (19 million litres per day) or greater average over any 90-day period:
  - i. The Proposal shall be subject to management and regulation by the Originating Party and shall meet the Exception Standard, ensuring that Water Withdrawn shall be returned to the Source Watershed;
  - ii. The Applicant shall demonstrate that there is no feasible, cost effective and environmentally sound water supply alternative within the Great Lake watershed to which the Water will be transferred, including conservation of existing water supplies;
  - iii. The Proposal undergoes Regional Review; and,
  - iv. If the Originating Party is a State, the Proposal is approved pursuant to the Compact.

### Straddling Counties

- 3. A Proposal to transfer Water to a Community within a Straddling County that would be considered a Diversion under this Agreement shall be excepted from the prohibition against Diversions, provided that it satisfies all of the following conditions:
  - a. The Water shall be used solely for the Public Water Supply Purposes of the Community within a Straddling County that is without adequate supplies of potable water.
  - b. The Proposal meets the Exception Standard, with particular emphasis upon ensuring that:
    - i. All Water Withdrawn from the Basin shall be returned, either naturally or after use, to the Source Watershed less an allowance for Consumptive Use;
    - ii. No surface water or groundwater from outside the Basin is used to satisfy any portion of subparagraph (i) above except if it:
      - (a) Is part of a water supply and/or wastewater treatment system that combines water from inside and outside of the Basin;
      - (b) Is treated to meet applicable water quality discharge standards and to prevent the introduction of invasive species into the Basin;

- (c) Maximizes the portion of water returned to the Source Watershed as Basin Water, and minimizes the surface water or groundwater from outside the Basin;
  - iii. All such Water returned meets all applicable water quality standards.
  - c. The Proposal shall be subject to management and regulation by the Originating Party, regardless of its size;
  - d. There is no reasonable water supply alternative within the basin in which the community is located, including conservation of existing water supplies;
  - e. Caution shall be used in determining whether or not the Proposal meets the conditions for this Exception. This exception should not be authorized unless it can be shown that it will not endanger the integrity of the Basin Ecosystem;
  - f. The Proposal undergoes Regional Review; and,
  - g. If the Originating Party is a State, the Proposal is approved pursuant to the Compact.
- A Proposal must satisfy all of the conditions listed above. Further, substantive consideration will also be given to whether or not the Proposal can provide sufficient scientifically based evidence that the existing water supply is derived from groundwater that is hydrologically interconnected to Waters of the Basin.

#### Exception Standard

4. The following criteria constitute the Exception Standard:
- a. The need for all or part of the Exception cannot be reasonably avoided through the efficient use and conservation of existing water supplies;
  - b. The Exception shall be limited to quantities that are considered reasonable for the purposes for which it is proposed;
  - c. All Water Withdrawn shall be returned, either naturally or after use, to the Source Watershed less an allowance for Consumptive Use. No surface water or groundwater from outside the Basin may be used to satisfy any portion of this criterion except if it:
    - i. Is part of a water supply or wastewater treatment system that combines water from inside and outside of the Basin;
    - ii. Is treated to meet applicable water quality discharge standards and to prevent the introduction of invasive species into the Basin;
  - d. The Exception shall be implemented so as to ensure that it shall result in no significant individual or cumulative adverse impacts to the quantity or quality of the Waters and Water Dependent Natural Resources of the Basin with consideration given to the potential Cumulative Impacts of any precedent-setting consequences associated with the Proposal;
  - e. The Exception shall be implemented so as to incorporate Environmentally Sound and Economically Feasible Water Conservation Measures to minimize Water Withdrawals or Consumptive Use;
  - f. The Exception shall be implemented so as to ensure that it is in compliance with all applicable municipal, State, Provincial and federal laws as well as regional interstate, inter-provincial and international agreements, including the Boundary Waters Treaty of 1909;
  - g. All applicable criteria in this Article have also been met.

#### Review of Article

5. The Parties shall evaluate this Article in the context of the periodic cumulative impact assessment as described in Article 209.

**ARTICLE 202  
IMPLEMENTATION OF THE STANDARD  
AND THE EXCEPTION STANDARD**

1. The Parties shall seek to adopt and implement Measures establishing the Exception Standard under Article 201 and the Decision-Making Standard for management and regulation of Withdrawals and Consumptive Uses under Article 203. The Standards are one of the means by which the Parties shall together protect, conserve, restore, improve and manage the Waters of the Basin.
2. The Standard and the Exception Standards are minimum standards. The Parties may implement Measures that are more restrictive than the requirements of this Agreement. Although a Proposal may meet the Standard or the Exception Standard, it may not be approved under the laws of the Originating Party if that Party has implemented more restrictive Measures.
3. When fully implemented, this Agreement shall lead to Water Withdrawal management systems that are consistent in their fundamentals within the Basin.

**ARTICLE 203  
THE DECISION-MAKING STANDARD FOR  
MANAGEMENT OF WITHDRAWALS AND  
CONSUMPTIVE USES**

The following criteria constitute the Decision-Making Standard for management of new or increased Withdrawals and Consumptive Uses:

1. All Water Withdrawn shall be returned, either naturally or after use, to the Source Watershed less an allowance for Consumptive Use;
2. The Withdrawal or Consumptive Use shall be implemented so as to ensure that the Proposal will result in no significant individual or cumulative adverse impacts to the quantity or quality of the Waters and Water Dependent Natural Resources and the applicable Source Watershed;
3. The Withdrawal or Consumptive Use shall be implemented so as to incorporate Environmentally Sound and Economically Feasible Water Conservation Measures;
4. The Withdrawal or Consumptive Use shall be implemented so as to ensure that it is in compliance with all applicable municipal, State and federal laws as well as regional interstate and international agreements, including the Boundary Waters Treaty of 1909;
5. The proposed use is reasonable, based upon a consideration of the following factors:

- a. Whether the proposed Withdrawal or Consumptive Use is planned in a fashion that provides for efficient use of the Water, and will avoid or minimize the waste of Water;
- b. If the Proposal is for an increased Withdrawal or Consumptive Use, whether efficient use is made of existing Water supplies;
- c. The balance between economic development, social development and environmental protection of the proposed Withdrawal and use and other existing or planned withdrawals and Water uses sharing the water source;
- d. The supply potential of the Water source, considering quantity, quality, and reliability and safe yield of hydrologically interconnected water sources;
- e. The probable degree and duration of any adverse impacts caused or expected to be caused by the proposed Withdrawal and use under foreseeable conditions, to other lawful consumptive or non-consumptive uses of water or to the quantity or quality of the Waters and Water Dependent Natural Resources of the Basin, and the proposed plans and arrangements for avoidance or mitigation of such impacts; and,
- f. If a Proposal includes restoration of hydrologic conditions and functions of the Source Watershed, the Party may consider that.

**ARTICLE 204**  
**PROPOSALS SUBJECT TO REGIONAL REVIEW**

1. Regional Review as outlined in Chapter 5 applies to a Proposal for any Exception requiring Regional Review under Article 201.
2. The Proposal may be approved by the Originating Party thereafter only if it meets the Exception Standard.

**ARTICLE 205**  
**PROPOSALS SUBJECT TO PRIOR NOTICE**

1. The Originating Party shall provide all Parties with detailed and timely notice and an opportunity to comment within 90 days on any Proposal for a New or Increased Consumptive Use of 5 million gallons per day (19 million litres per day) or greater average in any 90-day period. Comments shall address whether or not the Proposal is consistent with the Standard established under Article 203. The Originating Party shall provide a response to any such comment received from another Party.
2. A Party may provide notice, an opportunity to comment and a response to comments even if this is not required under paragraph 1 of this Article. Any provision of such notice and opportunity to comment shall be undertaken only after consulting the Applicant.

**ARTICLE 206**

## **MANAGEMENT AND REGULATION OF NEW OR INCREASED WITHDRAWALS AND CONSUMPTIVE USES**

1. Each Party shall establish a program for the management and regulation of New or Increased Withdrawals and Consumptive Uses by adopting and implementing Measures consistent with the Standard. Each Party, through a considered process, shall set and may modify threshold levels for the regulation of New or Increased Withdrawals in order to assure an effective and efficient Water management program that will ensure that uses overall are reasonable, that Withdrawals overall will not result in significant impacts to the Waters and Water Dependent Natural Resources of the Basin, determined on the basis of significant impacts to the physical, chemical and biological integrity of Source Watersheds, and that other objectives of the Agreement are achieved. Each Party may determine the scope and thresholds of its program, including which New or Increased Withdrawals and Consumptive Uses will be subject to the program.
2. In the event that a Party has not established threshold levels in accordance with paragraph 1 on or before 10 years after paragraphs 1 and 2 of Article 200 come into force, it shall apply a threshold level for management and regulation of all New or Increased Withdrawals of 100,000 gallons per day (379,000 litres per day) or greater average in any 90 day period.
3. The Parties intend programs for New or Increased Withdrawals and Consumptive Uses to evolve as may be necessary to protect Basin Waters. The Regional Body shall periodically assess the Water management programs of the Parties. Such assessments may produce recommendations for the strengthening of the programs including, without limitation, establishing lower thresholds for management and regulation in accordance with the Standard. The Parties may, by unanimous consent, collectively adopt such thresholds or revisions to their programs.

### **ARTICLE 207 APPLICABILITY**

#### **Determining New or Increased Diversions, Consumptive Uses or Withdrawals**

1. To establish a baseline for determining a New or Increased Diversion, Consumptive Use or Withdrawal, each Party shall develop either or both of the following lists for their jurisdiction:
  - a. A list of existing Water Withdrawal approvals as of the date this Article comes into force;
  - b. A list of the capacity of existing systems as of the date this Article comes into force. The capacity of the existing systems should be presented in terms of Withdrawal capacity, treatment capacity, distribution capacity, or other capacity limiting factors. The capacity of the existing systems must represent the state of the systems. Existing capacity determinations shall be based upon approval limits or the most restrictive capacity information.

For all purposes of this Agreement, volumes of the Diversions, Consumptive Uses or Withdrawals set forth in the list(s) prepared by each Party in accordance with this Paragraph shall constitute the baseline volume.

The list(s) shall be furnished to the Regional Body within 1 year of the date this Article comes into force.



#### Timing of Additional Applications

2. Applications for New or Increased Withdrawals, Consumptive Uses or Exceptions shall be considered cumulatively within ten years of any application.

#### Change of Ownership

3. Unless a new owner proposes a project that will result in a Proposal for a New or Increased Diversion or Consumptive Use subject to Regional Review, the change of ownership in and of itself shall not require Regional Review.

#### Groundwater

4. The Basin surface water divide shall be used for the purpose of managing and regulating New or Increased Diversions, Consumptive Uses or Withdrawals of surface water and groundwater.

#### Withdrawal systems

5. The total volume of surface water and groundwater resources that supply a common distribution system shall determine the volume of a Withdrawal, Consumptive Use or Diversion.

#### Connecting Channels

6. The watershed of each Great Lake shall include its upstream and downstream connecting channels.

#### Transmission in Water Lines

7. Transmission of Water within a line that extends outside the Basin as it conveys Water from one point to another within the Basin shall not be considered a Diversion if none of the Water is used outside the Basin.

#### Hydrologic Units

8. The Lake Michigan and Lake Huron watersheds shall be considered to be a single hydrologic unit and watershed.

#### Bulk Water Transfer

9. A Proposal to Withdraw Water and to remove it from the Basin in any container greater than 5.7 gallons (20 litres) shall be treated under this Agreement in the same manner as a Proposal for a Diversion. Each Party shall have the discretion, within its jurisdiction, to determine the treatment of Proposals to Withdraw Water and to remove it from the Basin in any container of 5.7 gallons (20 litres) or less.

#### U.S. Supreme Court Decree: Wisconsin et al. v. Illinois et al.

10. Notwithstanding any terms of this Agreement to the contrary, with the exception of Paragraph 14 of this Article, current, New or Increased Withdrawals, Consumptive Uses and Diversions of Basin Water by the State of Illinois shall be governed by the terms of the

United States Supreme Court decree in Wisconsin et al. v. Illinois et al. and shall not be subject to the terms of this Agreement nor any rules or regulations promulgated pursuant to this Agreement. This means that, with the exception of Paragraph 14 of this Article, for purposes of this Agreement, current, New or Increased Withdrawals, Consumptive Uses and Diversions of Basin Water within the State of Illinois shall be allowed unless prohibited by the terms of the United States Supreme Court decree in Wisconsin et al. v. Illinois et al.

11. The Parties acknowledge that the United States Supreme Court decree in Wisconsin et al. v. Illinois et al. shall continue in full force and effect, that this Agreement shall not modify any terms thereof, and that this Agreement shall grant the parties no additional rights, obligations, remedies or defenses thereto. The Parties specifically acknowledge that this Agreement shall not prohibit or limit the State of Illinois in any manner from seeking additional Basin Water as allowed under the terms of the United States Supreme Court decree in Wisconsin et al. v. Illinois et al., any other party from objecting to any request by the State of Illinois for additional Basin Water under the terms of said decree, or any party from seeking any other type of modification to said decree. If an application is made by any party to the Supreme Court of the United States to modify said decree, the Parties to this Agreement who are also parties to the decree shall seek formal input from Ontario and Québec, with respect to the proposed modification, use best efforts to facilitate the appropriate participation of said Provinces in the proceedings to modify the decree, and shall not unreasonably impede or restrict such participation.
12. With the exception of Paragraph 14 of this Article, because current, New or Increased Withdrawals, Consumptive Uses and Diversions of Basin Water by the State of Illinois are not subject to the terms of this Agreement, the State of Illinois is prohibited from using any term of this Agreement, including Article 201, to seek New or Increased Withdrawals, Consumptive Uses or Diversions of Basin Water.
13. With the exception of Paragraph 14 of this Article, Articles 200, 201, 202, 203, 204, 205, 206, 207 (Paragraphs 1, 2, 3, 5 and 9 only), 208 and 210 of this Agreement all relate to current, New or Increased Withdrawals, Consumptive Uses and Diversions of Basin Water and, therefore, do not apply to the State of Illinois. All other provisions of this Agreement not listed in the preceding sentence shall apply to the State of Illinois, including the Water Conservation Programs provision of Article 304.
14. In the event of a Proposal for a Diversion of Basin Water for use outside the territorial boundaries of the Parties to this Agreement, decisions by the State of Illinois regarding such a Proposal would be subject to all terms of this Agreement, except Paragraphs 10, 12 and 13 of this Article.

#### **ARTICLE 208 EXEMPTIONS FROM THE AGREEMENT**

This Agreement does not apply to Withdrawals of Basin Water for the following purposes:

1. Supply of vehicles, including vessels and aircraft, whether for the needs of the persons or animals being transported or for ballast or other needs related to the operation of vehicles; or,
2. Use in a non-commercial project on a short-term basis for firefighting, humanitarian or emergency response purposes.

#### **ARTICLE 209**

**AMENDMENTS TO THE STANDARD AND EXCEPTION STANDARD AND  
PERIODIC ASSESSMENT OF CUMULATIVE IMPACTS**

1. The Standard and the Exception Standard may be amended periodically according to the rules in this Agreement to reflect advancements in science, information and knowledge.
2. The Parties shall co-ordinate the collection and application of scientific information to further develop a mechanism by which individual and Cumulative Impacts of Withdrawals may be assessed.
3. The Parties shall collectively conduct within the Basin, on a Great Lake and St. Lawrence River Basin basis, a periodic assessment of the Cumulative Impacts of Withdrawals, Diversions and Consumptive Uses from the Waters of the Basin. The assessment of the Cumulative Impacts shall be done upon the earlier of:
  - a. Every 5 years;
  - b. Each time the incremental losses to the Basin reach 50,000,000 gallons (190,000,000 litres) per day average in any 90-day period in excess of the quantity at the time of the last assessment; or,
  - c. At the request of one or more of the Parties.
4. The assessment of Cumulative Impacts shall form a basis for the review of the Standard and the Exception Standard and their application. This assessment shall:
  - a. Utilize the most current and appropriate guidelines for such a review, which may include but not be limited to Council on Environmental Quality and Environment Canada guidelines;
  - b. Give substantive consideration to climate change or other significant threats to Basin Waters and take into account the current state of scientific knowledge, or uncertainty, and appropriate Measures to exercise caution in cases of uncertainty, if serious damage may result;
  - c. Consider Adaptive Management principles and approaches recognizing, considering and providing adjustments for the uncertainties in, and evolution of, science concerning the Basin's water resources, watersheds and ecosystems including potential changes to Basin-wide processes, such as lake level cycles and climate; and,
  - d. Include the evaluation of Article 201 concerning Exceptions. Based on the results of this assessment, the provisions in that Article may be maintained, made more restrictive or withdrawn.
5. The Parties have the responsibility of conducting this Cumulative Impact assessment. Applicants are not required to participate in this assessment.
6. Unless required by other statutes, Applicants are not required to conduct a separate cumulative impact assessment in connection with an Application but shall submit information about the potential impacts of a Proposal to the quantity or quality of the Waters and Water Dependent Natural Resources of the applicable Source Watershed. An Applicant may, however, provide an analysis of how their proposal meets the no significant adverse Cumulative Impact provision of the Standards.

**ARTICLE 210**

**JUDICIAL REVIEW**

The Parties shall seek to adopt and implement Measures to permit a Party to, in an Originating Party's court of competent jurisdiction, seek judicial review of a decision of the Originating Party with respect to a Withdrawal, Consumptive Use or Exception if that decision is, according to this Agreement, subject to the Standard or the Exception Standard.

**CHAPTER 3  
PROGRAMS  
ARTICLE 300  
WATER MANAGEMENT PROGRAM REVIEW**

1. The Parties shall protect, conserve, restore and improve the Waters and Water Dependent Natural Resources of the Basin by implementing programs that apply the Standard and the Exception Standard.
2. Each Party shall submit a report to the Regional Body, detailing the Water management and Water conservation and efficiency programs that implement this Agreement in their jurisdiction.
3. The report shall set out the manner in which Water Withdrawals are managed by sector, Water source, quantity or any other means and how the provisions of the Standard, the Exception Standard and Water conservation and efficiency programs are implemented.
4. The first report shall be provided by each jurisdiction one year from the date that this Article comes into force and thereafter every 5 years.
5. The Regional Body shall forward each report to all members and shall give the members at least 30 days to consider it.
6. Following that period, the Regional Body shall consider the reports submitted by each Party.
7. The Regional Body shall issue a Declaration of Finding on whether the programs in place in each Party:
  - a. Meet or exceed the provisions of this Agreement;
  - b. Do not meet the provisions of this Agreement; or,
  - c. Would meet the provisions of this Agreement if certain modifications were made and what options may exist to assist the jurisdiction in meeting the provisions of this Agreement.
8. The Regional Body shall distribute the reports to its members.
9. Any Party may ask the Regional Body to issue a Declaration of Finding respecting the Water management and Water conservation and efficiency programs of any of the Parties, including themselves, to determine whether the programs,
  - a. Meet or exceed the provisions of this Agreement;
  - b. Do not meet the provisions of this Agreement; or,
  - c. Would meet the provisions if certain modifications were made and what options may exist to assist the jurisdiction in meeting the provisions of this Agreement.
10. As one of its duties and responsibilities, the Regional Body may recommend a range of approaches to the Parties with respect to the development, enhancement and application of Water management and Water conservation and efficiency programs to implement the Standard and Exception Standard reflecting improved scientific understanding of the Waters of the Basin, including groundwater, and the impacts of Withdrawals on the Basin Ecosystem.

**ARTICLE 301**

## **INFORMATION**

1. In order to develop and maintain a compatible base of Water use information, the Parties shall annually gather and share accurate and comparable information on all Withdrawals in excess of 100,000 gallons per day (379,000 litres per day) or greater average in any 30-day period (including Consumptive Uses) and all Diversions, including all Exceptions.
2. The Parties shall report this information to a Great Lakes—St. Lawrence River Water use data base repository and aggregated information shall be available to the public, consistent with the confidentiality requirements in Article 704.
3. Each Party shall require users to report their monthly Withdrawals, Consumptive Uses and Diversions on an annual basis.
4. Information gathered shall be used to improve scientific understanding of the Waters of the Basin, the impacts of Withdrawals from various locations and Water sources on the Basin Ecosystem, understanding of the role of groundwater, and to clarify what groundwater forms part of the Waters of the Basin.

## **ARTICLE 302 SCIENCE**

1. The Parties commit to provide leadership for the development of a collaborative strategy with other regional partners to strengthen the scientific basis for sound Water management decision making under this Agreement.
2. The strategy shall guide the collection and application of scientific information to support:
  - a. An improved understanding of the individual and Cumulative Impacts of Withdrawals from various locations and Water sources on the Basin Ecosystem and to develop a mechanism by which impacts of Water Withdrawals may be assessed;
  - b. The periodic assessment of Cumulative Impacts of Withdrawals, Diversions and Consumptive Uses on a Great Lake and St. Lawrence River watershed basis;
  - c. Improved scientific understanding of the Waters of the Basin;
  - d. Improved understanding of the role of groundwater in Basin Water resources management; and,
  - e. The development, transfer and application of science and research related to Water conservation and Water use efficiency.

## **ARTICLE 303 AVAILABILITY OF APPLICATIONS AND RECORDS OF DECISION**

1. Each Party shall seek to make publicly available all Applications it receives that are subject to management and regulation under this Agreement.
2. Each Party shall seek to make publicly available the record of decision including comments, objections and responses.

## **ARTICLE 304 WATER CONSERVATION AND EFFICIENCY PROGRAM**

1. Within two years of the signing of the Agreement, the Regional Body shall identify Basin-wide Water conservation and efficiency objectives to assist the Parties in developing their Water conservation and efficiency program. These objectives shall be based on the goals of:
  - a. Ensuring improvement of the Waters and Water Dependent Natural Resources;
  - b. Protecting and restoring the hydrologic and ecosystem integrity of the Basin;
  - c. Retaining the quantity of surface water and groundwater in the Basin;
  - d. Ensuring sustainable use of Waters of the Basin; and,
  - e. Promoting the efficiency of use and reducing losses and waste of Water.
2. Within two years after Article 200, paragraphs 1 and 2 come into force (Prohibition of Diversions and Management of Exceptions), each Party shall develop its own Water conservation and efficiency goals and objectives consistent with the Basin-wide goals and objectives, and shall develop and implement a Water conservation and efficiency program, either voluntary or mandatory, within its jurisdiction based on the Party's goals and objectives. Each Party shall thereafter annually assess its programs in meeting the Party's goals and objectives, report to the Regional Body every five years and make this annual assessment available to the public.
3. Beginning five years after Article 200, paragraphs 1 and 2 come into force (Prohibition of Diversions and Management of Exceptions), and every five years thereafter, the Regional Body shall review and modify as appropriate the Basin-wide objectives and the Parties shall have regard for any such modifications in implementing their programs. This assessment shall be based on examining new technologies, new patterns of Water use, new resource demands and threats, and the Cumulative Impact assessment under Article 209.
4. Within two years after Article 200, paragraphs 1 and 2 come into force (Prohibition of Diversions and Management of Exceptions), the Parties commit to promote Environmentally Sound and Economically Feasible Water Conservation Measures such as:
  - a. Measures that promote efficient use of Water;
  - b. Identification and sharing of best management practices and state of the art conservation and efficiency technologies;
  - c. Application of sound planning principles;
  - d. Demand-side and supply-side Measures or incentives; and,
  - e. Development, transfer and application of science and research.
5. Each Party shall implement, in accordance with paragraph 2 above a voluntary or mandatory Water conservation program for all, including existing, Basin Water users. Conservation programs need to adjust to new demands and the potential impacts of cumulative effects and climate change.

**CHAPTER 4**  
**GREAT LAKES—ST. LAWRENCE RIVER WATER RESOURCES REGIONAL BODY**  
**ARTICLE 400**  
**FUNCTIONS OF THE REGIONAL BODY**

1. The Regional Body is composed of the Governor or Premier of each of the Parties, or a person designated by each of them.

2. The Regional Body is established to undertake the following duties and responsibilities:
  - a. Ensure, in accordance with this Agreement, a formalized process with respect to Proposals that require Regional Review and thereby provide an opportunity to address concerns within the Basin;
  - b. Declare whether or not a Proposal subject to Regional Review meets the Exception Standard;
  - c. Declare whether a Party's Water management programs meet the provisions of this Agreement;
  - d. Facilitate the development of consensus and the resolution of disputes on matters arising under this Agreement;
  - e. Monitor and report on the implementation of this Agreement by the Parties, including: data collection; the implementation of each Party's program to manage and regulate Withdrawals, Consumptive Uses and Diversions; promotion of Water conservation; and, the assessment of Cumulative Impacts;
  - f. Establishment of Basin wide goals and objectives for Water conservation and efficiency, the review of those programs and recommendations and declarations in respect of them;
  - g. Periodically review the Standard and Exception Standard and their application including new scientific information relating to groundwater;
  - h. Recommend options to Parties with respect to the development and enhancement of their Water management programs;
  - i. Develop guidance for the implementation of the Standard and the Exception Standard and in particular the review of a Proposal, the preparation of an Application and the review of the Parties' Water management programs;
  - j. Propose amendments to this Agreement; and,
  - k. Perform any other functions or duties necessary to implement this Agreement.

**ARTICLE 401  
ORGANIZATION AND PROCEDURES OF THE REGIONAL BODY**

1. The Regional Body may establish its own administrative practices and procedures.
2. The Regional Body may create a secretariat by the unanimous consent of its members.
3. The Regional Body shall meet:
  - a. At least once annually; and,
  - b. At any other time at the call of the Chair or at the request of two or more Parties.
4. The members shall appoint a Chair and Vice Chair through the following process:
  - a. For the first year, the Chair and Vice Chair shall be members elected by a vote of the members.
  - b. Each subsequent year, until all members have served, the Vice Chair shall be chosen by drawing lots from amongst those members who have not yet served.
  - c. Each member shall serve as Chair immediately after having served as Vice Chair.
  - d. Each member shall serve as Vice Chair and as Chair, each for one year.
  - e. Once all members have served as Vice Chair and Chair, the original order of serving shall be repeated.
5. In the event that an Application for Regional Review is from the Chair's State or Province, the role of the Chair shall be filled by the Vice Chair or another member.

6. Each Party shall bear an equitable share of the costs of the Regional Body to a maximum amount per annum that is agreed upon each year by the Parties.
7. The Parties shall support the Regional Body using existing agency staff and facilities to the greatest extent possible and are encouraged to make additional resources available through partnerships and co-operative arrangements with government agencies, public or private entities, individuals or academic institutions.
8. The Regional Body shall keep a complete public record of documents provided to it or generated by it, including but not limited to:
  - a. Proposals about which it is notified;
  - b. Applications, Technical Reviews and comments provided by the public;
  - c. Comments or objections made in respect of a Proposal by members of the Regional Body;
  - d. Declarations of Finding;
  - e. Materials in respect of dispute resolution;
  - f. Water management program reports;
  - g. Cumulative Impact Assessments;
  - h. The science strategy developed under Article 302;
  - i. Reports on Water conservation and efficiency programs; and,
  - j. Amendments to the Agreement agreed to by the Parties.
9. Public access to documents is recognized to be subject to confidentiality obligations set out in this Agreement.
10. To the greatest extent possible, the Regional Body shall conduct public participation and Regional Review concurrently and jointly with similar processes under the Compact and in the Originating Party's jurisdiction.
11. The Parties recognize the importance and necessity of public participation in promoting management of the Water resources of the Basin. Consequently, meetings of the Regional Body, at which official action is to be taken, shall be open to the public except when the Regional Body is meeting in executive session.
12. The minutes of the Regional Body shall be a public record.

**CHAPTER 5**  
**REGIONAL REVIEW**  
**ARTICLE 500**  
**REVIEW OF PROPOSALS**

1. This Chapter sets out the process for Regional Review.
2. Regional Review provides the Parties an opportunity to address concerns with respect to a Proposal.
3. Unless the Applicant or the Originating Party otherwise requests, it shall be the goal of the Regional Body to conclude its review no later than 90 days after notice under Article 501 of such Proposal is received from the Originating Party.
4. The Parties agree that the protection of the integrity of the Great Lakes-St. Lawrence River Basin Ecosystem shall be the overarching principle for reviewing Proposals subject to Regional Review, recognizing uncertainties with respect to demands that may be placed on Basin Water, including groundwater, levels and flows of the Great Lakes and the St.



Lawrence River, future changes in environmental conditions, the reliability of existing data and the extent to which Diversions may harm the integrity of the Basin Ecosystem.

5. The Originating Party shall have lead responsibility for coordinating information for resolution of issues related to evaluation of a Proposal and shall consult with the Applicant throughout the Regional Review Process.

**ARTICLE 501  
NOTICE FROM ORIGINATING PARTY  
TO THE REGIONAL BODY AND THE PUBLIC**

1. The Originating Party shall determine if an Application is subject to Regional Review.
2. If so, the Originating Party shall provide timely notice to the Regional Body, the Parties to this Agreement, and the public.
3. Such notice shall not be given unless and until all information, documents and the Originating Party's Technical Review needed to evaluate whether the Proposal meets the Exception Standard have been provided.

**ARTICLE 502  
OTHER NOTICE**

1. An Originating Party may:
  - a. Provide notice to the Regional Body of an Application, even if notification is not required under this Agreement; or,
  - b. Request Regional Review of an application, even if Regional Review is not required under this Agreement.
2. A majority of the members of the Regional Body may request Regional Review of a regionally significant or potentially precedent setting Proposal.
3. Any such Regional Review shall be undertaken only after consulting the Applicant.
4. An Originating Party may provide preliminary notice of a potential Application.

**ARTICLE 503  
PUBLIC PARTICIPATION**

1. To ensure adequate public participation, the Regional Body shall adopt procedures for the review of Proposals that are subject to Regional Review in accordance with this Article.
2. The Regional Body shall provide notice to the public of a Proposal undergoing Regional Review. Such notice shall indicate that the public has an opportunity to comment in writing to the Regional Body on whether the Proposal meets the Exception Standard.
3. The Regional Body shall hold a public meeting in the State or Province of the Originating Party in order to receive public comment on the issue of whether the Proposal under consideration meets the Exception Standard.
4. The Regional Body shall consider the comments received before issuing a Declaration of Finding.
5. The Regional Body shall forward the comments it receives to the Originating Party.

## **ARTICLE 504**

### **FIRST NATIONS AND TRIBES CONSULTATION**

1. In respect of a Proposal, appropriate consultation shall occur with First Nations or federally recognized Tribes in the Originating Party in the manner suitable to the individual Proposal and the laws and policies of the Originating Party.
2. The Regional Body shall:
  - a. Provide notice to the First Nations and federally recognized Tribes within the Basin of a Proposal undergoing Regional Review and an opportunity to comment in writing to the Regional Body on whether the Proposal meets the Exception Standard;
  - b. Inform the First Nations and federally recognized Tribes of public meetings and invite them to attend;
  - c. Forward the comments that it receives from the First Nations and federally recognized Tribes under this Article to the Originating Party for its consideration before issuing a Declaration of Finding; and,
  - d. Consider the comments that it receives from the First Nations and federally recognized Tribes under this Article before issuing a Declaration of Finding.
3. In addition to the specific consultation mechanisms described above, the Regional Body shall seek to establish mutually agreed upon mechanisms or processes to facilitate dialogue with, and input from First Nations and federally recognized Tribes on matters to be dealt with by the Regional Body; and, the Regional Body or the appropriate Parties shall seek to establish mutually agreed upon mechanisms to facilitate on-going scientific and technical interaction and data exchange regarding matters falling within the scope of this Agreement.

## **ARTICLE 505**

### **TECHNICAL REVIEW**

#### **Originating Party's Technical Review**

1. The Originating Party shall provide the Regional Body with its Technical Review of the Proposal under consideration.
2. The Technical Review shall thoroughly analyze the Proposal and provide an evaluation of the Proposal sufficient for a determination of whether the Proposal meets the Exception Standard.

#### **Independent Technical Review**

3. Any Party may undertake an independent Technical Review of a Proposal and the Originating Party shall assist by providing additional information as may be required.
4. At the request of the majority of its members, the Regional Body shall make such arrangements as it considers appropriate for an independent Technical Review of a Proposal.
5. All Parties shall exercise their best efforts to ensure that a Technical Review undertaken under paragraphs 3 or 4 does not unnecessarily delay the decision by the Originating Party on the Application. Unless the Applicant or the Originating Party otherwise requests, all Technical Reviews shall be completed no later than 60 days after the date the notice of the Proposal was given to the Regional Body.

## **ARTICLE 506**

### **DECLARATION OF FINDING**

1. The Regional Body shall meet to consider a Proposal. The Applicant shall be provided with an opportunity to present the Proposal to the Regional Body at such time.
2. The Regional Body, having considered the notice, the Originating Party's Technical Review, any other independent Technical Review that is made, any comments or objections including the analysis of comments made by the public, First Nations and federally recognized Tribes, and any other information that is provided under this Agreement shall issue a Declaration of Finding that the Proposal under consideration:
  - a. Meets the Exception Standard;
  - b. Does not meet the Exception Standard; or,
  - c. Would meet the Exception Standard if certain conditions were met.
3. An Originating Party may decline to participate in a Declaration of Finding made by the Regional Body.
4. The Parties recognize and affirm that it is preferable for all members of the Regional Body to agree whether the Proposal meets the Exception Standard.
5. If the members of the Regional Body who participate in the Declaration of Finding all agree, they shall issue a written Declaration of Finding with consensus.
6. In the event that the members cannot agree, the Regional Body shall make every reasonable effort to achieve consensus within 25 days.
7. Should consensus not be achieved, the Regional Body may issue a Declaration of Finding that presents different points of view and indicates each Party's conclusions.
8. The Regional Body shall release the Declarations of Finding to the public.
9. The Originating Party shall consider the Declaration of Finding before it makes a decision on the Proposal.

**CHAPTER 6  
DISPUTE RESOLUTION  
ARTICLE 600  
GENERAL**

1. The Parties undertake to resolve any disputes under this Agreement in a conciliatory, cooperative and harmonious manner.
2. Where dispute resolution is required, the Parties undertake to use the dispute resolution mechanisms provided for in this Chapter to arrive at a mutually satisfactory resolution.
3. The provisions of this Chapter shall not be used to dispute a Declaration of Finding on a Proposal that is subject to Regional Review.
4. A Person who is not a Party to this Agreement may not seek dispute resolution under this Agreement.

**ARTICLE 601  
PROCEDURE FOR DISPUTE RESOLUTION**

**Initial Steps**

1. A Party may provide detailed written notice to another Party and to the Regional Body of a dispute that in its opinion requires resolution under this Chapter.

**Measures to Settle Disputes**

2. If the dispute is not resolved informally, the Chair shall initiate the most appropriate measures to resolve the dispute. These measures may include:
  - a. The appointment of a panel to hear the Parties to the dispute;
  - b. Consultation with experts;
  - c. Establishment of a working or fact-finding group; or,
  - d. The use of dispute resolution mechanisms such as conciliation or mediation.
3. After resolution is attempted by one of the means suggested in paragraph 2, recommendations shall be made in accordance with directions given by the Chair at the time the mean was adopted. The disputing Parties shall consider the recommendations and exercise their best efforts to settle their dispute.

#### Reference to Regional Body

4. If the disputing Parties, having considered the recommendations, fail to settle the dispute, any one of them may refer the matter to the Regional Body. In this case, the Chair shall, in consultation with the other members who are not involved in the dispute, direct the Regional Body to take such further steps as he or she considers advisable in the circumstances to resolve the dispute.
5. When those steps have been taken, the Regional Body shall issue its recommendations regarding the resolution of the dispute.
6. The disputing Parties shall consider the recommendations and shall exercise their best efforts to settle.

#### Role of the Chair

7. In the event that a dispute involves the Party of the Chair, the role of the Chair set out in this Chapter shall be filled by the Vice Chair or failing him or her, another member who is not a Party to the dispute.

## **CHAPTER 7 FINAL PROVISIONS ARTICLE 700**

### **REAFFIRMATION OF CONSTITUTIONAL POWERS AND RESPONSIBILITIES**

1. Nothing in this Agreement alters the legislative or other authority of Parliament or of the Provincial legislatures or of the federal Government of Canada or of the Provincial governments or the rights of any of them with respect to the exercise of their legislative or other authorities under the Constitution of Canada.
2. This Agreement is not intended to infringe upon the treaty power of the United States of America, nor shall any term hereof be construed to alter or amend any treaty or term thereof that has been or may hereafter be executed by the United States of America.

## **ARTICLE 701 RELATIONSHIP TO AGREEMENTS CONCLUDED BY CANADA OR THE UNITED STATES OF AMERICA**

1. Nothing in this Agreement is intended to provide nor shall be construed to provide, directly or indirectly, to any Person any right, claim or remedy under any treaty or international

agreement nor is it intended to derogate any right, claim, or remedy that already exists under any treaty or international agreement.

2. Nothing in this Agreement is intended to affect the application of the Boundary Waters Treaty of 1909 whose requirements continue to apply in addition to the requirements of this Agreement.

**ARTICLE 702**  
**RELATIONSHIP TO FIRST NATIONS AND TRIBES**

1. Nothing in this Agreement is intended to abrogate or derogate from treaty rights or rights held by any Tribe recognized by the federal government of the United States based upon its status as a Tribe recognized by the federal government of the United States.
2. Nothing in this Agreement is intended to abrogate or derogate from the protection provided for the existing aboriginal or treaty rights of aboriginal peoples in Ontario and Québec as recognized and affirmed by section 35 of the Constitution Act, 1982.

**ARTICLE 703**  
**RELATIONSHIP TO OTHER AGREEMENTS AMONG THE PARTIES**

1. The Parties assert that by this Agreement they are fulfilling their existing commitments with respect to each other under the Great Lakes Charter and the Great Lakes Charter Annex.
2. The obligations of this Agreement shall be co-ordinated with any obligations set out in other environmental and conservation agreements between or among the Parties.

**ARTICLE 704**  
**CONFIDENTIALITY**

1. Nothing in this Agreement requires a Party to breach confidentiality obligations or requirements prohibiting disclosure that it has under its own laws, to compromise security or a person's commercially sensitive or proprietary information.
2. A Party may take steps, including but not limited to deletion and redaction, deemed necessary to protect any confidential, proprietary or commercially sensitive information when distributing information to other Parties. The Party shall summarize or paraphrase any such information in a manner sufficient for the Regional Body to exercise its authorities contained in this Agreement.

**ARTICLE 705**  
**MEASURES SUBJECT TO TRANSITIONAL PROVISIONS**

Each Party shall, from the date of execution of this Agreement, exercise its best efforts to refrain from taking any action that would defeat the objectives of this Agreement.

**ARTICLE 706**  
**AMENDMENTS**

1. The Parties may agree in writing to amend this Agreement.

2. An amendment to this Agreement requires the consent of all Parties to the Agreement.
3. When so agreed, and approved in accordance with the applicable legal procedures of each Party, an amendment shall constitute an integral part of this Agreement from the date of its entry into force.

**ARTICLE 707  
WITHDRAWAL AND TERMINATION PROCEDURE**

1. Twelve months after it gives written notice to all other Parties, a Party may withdraw from this Agreement.
2. If a Party withdraws, the Agreement shall remain in force among the remaining Parties.
3. This Agreement shall be terminated when all Parties, or all remaining Parties, agree in writing.

**ARTICLE 708  
ENTIRE AGREEMENT**

The Parties consider this Agreement to be a complete and integral whole. Each provision is material and any change or amendment made must be agreed to by all Parties.

**ARTICLE 709  
ENTRY INTO FORCE**

Parts of this Agreement come into force at different times. Except as otherwise provided in this Agreement, if in any part of the Agreement set out below the parties agree to adopt or implement measures or undertake any other action, this shall be done as expeditiously as possible and in any event no later than the earliest date specified for the part in this Article.

The following are the dates that the parts of this Agreement come into force:

1. On the day the Agreement is signed by all Parties:
  - a. Preamble;
  - b. Chapter 1 (General Provisions);
  - c. Article 202 (Implementation of the Standard and the Exception Standard);
  - d. Article 208 (Exemptions from the Agreement);
  - e. Article 302 (Science);
  - f. Article 303 (Availability of Applications and Records of Decisions);
  - g. Article 304, paragraph 1 (Water Conservation Objectives);
  - h. Chapter 4 (Great Lakes—St. Lawrence River Water Resources Regional Body);
  - i. Chapter 6 (Dispute Resolution); and,
  - j. Chapter 7 (Final Provisions).

2. 60 days after the last Party has notified the others that it has completed the Measures necessary to implement the following parts of this Agreement:
  - a. Article 200, paragraphs 1 and 2 (Prohibition of Diversions and Management and Regulation of Exceptions);
  - b. Article 201 (Exceptions to Prohibition of Diversions);
  - c. Article 203 (The Standard for management of Withdrawals and Consumptive Uses);
  - d. Article 204 (Proposals Subject to Regional Review);
  - e. Article 207 (Applicability);
  - f. Article 209 (Amendments to the Standard and Exception Standard and Periodic Assessment of Cumulative Impacts);
  - g. Article 210 (Judicial Review);
  - h. Article 300 (Water Management Program Review);
  - i. Article 304, except for paragraph 1 (Implementation of Water Conservation Programs of the Parties); and,
  - j. Chapter 5 (Regional Review).
3. 5 years after the date paragraph 2 of this Article comes into force or 60 days after the last Party has notified the others that it has completed the Measure necessary to implement it, whichever is first:
  - a. Article 200, paragraph 3 (Management of Withdrawals and Consumptive Uses);
  - b. Article 205 (Proposals Subject to Prior Notice);
  - c. Article 206 (Management and Regulation of New or Increased Withdrawals and Consumptive Uses); and,
  - d. Article 301 (Information).
4. Except as otherwise set out in this Agreement, 60 days following the date that the last Party has notified the others that it has completed the necessary legal procedures, any remaining parts of this Agreement shall come into force.
5. The terms, agreements, and review processes contained in the Great Lakes Charter of 1985 ("Charter") shall remain in full force and effect unless and until the Parties to the Charter certify in writing that it has been replaced by the terms of this Agreement. Until the coming into force of Chapter 5 of this Agreement, the Regional Body as described in Chapter 4 shall be used for all prior notice and consultation activities as described in the Charter.

#### **ARTICLE 710 LANGUAGE**

This Agreement has been made and executed in English and French and both versions are equally authoritative.

Signed this 13th day of December, 2005.  
Governor of Illinois Governor of Indiana  
Governor of Michigan Governor of Minnesota  
Governor of New York Governor of Ohio  
Premier of Ontario Governor of Pennsylvania  
Premier of Québec Governor of Wisconsin



## APPENDIX VII.

### **Tribal and First Nations Great Lakes Water Accord**

**O**ur ancestors have inhabited the Great Lakes Basin since time immemorial, long before the current political boundaries were drawn. Our spiritual and cultural connections to our Mother Earth are manifest by our willingness to embrace the responsibility of protecting and preserving the land and Waters.

Traditional teachings and modern science combine to strengthen our historical understanding that Water is the life-blood of our Mother Earth. Indigenous women continue their role as protectors of the Water. Ceremonial teachings are reminders of our heritage, they are practices of our current peoples, and they are treasured gifts that we hand to our children.

When considering matters of great importance we are taught to think beyond the current generation. We also are taught that each of us is someone's seventh generation. We must continually ask *ourselves* what we are leaving for a future seventh generation.

We understand that the whole earth is an interconnected ecosystem. The health of anyone part affects the health and well being of the whole. It is our spiritual and cultural responsibility to protect our local lands and Waters in order to help protect the whole of Mother Earth.

Tribes and First Nations have observed with growing interest that the Great Lakes Basin governments of the United States and Canada have begun to share our concerns about the preservation of the quality and quantity of the Great Lakes Waters.

The eight States and two Provinces of the Great Lakes Basin entered into the 1985 Great Lakes Charter, Annex 2001, and have drafted an Interstate Compact and International Agreement to implement the provisions of Annex 2001. These agreements, however, make no provisions for including Tribes and First Nations as governments with rights and responsibilities regarding Great Lakes Waters. These agreements also assert that only the States and Provinces have governmental responsibility within the Great Lakes Basin.

Through International treaties and court actions, however, Tribes and First Nations continue to exercise cultural and spiritual rights of self-determination and property rights within traditional territories for our peoples and nations. Tribal and First Nation governments, like all governments, have the duty to protect the interests and future rights of our peoples. Since we have recognized rights and we are not political subdivisions of the States or Provinces, the assertion that the States and Provinces own and have the sole responsibility to protect the Waters is flawed.

Thus, the efforts of the States and Provinces to protect the Waters of the Great Lakes Basin are flawed because these efforts do not include the direct participation of the

governments of Tribes and First Nations. This fundamental flaw endangers the interests of all of the inhabitants of the Great Lakes Basin and, ultimately, because of the interconnectedness of the worldwide ecosystem, endangers the interests of the entire earth.

It is thus our right, our responsibility and our duty to insist that no plan to protect and preserve the Great Lakes Waters moves forward without the equal highest-level participation of Tribal and First Nation governments with the governments of the United States and Canada. Merely consulting with Tribes and First Nations is not adequate, full participation must be achieved.

**B**y this accord signed on November 23, 2004, at Sault Ste. Marie, Michigan, the Tribes and First Nations of the Great Lakes Basin *do hereby demand that our rights and sovereignty be respected, that any governmental effort to protect and preserve the Waters of the Great Lakes Basin include full participation by Tribes and First Nations, and we also hereby pledge that we share the interests and concerns about the future of the Great Lakes Waters, further pledging to work together with each other and with the other governments in the Great Lakes Basin to secure a healthy future for the Great Lakes.*



Canadian Environmental Law Association  
301-130 Spadina Avenue  
Toronto, ON M5V 2L4

convergence with John "arrow" Ado 13/2007

1. China
2. government
3. first Nations accord
4. news paper articles
5. Power shift

outside consultations  
with 5 seconds

History of the issue in 1983

up to advisors

→ Dec 2015

outbreak Advisory Panel cannot become the only mechanism

public still inactive as one last Central Bank was over.

Call with Kay Morgan  
and Pat Messinger  
4/16/12 - 0400  
1278 #

Notes from Chris Taylor / Miller  
Tammann & 2007  
Pam Kaur as moderator

Industry? Pat (VP) and  
ENGO ~ John Jackson, Pat W. Wright  
Canadian team  
Other jurisdiction -

Municipalities - Rural Miller  
Municipalities  
Several others

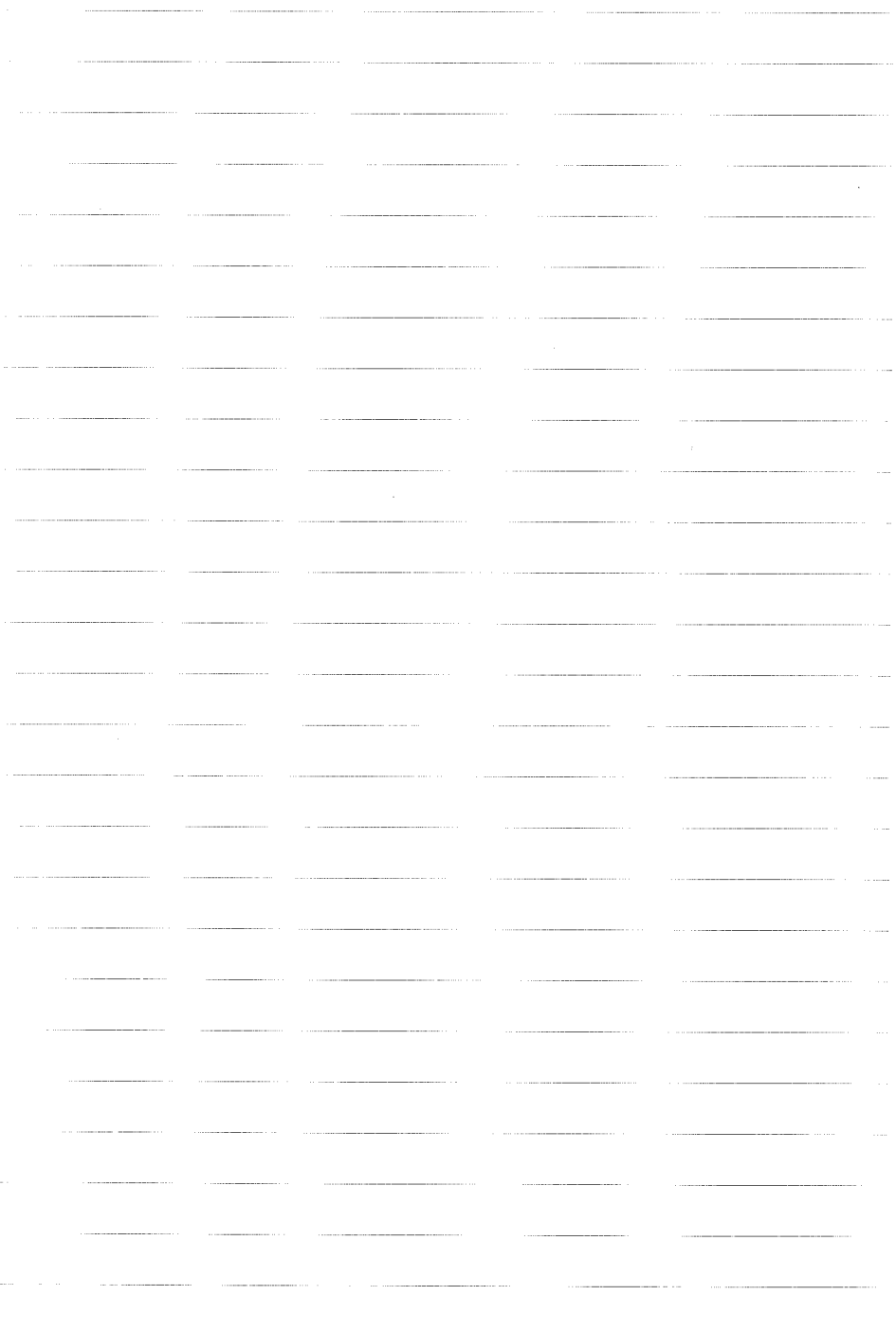
Will our report show an  
expansive summary  
on camera -  
Back track? Pat  
Pat's write for the video.....

Video footage of the  
committee's development

last period  
geographic & ecological  
terms.

Roll Board  
"Back-Off" -





circumstances where this  
could work.

Building Trust - sharing  
call making issues  
stakeholders will not  
accept this.

Bilateral level . . . . .  
"outside-in  
inside-out"

formidable combination  
& education

How did Panel get formed  
whose idea Ramsay Jennifer  
minister level →  
Premier was pulled  
away . . . . .

Leith Hunter -  
other ministers had the  
same access as stakeholders



end of experiment out of  
to one which was open  
supportive.

provided negotiation  
minutes  
generate

standards  
rules & instructions  
Europe Britain

momentum - 7.6%  
implementation factors.

the leadership &  
policy of B.P.s.

Kevin wanted to show  
not the details of the  
an open negotiation

major capital market  
across primary  
democratic



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

November 7, 2006

Rob Messervey,  
Manager  
Water Resources Section  
Lands and Water Branch  
Ontario Ministry of Natural Resources

**A Preliminary Proposal to Undertake an Evaluation of Great Lakes Charter  
Annex Consultations in Ontario**

Thank you for the opportunity to work with the Ministry of Natural Resources (MNR) staff on this project to evaluate your unique Great Lakes Charter Annex Advisory Panel process as a case study for a new approach to consultation for the Ontario government. As participants in that process and the events leading up to its formation, the Canadian Environmental Law Association (CELA) shares your belief that there are valuable approaches and outcomes from this process that could be effectively applied to improve many other Ontario public policy initiatives. Please consider this letter as an initial outline for further discussion of how to best shape this work to meet your objectives.

**Project Objectives**

Increasingly public policy issues are complex, multi-faceted, highly technical and political and involve regulatory components. There is usually a broad cross section of stakeholders with direct and indirect interests whose perspectives need to be taken into consideration when policy is developed. Consulting each of these sectors individually can be very time consuming, expensive and ineffective in building an informed and enduring constituency for public policy reform. Stakeholders with more resources inevitably are able to be more involved than those with less. This often leads to perceptions of inequity, secrecy and undue influence on decision-making on public policy. Often one section of a Ministry undertakes public consultation while another puts that policy into regulation and practice. Directly involving legal staff in consultations on law and policy reform could have advantages for both stakeholders and government regulators.

The MNR Great Lakes Charter Annex Advisory Panel broke down many of these barriers to effective consultation and it created consent on Ontario's input at the international negotiating table that significantly influenced the outcome of those negotiations. As

well, it developed a broad-based constituency who have expressed interest in continuing to shape the implementation of the Charter Annex in Ontario as well as in other jurisdictions.

### **Project Components**

We have given some thought as to how best to communicate the lessons and innovations of this consultation in a project design that could be completed by the end of January 2007. This deadline would be in time to inform efforts underway to reform consultations in the Ontario Public Service. We understand a policy forum with this aim is being planned by the Centre for Leadership in Government for February 2007.

- A. We propose that CELA write a Report on the MNR Great Lakes Charter Annex Advisory Panel as a Model for reform of Public Consultation in Ontario. See the section on the report outline for a fuller description of the report components.
- B. Additionally we would provide a shorter summary report and background materials including interviews of key participants involved in the process as project deliverables.
- C. We would also be prepared to speak publicly about this research.

### **Project Steering Committee**

We prefer to work with a project steering committee to further shape and advise on this project. We understand that MNR Staff Kay Morgan from the ADM's office and the Lands and Water Branch will be involved. From a CELA perspective we would like to involve three people.

Sarah Miller, our water policy researcher and Co-ordinator would direct the project as well as contribute to the deliverables and serve on the project steering committee. Due to the fact Sarah was involved in all stages of the Great Lakes Charter Annex negotiations, we feel it would be best that an arms length researcher conduct the informant interviews and assist with writing the report.

We are recommending researcher and writer Anne Wordsworth for this work. As you can see from her attached resume she has worked both as a journalist and within the Ontario Government. This means she writes very well and is able to communicate complex policy issues clearly. Her government experience has given her an insider understanding of policy and regulatory development. Recently, CELA has relied on Anne as a researcher on numerous projects, several of them involving water and public policy. Anne has indicated she is available for the project time period.

We would also like to involve CELA Board Member John Jackson as a member of the Advisory Committee, not only because of his extensive involvement in consultations in the Great Lakes and other environmental matters, but also because he has written guides to and analysis of public consultation for the ENGO Community. He is about to

publish a study of the role of the public advisory committees in the Ontario Remedial Action Plans.

We may also want to involve other interested members of the Great Lakes Charter Annex Public Advisory Committee on the Steering Committee. The first job of the Steering committee would be to develop clear project objectives and goals.

## **Report Outline**

### **a. Background and context**

The early stages of the Great Lakes Charter Annex consultation were initially shaped by the international negotiations convened by the Council of Great Lakes Governors between the eight Great Lakes States and the two Canadian Provinces and the Advisory Panel to the international process. The report would chronicle that process to set the context leading up to the formation of the MNR Great Lakes Charter Advisory Panel. Key components of the two Advisory Panels could be compared and contrasted throughout the paper. The story of these negotiations cannot be told without an account of the political climate during the process and how it shaped the key issues under discussion and the final agreements. An account of these negotiations should also touch on constitutional and governance differences and imperatives between the Parties. Some care will need to be taken to avoid all of the complexities and details of this negotiation in order not to overwhelm our central message. This message will focus on how Ontario successfully adapted its consultative process to be more inclusive and strategic and how these strategies could benefit other consultations.

### **b. Exploring unique components of the Advisory Panel**

Participants in the MNR Great Lakes Charter Panel would be interviewed to elicit responses to key questions about the formation, makeup, operations, techniques and outcomes of the Committee's work. Efforts would be made to interview all members as well as some outside informants such as others involved in the international negotiations. Government staff as well as other stakeholders would also be interviewed. A list of potential interviewees as well as a set of questions will need to be developed as one of the first priorities of the Steering Committee.

The Steering Committee will need to consider if a separate questionnaire should be developed for government and non government stakeholders and if the questionnaire should be administered by personal interview or electronically or both. The unique aspect of confidentiality and of transparency used for the Panel's work will be a particular focus of the questionnaire. Methodologies and techniques used to reach consensus will be explored.

The questionnaire will also explore the participants' level of satisfaction with the process and with the outcome and identify where they would suggest improvements. Willingness of stakeholders to be involved in the implementation process should be

explored as an indicator of the success of this model. Cradle-to-grave consultation from policy to practice could present its own set of problems. It is likely that many agencies might be wary of creating too great expectations. We will consider techniques to avoid disappointing outcomes.

Adequate resources for new consultation ventures will be key to their success. This project could evaluate actual and avoided costs if this model were used. How a new model for consultation would fit within existing frameworks would be an issue too large for this paper as each Ministry probably has its own systems in place. For instance, if a similar consultation were to take place on another Great Lakes environmental initiative the EBR registry would need to be integrated into the process. Ideally we would hope this model would prompt each of those Ministries to examine how best to apply the lessons learned to their existing systems.

Techniques used in the MNR Panel consultations will be explored in detail. These could include use of a facilitator, trends analysis, regular updates on developments at the negotiating table, emergency calls between meetings, circulation of minutes and background materials, and sharing of stakeholders work on the issues and how Panel discussions informed the Province's positions at the bargaining table.

### **c. First Nations Consultation**

Because CELA was not party to the parallel efforts to consult with and involve First Nations we would have to rely on MNR staff and these First Nations involved to characterise those discussions and outcomes. Some thought should be given to including a First Nations person or persons on the Steering Committee of this project or to setting up a parallel project. The exclusion of First Nations by the Council of Great Lakes Governors in the first phase of negotiations was hard to overcome particularly as it reflected on all State and Provincial governments (regardless of their efforts and actions to inform and consult regionally). This came at a time when the Canadian courts had ruled on "duty to consult" and First Nations were trying to hold governments to a higher standard for full participation. This standard of participation has not yet been well defined.

A positive outcome was that First Nations did come together in the Great Lakes for the first time and issued a collective Tribal and First Nations Great Lakes Water Accord articulating the need for full participation in this and future consultations. The governments have now been put on notice on the need for participation and have a pledge that the Tribes and First Nations want to work together to secure a healthy future for the Great Lakes. Next steps will be very important to explore with First Nations Representatives so their participation can shape the next substantive steps.

### **d. Style of Report**

We would endeavour to make this report accessible to all readers, not only members of the Ontario Public Service. It should be of interest to the concerned public, actively

involved in consultations. We will use as many quotes as possible from those we interview. We will need to ask if informants we interview want to be named or if they would prefer their responses be anonymous. The Steering Committee should discuss how to circulate the Report to groups outside government that could benefit from it.

**e. Conclusions and Recommendations**

A draft of the final report would be shared with the project Steering Committee so the Committee could collectively determine what conclusions and recommendations to draw on from the findings. Care will be taken to make these finding generic so that they can be used to build a new model for future Ontario Public Service stakeholder consultations.

These are my preliminary thoughts on how we can approach this project with its tight time frame to get results that will be useful and hopefully transformative and informative in future Ontario policy initiatives. Thank you for the opportunity to be involved in this research. I have attached a draft project budget and timetable as well as Anne Wordsworth's resume. I can provide a resume for John Jackson if necessary as well. I have verified that he is interested in participating.

Yours truly,  
Canadian Environmental Law Association

*Sarah Miller*

Sarah Miller  
Co-ordinator and Water Researcher

## **Notes of our December 21, 2006 call re: the Great Lakes Charter Annex Project**

CELA: Anne Wordsworth, Sarah Miller

MNR: Rob Messervey, Chris Taylor, Danielle Dumoulin

ADM's Office: Kay Morgan (Organizing the March 18<sup>th</sup> 2007 Leadership Policy & Innovation Conference that this report is being written for.)

Regrets: Paula Thompson, MNR and Bill Carr International Affairs

### **Essential objectives:**

To have a Report of around 25 pages directed to the ADM Kevin Wilson near the end of February 2007. The report will have the following components:

1. an executive summary,
2. background on the Great Lakes Charter Annex
3. a description and analysis of the Water Panel Process from the view point of both government participants and panel stakeholders by using questionnaires to get input from key informants
4. These questionnaires will be in appendixes to the main report.

Recommendations of the Report will focus on constructive recommendations on how this process could be used to reform public consultation carried out by the Ontario Public Service and circumstances conducive to using a similar process.

Rob Messervey reviewed what he thought should be reflected in the report on how the MNR Great Lakes Charter Annex Advisory Panel:

- changed the environment of cynicism to one which was openly supportive,
  - changed the level of stakeholder engagement (of First Nations as well),
  - provided negotiation principles and fall back positions and gave voice to more Ontarians in the negotiation process,
  - dealt with the scientific and technical issues, standards and specific issues such as the Chicago Diversion,
  - dealt with the formidable information and educational components,
  - created momentum for implementation,
  - successfully worked with confidentiality provisions,
  - had horizontal integration across Ministries giving government participants the same access as other stakeholders,
  - was democratic and transparent'
  - Built trust
  - Used an "outside in" rather than "inside out" approach
- (a possible title for the Report)

### **First Nation involvement**

Sarah expressed concern regarding the efficacy of writing up the First Nation Process as a third party to it. It was agreed that we at least describe what occurred that led to Great Lakes Tribes and First Nations coming together and issuing the Water Accord. Ontario's efforts to engage FN in a parallel process has not been as successful as hoped. We will address also the issues focusing on the "duty to consult".

Sarah asked how the Panel got formed initially and whose idea it was. Minister Ramsay and Jennifer Tuck promoted its formation and the Premier was fully aware of its work.

### **Interviews**

In the US it will be important to talk to key players. This will establish the mood after the first draft was released and criticism that the Canadians could not contain the media and public fracas.

We discussed key informants to interview in depth with follow-up phone calls.

Sam Speck  
David Naftzger others?

### **Observers to the process**

Murray Klamann and Michael Vexler of the IJC  
Peter Fawcett of DFAIT  
Ann Charles, the Canadian ambassador in Chicago at the time

### **Key Actors for Ontario**

Paula Thompson  
Bill Carr  
Kevin Wilson  
Bill Carr  
Leith Hunter  
David DeLaunay  
Karen Wyanecki (the facilitator of the Water Panel Meetings) 905) 428-6113

### **Members of the Panel who participated throughout the Process**

Elisabeth May, Sierra Club  
Adele Hurley, the Munk Centre on Water  
Betty Semeniuk, the Ontario Federation of Agriculture  
Elizabeth Griswold, the Canadian Bottled Water Association  
Michael D'Andrea, the City of Toronto  
Rob Wright, the Sierra Legal Defence Fund  
Rick Findlay, Pollution Probe  
Great Lakes United, Derek and or John



Carolyn Day, the Canadian Fed. Of University Woman  
Larry Field, Conservation Ontario  
Mary Muter, Georgian Bay Association  
Bob Yap, Ontario Power Generation  
Risa Schwartz, Ministry of the Environment  
Marta Soucek, Ministry of the Environment  
Terry Reeser, Federation of Ontario Cottagers Association  
Paul Norris, Ontario Water Power Association

**Other members of the Panel who did not participate consistently**

Ralph Pentland, individual

John Jackson will act as a consultant on public consultation to contrast this consultation process with other Ontario consultations.

**The Great Lakes Charter Annex Advisory Panel: a model for successful consultation on Ontario public policy**

**Draft Budget**

Principle researcher and writer	
Anne Wordsworth 16 days @ \$500.00 per day	8,000.00
GST 3% (CELA as a non-profit gets back 1/2 GST)	240.00
Project Co-ordinator Sarah Miller 10 days @500.00	5,000.00
Project team member John Jackson honoraria	500.00
Long distance phone	500.00
Travel	600.00
Overhead	2,226.00
<b>Total budget</b>	<b>\$ 17,066.00</b>

**Study components and work plan  
January 8, 2006 to February 28, 2007**

- **Week 1** Background Research and Project Scoping meeting with MNR Staff and Advisory Committee
- **Week 2 -3** Design and approve interview questions
- **Weeks 3-4** Conduct interviews
- **Weeks 5-6** Write full report findings, conclusions and summary report
- **Week 6** Submission of draft report to meeting MNR staff
- **Week 7** Final revisions if necessary

**INVOICE #3: February 9, 2007**

**Re: The Great Lakes Charter Annex Advisory Panel: A Model for a successful consultation on Ontario Public Policy**

To: Canadian Environmental Law Association

From: Anne Wordsworth  
76 First Avenue  
Toronto, Ontario M4M 1W8

For: Services rendered on report, including:  
Assisting in the development of questionnaire, sending out questionnaire and interviewing selected Panel members, writing draft and final reports (in conjunction with Sarah Miller)

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16 days @ \$500 per day

**Subtotal: \$8,000**  
(no G.S.T. required for provincial contracts)

-----  
**Total: \$8,000**

Advisory Panel Members that we would suggest for on-camera interviews

Non-governmental

Sarah Miller, CELA – very supportive, in Toronto (416 960 2284)

Rob Wright, Sierra Legal Defence Fund – supportive, in Toronto (416 368 7533)

Rick Findlay, Pollution Probe – very supportive but in Ottawa

Industry

Peter White, Aggregates Industry – thinks the integrity of MNR staff and the way they listened made it a successful process

Elizabeth Griswold, Bottled Water Industry – thought process was generally good but not enough participation from industry (905 886 6928)

Other

Carolyn Day, Canadian Federation of University Women - also very supportive, very thoughtful, good appreciation of the process, in Southampton but comes into Toronto occasionally (perhaps the best of all!)

Larry Field, Conservation Ontario – quite thoughtful, involved in original Panel but has passed it on to another representative

**Sarah Miller**

---

**From:** Morgan, Kay (MNR) [kay.morgan@ontario.ca]  
**Sent:** January 10, 2007 9:40 AM  
**To:** Sarah Miller  
**Subject:** RE: Information

Hi Sarah,

Sorry it has taken me a while to get back to you – coming back from vacation is always a bit tough. Anyway, let me try to give some wording as an intro:

“The policy community of the Ontario Public Service sponsors regular learning events for its members. These events address a broad range of subjects, and focus on different aspects of policy development, analysis, and implementation. The Ministry of Natural Resources is sponsoring a policy symposium on March 21, 2007, to highlight the process used to develop the Ontario position for the Great Lakes Charter Annex Agreement as an example of a different approach to public involvement in complex, multi-party negotiations. The audience for this event will be Ontario Public Service staff and executives who may be involved in similarly complex endeavours in the future. By demonstrating how a more open process lead to a better result for Ontario and for the environment, we hope to encourage others to consider this approach.”

I think that it would be misleading to characterize this event as a leadership conference, as the focus is more on knowledge transfer and sharing, and the audience is broader than just “leadership” staff. I noticed that wording in a number of the documents that you sent out, and I think it would be best to change it to “Learning Event”, or “Policy Symposium” if that sounds better. Please give me a call if you need anything further.

Kay Morgan  
Policy Advisor to the Assistant Deputy Minister  
Natural Resource Management Division  
Ministry of Natural Resources  
416-314-1860

---

**From:** Sarah Miller [mailto:MillerS@lao.on.ca]  
**Sent:** January 5, 2007 1:46 PM  
**To:** Morgan, Kay (MNR)  
**Subject:** Information

Dear Kay,

Can you send me a written description of your Leadership Conference so I can write a short introduction to our Project Questionnaire about the intent of the Project? I would like to send out the draft for review this afternoon. Thank you.

*Sarah Miller  
Co-ordinator and Water Policy Researcher  
Canadian Environmental Law Association  
130 Spadina Avenue Suite 301  
Toronto, Ontario M5V 2L4  
phone~416) 960-2284 ex 213  
fax~416) 960-9392  
millers@lao.on.ca  
Visit CELA's web site ~ www.cela.ca  
or our Resource Library web site ~ www.ecolawinfo.org*

12/02/2007

## **Notes of our December 21, 2006 call re: the Great Lakes Charter Annex Project**

CELA: Anne Wordsworth, Sarah Miller

MNR: Rob Messervey, Chris Taylor, Danielle Dumoulin

ADM's Office: Kay Morgan (Organizing the March 18<sup>th</sup> 2007 Leadership Policy & Innovation Conference that this report is being written for.)

Regrets: Paula Thompson, MNR and Bill Carr International Affairs

### **Essential objectives:**

To have a Report of around 25 pages directed to the ADM Kevin Wilson near the end of February 2007. The report will have the following components:

1. an executive summary,
2. background on the Great Lakes Charter Annex
3. a description and analysis of the Water Panel Process from the view point of both government participants and panel stakeholders by using questionnaires to get input from key informants
4. These questionnaires will be in appendixes to the main report.

Recommendations of the Report will focus on constructive recommendations on how this process could be used to reform public consultation carried out by the Ontario Public Service and circumstances conducive to using a similar process.

Rob Messervey reviewed what he thought should be reflected in the report on how the MNR Great Lakes Charter Annex Advisory Panel:

- changed the environment of cynicism to one which was openly supportive,
  - changed the level of stakeholder engagement (of First Nations as well),
  - provided negotiation principles and fall back positions and gave voice to more Ontarians in the negotiation process,
  - dealt with the scientific and technical issues, standards and specific issues such as the Chicago Diversion,
  - dealt with the formidable information and educational components,
  - created momentum for implementation,
  - successfully worked with confidentiality provisions,
  - had horizontal integration across Ministries giving government participants the same access as other stakeholders,
  - was democratic and transparent'
  - Built trust
  - Used an "outside in" rather than "inside out" approach
- (a possible title for the Report)

### **First Nation involvement**

Sarah expressed concern regarding the efficacy of writing up the First Nation Process as a third party to it. It was agreed that we at least describe what occurred that led to Great Lakes Tribes and First Nations coming together and issuing the Water Accord. Ontario's efforts to engage FN in a parallel process has not been as successful as hoped. We will address also the issues focusing on the "duty to consult".

Sarah asked how the Panel got formed initially and whose idea it was. Minister Ramsay and Jennifer Tuck promoted its formation and the Premier was fully aware of its work.

### **Interviews**

In the US it will be important to talk to key players. This will establish the mood after the first draft was released and criticism that the Canadians could not contain the media and public fracas.

We discussed key informants to interview in depth with follow-up phone calls.

Sam Speck  
David Naftzger others?

### **Observers to the process**

Murray Klamon and Michael Vexler of the IJC  
Peter Fawcett of DFAIT  
Ann Charles, the Canadian ambassador in Chicago at the time

### **Key Actors for Ontario**

Paula Thompson  
Bill Carr  
Kevin Wilson  
Bill Carr  
Leith Hunter  
David DeLaunay  
Karen Wyanecki (the facilitator of the Water Panel Meetings) 905) 428-6113

### **Members of the Panel who participated throughout the Process**

Elisabeth May, Sierra Club  
Adele Hurley, the Munk Centre on Water  
Betty Semeniuk, the Ontario Federation of Agriculture  
Elizabeth Griswold, the Canadian Bottled Water Association  
Michael D'Andrea, the City of Toronto  
Rob Wright, the Sierra Legal Defence Fund  
Rick Findlay, Pollution Probe  
Great Lakes United, Derek and or John

Carolyn Day, the Canadian Fed. Of University Woman  
Larry Field, Conservation Ontario  
Mary Muter, Georgian Bay Association  
Bob Yap, Ontario Power Generation  
Risa Schwartz, Ministry of the Environment  
Marta Soucek, Ministry of the Environment  
Terry Reeser, Federation of Ontario Cottagers Association  
Paul Norris, Ontario Water Power Association

**Other members of the Panel who did not participate consistently**

Ralph Pentland, individual

John Jackson will act as a consultant on public consultation to contrast this consultation process with other Ontario consultations.



**Survey of Members of the Ministry of Natural Resources Great Lakes Charter Advisory Panel from October 22, 2004 to December 2005**

The policy community of the Ontario Public Service sponsors regular learning events for its members. These events address a broad range of subjects, and focus on different aspects of policy development, analysis, and implementation. The Ministry of Natural Resources is sponsoring a policy symposium on March 21, 2007, to highlight the process used to develop the Ontario position for the Great Lakes Charter Annex Agreement as an example of a different approach to public involvement in complex, multi-party negotiations. The audience for this event will be Ontario Public Service staff and executives who may be involved in similarly complex endeavours in the future. By demonstrating how a more open process lead to a better result for Ontario and for the environment, we hope to encourage others to consider this approach.

**Name:**

**Affiliation:**

**1. History of involvement with issue:**

- How did you first learn of the Great Lakes Charter Annex and why did you become engaged in the process?
- If you were invited to join the panel but did not participate, please explain why you chose not to. (If you did not participate you need not answer further questions after this one.)
- What sector did you represent?
- Once involved, did you feel you were heard and were able to influence the process?
- Were you able to inform others in your sector of progress as the negotiations evolved?

**2. Level of involvement with other government consultations (to compare and contrast this process):**

- Have you represented your sector in other government consultations?
- How did this one differ and compare?

### **3. General satisfaction with MNR's Panel Process:**

- Please comment on the MNR Great Lakes Charter Annex Panel consultation process, considering the following components:
  1. Make-up of Panel
  2. Confidentiality – did it work? Did it present challenges for you?
  3. Was the shared information adequate?
  4. Was the information timely?
  5. Facilitation of discussions
  6. Records of Meetings
  7. Defining general objectives and principles
  8. Defining first preferences and fall back for bargaining positions
  9. Reporting back after each negotiation
  10. Holding emergency calls when quick decisions or changes arose
  11. Overall democracy of the process
  
- Were there facets of the process that you felt were particularly beneficial? Please identify them.
  
- Were there disadvantages or concerns with the process? Please identify them.
  
- Did you feel that Ontario was the appropriate level of government to negotiate a Great Lakes' agreement? Please explain.

### **4. Impact of the process:**

- How would you rate the success of the process in meeting public expectations?
  
- Did the process promote better understanding of :
  1. The issues under negotiation?
  2. Of other sectors' views of those issues
  3. Of perspectives of other Ministries represented on the Panel
  4. Of challenges the Ontario government was facing in negotiations with the US and Quebec
  5. Of challenges the Ontario Government might face domestically in drafting the Legislation and in implementation
  6. Of the internal government approval process

7. Of the challenges faced by other governments?

- Did the process alter your positions on the topics under discussion?

**5. Continued involvement and commitment:**

- Did your participation in MNR's Great Lakes Charter Annex Advisory Panel make you better prepared to advocate for implementation of the final Agreements?
  1. In the US?
  2. In Ontario?
- Will you continue to be involved in the process? If so, how?

**6. Future stakeholder involvement or public consultation processes:**

- Should Ontario establish similar panels for public consultation in the future?
- What recommendations would you make to improve the process?
- In which situations do you think a similar process would be beneficial?

Please add other comments, advice, observations and feedback you might have.

Please indicate if you agree that your name may be used in our report \_\_\_\_\_

**Questionnaire**  
**For the Government Participants and other Agency Participants in the negotiations on the Great Lakes Charter Annex from October 22, 2004 to December 2005**

**Questions to gauge how the the Ontario Ministry of Natural (Resources (MNR) Great Lakes Charter Advisory Panel Panel Process contributed to the Province's Input at the International Negotiating table**

How did Ontario's position in international negotiations change after the establishment of the Ministry of Natural Resources Great Lakes Charter Annex Advisory Committee in the Fall of 2004?

What advantages did the Water Panel give the government? Please give examples wherever possible.

1. In negotiations
2. Within Ontario
3. In promoting specific issues
4. In the Media
5. In drafting regulations and regulation

Did the Water Panel create specific problems for you in any of the above areas? Please explain?

Would you recommend that the government look to this Panel as a model to reform public consultation?

Are there particular recommendations you would highlight from this process?

Are there recommendations you would make to improve a reformed consultation process?

Please add other comments, advice observations and feedback you might have.

Please indicate if you would like your name to be used in our report \_\_\_\_\_

Or if you would prefer to remain anonymous \_\_\_\_\_

Due October

Paradise was very busy  
teleconferences etc not work  
well.

- first learned about it by e-mail  
indicated they wanted to  
consult

• got regular reports from  
MNR

consultation from FN.

Chiefs are a coordinating Body  
that needs to consult with  
key holder  
is not an elected assembly

some FN have guidelines for  
consultation

consultation - consultation  
& accommodation

initially tried to use chiefs

must an employment strategy  
to this. at the 12th and  
→ did not happen on the side  
annex.

MNR foreign funds.

Because of the many meetings  
David Rennie (MNR) had with  
First Nations.

authorised by hand to consult  
a few and attend advisory  
panel

asked by T.N. to pull off

just the determining of a process  
not path around with  
resources to do that

MNR -  
MOE -

is a model in Saskatchewan  
even

people & political  
institutions  
people & political  
institutions  
Government for  
next five years  
to pay those people  
in place

need some thing similar in place  
B.C. may have a model  
in Ontario - 2 B.C. voices.

in Ontario - 2 B.C. voices.  
have mentioned it  
what those are & doing  
what those are & doing  
what those are & doing  
what those are & doing

we are in Chicago. Others were there.  
to mention the fact that we pulled out

Just treaty put into place  
two ships - hauling together

Int. of governments  
points of interest  
to land, resources & water  
learning from  
examples.

How do we moderate these  
facilities - wanted treaties signed  
when they went to each community.  
in the words of Z. N. Hayes  
this what I should like  
happen

Got stuck in that point this  
needed to be renegotiated.  
Hudson River in the fault.

Other choices =

Don't feel they were consulted.  
also Keith of the union

Really hopes that change will  
happen

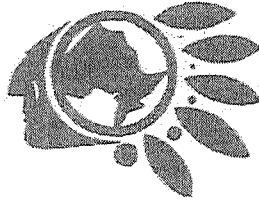
any problem is an  
opportunity.

change happens in the right direction  
a huge step

Sewage  
minimum standards - for what  
# Billion people / year?



POLITICAL OFFICE:  
Fort William First Nation  
R.R. #4  
Suite 101, 90 Anemki Drive  
Fort William First Nation Office Complex  
Thunder Bay, Ontario P7J 1A5  
(807) 626-9339  
(807) 626-9404 Fax



ADMINISTRATION OFFICE:  
188 Mohawk Street  
Brantford, Ontario  
N3S 2X2  
(519) 750-1016  
(519) 750-1316 Fax  
1-877-517-6527  
Website: www.chiefs-of-ontario.org

## CHIEFS OF ONTARIO

Special Chiefs Assembly  
November 9-11, 2004  
Thunder Bay, Ontario

### GREAT LAKES WATER QUALITY AND QUANTITY

RESOLUTION 04/60  
Page 1 of 2

**WHEREAS** Indigenous People have inhabited the Great Lakes Basin since time immemorial, long before the current Canadian and American political boundaries were drawn;

#### MOVED BY:

Chief Dr. Dean Jacobs,  
Bkejwanong Territory

**WHEREAS** traditional teachings and modern science combine to strengthen our historical understanding that Water is the life-blood of our Mother Earth;

#### SECONDED BY:

Chief Patrick Madahbee,  
Aundeck-Omni-Kaning

**WHEREAS** Indigenous women continue their role as protectors of the water;

**WHEREAS** the whole Earth is an interconnected ecosystem and the health of any one part affects the health and well being of the whole;

#### CONSENSUS

**WHEREAS** it is the spiritual and cultural responsibility of First Nations to protect our traditional lands and waters in order to protect the whole Mother Earth;

Certified Copy of a Resolution adopted on  
November 9, 2004.

**WHEREAS** the Great Lakes Water Charter is a regime that manages the Great Lakes basin ecosystem, and has been signed by two provinces and eight (8) U.S. governors, and has been endorsed by both Canada and the United States;

  
\_\_\_\_\_  
Charles D. Fox, Ontario Regional Chief

**WHEREAS** the Charter Annex signed in 2001 is a reaffirmation of the Great Lakes Water Charter;

**WHEREAS** First Nations in Canada, and Native American Tribes in the United States, have not been adequately consulted on the Great Lakes Water Charter which, in essence, governs the export and diversion of Great Lakes water;

**WHEREAS** the International Joint Committee (IJC) established between Canada and the United States, does not include First Nations parties;

**THEREFORE BE IT RESOLVED** that we, the Chiefs in Assembly, oppose the export and diversion of water in any quantity for any reason, and we hereby put the Government of Canada, Province of Ontario and other signatories to the Great Lakes Water Charter on notice of our united opposition to using water as a commodity;

**FURTHER BE IT RESOLVED** that we demand that the Province of Ontario and other signatories of the Great Lakes Water Charter include First Nations in any decisions and policy making regarding the water quality of the Great Lakes;

**FURTHER BE IT RESOLVED** that we demand a full and open consultation process, including resources to do so, from the Province of Ontario with regard to the Great Lakes Water Charter Annex, including face-to-face meetings with our leadership and broad-based community consultations;

**FURTHER BE IT RESOLVED** that the 134 First Nations in Ontario have never surrendered rights to the Great Lakes and, as owners, must be included as full participants in the Great Lakes Water Charter process, and must be given full participation on the IJC;

**FURTHER BE IT RESOVLED** that we reserve the right to protect Aboriginal, Treaty, and inherent rights at all relevant national and international forums;

**FINALLY BE IT RESOLVED** that we direct the Chiefs in Ontario office to facilitate a coordinated approach among First Nations in Ontario to address Great Lakes Water quality and quantity issues.

## From the Inside Out: An Evaluation of the Advisory Panel Process for the Great Lakes Charter Annex Agreements

### **Purpose**

The purpose of this report is to evaluate the Advisory Panel established by the Ministry of Natural Resources to support the development of the Great Lakes Charter Annex Agreement as a case study for a new approach to public consultation, and to identify the successful elements of this process that could be applied to other government consultations.

### **Objectives**

Increasingly public policy issues are complex, multi-faceted, highly technical and political, and involve regulatory components. There is usually a broad cross-section of stakeholders with direct and indirect interests whose perspectives need to be taken into consideration when policy is developed. Consulting each of these sectors individually can be time-consuming, expensive and ineffective in building an informed and enduring constituency for public policy reform.

The Ministry of Natural Resources Great Lakes Charter Annex Advisory Panel broke down many of the usual barriers to effective public consultation. It created consent on Ontario's input at the international negotiating table that significantly influenced the outcome of those negotiations. As well, it developed a broad-based constituency who have continued to shape the implementation of the Charter Annex both in Ontario and in other jurisdictions.

The objectives in evaluating the Advisory Panel process are to identify the key ingredients that contributed to its success in order to inform and improve future public consultation processes in Ontario.

### **Methodology**

The methodology that was used in evaluating the Advisory Panel process included the following steps.

First, in consultation with Ministry of Natural Resources staff, Rob Messervey, Kay Morgan, Danielle Dumoulin and Chris Taylor, two questionnaires on the Advisory Panel process were developed – one tailored to members of the Great Lakes Charter Annex Advisory Panel, and another questionnaire directed at key government players. The first questionnaire was emailed to all members listed as part of the original Advisory Panel. The second questionnaire was distributed to key government players in the Ontario Ministries of Natural Resources and Environment, the Canadian federal government and the government of Quebec, and to government agencies such as the IJC and Great Lakes Governors.

Secondly, the distribution of questionnaires was followed up by telephone calls to those members of Advisory Panel who attended meetings most frequently and followed the process through, as well as to some members who were listed as members of the Advisory Panel but who were not very active. Telephone calls were also placed to government players where available. Questionnaires were collected from all those who wished to participate by answering the questionnaire. As well, telephone interviews were done with several Panel members from different sectors, and a number of government representatives in both Ontario and the United States.

Telephone interviews were also conducted with the facilitator who was involved in the beginning of the Advisory Panel process and a representative of the First Nations. Following the collection of this information, an analysis of the questionnaires and phone interviews was done. A very high percentage of Panel members participated in this evaluation. The complete list of those who contributed is listed in Appendix 1.

## **History and Background**

(negotiations, key issues – diversions, straddling communities, conservation, political climate, the players, the undertaking, cultural differences and perceptions between countries and sectors and in public interest)

Comparisons with traditional consultation methods and outcomes used in Ontario

Description of unique nature of this undertaking and why it worked so well, how Panel was balanced with formal consultations

First Nations – tried to engage them at the political and community level starting in 2003, initial participation on Panel and withdrawal, momentum MNR helped them build in establishing basin-wide United Indian Nations of the GL organization (inactive) and how we might have better approached FN involvement

## **Assessment of Process**

Changed level of stakeholder involvement – from consultation to engagement

Did we have the right mix/diversity of interests and representation of the public and sector interests at the table?

Was the government able to be sufficiently transparent and open during the negotiations to enable objective and informed input?

Did MNR provide timely and sufficient information to support and facilitate effective member review and assessment of policy options?

Were the presentation materials, updates and other information provided to the Panel helpful?

Were the minutes a useful and effective tool to keep members informed and as a source of reference?

Did MNR effectively provoke dialogue and debate?

Were we successful in reaching consensus and effectively defining Ontario's position on key policy issues?

Was the Agreement in its final form reflective of the AP input?

Did the process serve Ontario's interests capably?

Key Ingredients

Comparison with other consultations – "outside in"

## **Chronology of Advisory Panel**

July 19, 2004 – draft Great Lakes Charter Annex agreements released for public comment; posted on EBR for 90 days

August/September 2004 – strong negative public reaction to failure of draft agreements to ban diversions (175 written and email comments)

November 15, 2004 – Minister of Natural Resources, David Ramsay, announced that Ontario would not sign draft agreements; set up Annex Advisory Panel with representatives of municipalities, industry, agriculture, environmental groups and First Nations to advise Ontario negotiators

December 3, 2004 – Invitation to attend the Great Lakes Charter Annex Inaugural Meeting December 15, 2004

- sent to selected stakeholders after October 18<sup>th</sup> meeting “in keeping with the Government’s desire to involve its partners and clients in the decision making process”
- Ontario wants to “build a collaborative process to share information and ideas”
- Regular meetings
- Advisory role to Minister

### **#1 December 15, 2004 – Inaugural meeting**

- Mandate of Advisory Committee established
- ‘participate in regularly scheduled meetings to receive information from and provide input to the negotiations;
- act as a sounding board for the discussion of issues;
- Offer insights, observations, advice and guidance to Ontario staff responsible for negotiations;
- work with staff to ensure that negotiations process meets Ontario’s needs’
- Key issues: diversions, consumptive uses, resource improvement, conservation, cumulative impacts, regional review
- Provide members with information on current status of negotiations
- Lack of federal government representation
- Commitment to seek input from stakeholders before signing any agreement
- Diversions options: total prohibition, prohibit diversions over X and no net loss for smaller, no net loss for all diversions, return flow with consumptive use allowance

- Consumptive Uses: regulation plus regional review plus compact vote for major consumptive uses, etc.
- Resource improvement, conservation, cumulative impact
- MNR representatives discuss in each case what positions Ontario should take
- Comprehensive minutes provided to all Panel members
- Website used as tool to update everyone on information\*

January 5, 2005 – CELA letter to Ontario negotiators indicating public wants agreement strengthened

January 11-13, 2005 – Working Group meeting in Chicago

**#2 January 27, 2005 – Second meeting** (in advance of Working Group meeting in Chicago March 8-10) (end of minutes missing)

- Advisory Panel “valuable asset”
- update on GLCA negotiations – no diversions and straddling communities, dispute resolutions are issues
- “marks of success” for Advisory Panel
- Key issues in Chicago: overarching principles, diversions, intra-basin diversions, Chicago Diversion, consumptive uses, conservation, resource improvement, defining the groundwater divide, other issues included cumulative impacts, averaging periods, role of federal government and IJC, thresholds and regional review process
- Discussed alternatives, other options, deal-breakers

February 22-23, 2005 – Joyce Foundation meeting at Wingspread

**#3 March 2, 2005 – Third meeting (minutes missing)**

- update on negotiations and Annex events
- -discussion on diversions in negotiations and Ontario’s position, options for Ontario
- Next steps for GLC initiative

March 3, 2005 - Working group conference call

March 8-10 working group meeting in Chicago

- Ontario sticks to “no diversions” position and moves working group to a consensus

April 1 – working group call re moving forward to jurisdictional review

**#4 March 29, 2005 – Fourth meeting**

- report on Ontario's position in working group meeting
- status of discussions – principles, diversions, etc.

**#5 May 4, 2005 – Fifth meeting (conference call)**

- status update of GLCA meetings
- proceeding to jurisdictional review
- announcement of public information periods
- need to clearly define exceptions to intra-basin diversions
- MNR to work on clarification of straddling counties as it applies to Ontario

**May 20, 2005 – Release of draft agreements by 10 Great Lake jurisdictions for 30 day jurisdictional review concluding June 20**

**May 25-27, 2005 – Great Lakes Mayors Meeting**

**#6 June 24, 2005 – Sixth meeting (teleconference)**

- discuss content of agreements
- removal of standard of improvement

**July/August 29 – 60 day public information period**

- 11 public information sessions, 6 First Nation sessions, and specific section sessions;

Followed by 45 day jurisdictional review

Ontario returns to negotiating table

**#7 Sept. 8, 2005 – Seventh Meeting (teleconference)**

- report on public meetings and summary of public comments, as follows:
- Chicago diversion undermines integrity of agreement
- Compact – Ontario needs vote
- Conservation major strength but needs tightening
- Consultation process bad timing and not enough publicity
- Consumptive use includes water bottling is weakness
- Cumulative impacts good but needs clear process
- Definitions of return flow, public water supply purposes, reasonable needed
- Enforcement?
- Entry into force should be shortened
- Exceptions of straddling counties not based on science
- Intra-basin transfers a concern for Ontario cities but NGOs want ban
- Where is federal government and IJC



- Clarify judicial review
- Etc. other issues
- Important comment "that draft shows public consultation works"
- MNR says limited room for improvement

September 20-23 – Working Group meeting in Skokie, Illinois

**#8 September 30, 2005 – Eighth meeting (teleconference)**

- report on Skokie meeting
- overview of changes to agreements and key outstanding issues
- new challenges as US raises problems eg. Restrictions on intra-basin use, regulation of consumptive uses, particularly trigger levels and regional review requiring "prior notice and consultation", straddling counties
- AP asked for advice on what issues are deal makers or deal breakers

October 11-14 – Chicago working group meeting

**#9 October 28, 2005 – Ninth meeting**

- problems at Chicago working group meeting including call for decrease in regulation of in-basin use, products and diversions subject to different interpretation, watering down of consumptive uses (from proposal by NWF)
- MNR trying to slow down process but can't – should they sign agreements or opt for status quo – "What is your advice to government?"
- APP has "been integral to Ontario in setting and testing its negotiating position on key policy and language issues" (p.4)

November/December jurisdictional review period – draft agreements will be going to Cabinet Committee and Cabinet

**#10 November 21, 2005 – Tenth meeting**

- overview of key provisions in Agreements that have been "maintained", "strengthened", "changed to secure consensus"
- how do agreements compare with status quo, do they provide for future strengthening, do they provide voice for Ontario, risks of no agreement?

**December 13, 2005 – Final Agreements**

To implement the Great Lakes Charter Annex

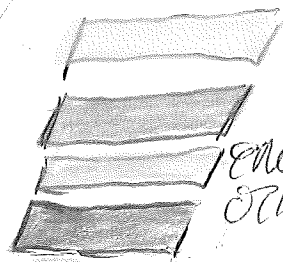
- St. Lawrence River Basin Sustainable Water Resources Agreement (good faith agreement between 8 Great Lakes States, Ontario and Quebec)
- Great Lakes – St. Lawrence River Basin Water Resources Compact (binding agreement between 8 Great Lakes states)

**Background:**

On December 13, 2005 Ontario, Quebec and the 8 Great Lakes States signed the Great Lakes Basin Sustainable Water Resources Agreement. At the same time, the 8 Great Lakes states also endorsed the Great Lakes Basin Water Resources Compact.

The final agreements, which changed significantly from the first draft Agreements released in 2004, were revised to reflect public input in each of the 10 jurisdictions. This included two separate public consultations, and the input of Ontario's Annex Advisory Panel which advised negotiators during the final year of negotiations.

When the original draft agreements were released in 2004, the public expressed strong concerns with the agreements, particularly over their failure to ban diversions of water from the Great Lakes. In response to these concerns, the Minister of Natural Resources David Ramsay announced that Ontario would not sign the agreements as drafted. In November 2004, the Minister established an Annex Advisory Panel, with representatives of different sectors, in order to advise the government through the remainder of the negotiations.



insider <sup>or</sup> negotiator questionnaire  
 must interview from MNR'S perspective (followed the whole process)  
 ENSO did not participate in process up to Dec 5, 2005  
 others that did not participate in this period

Great Lakes Charter Annex – Advisory Panel Members

Advisory Panel Partner	Representative	Phone Number	Email Address	Please cc	Phone Number	Email Address
AGCare	Greg Hannam	519-837-1326	<a href="mailto:agcare@agcare.org">agcare@agcare.org</a>			
Aggregate Producers Association Of Ontario	Carol Hochu	905-507-0711	<a href="mailto:chochu@apao.com">chochu@apao.com</a>	Peter White	905-507-0711	<a href="mailto:pwhite@apao.com">pwhite@apao.com</a>
Alliance of Ontario Food Processors	Jane Graham	519-826-6665	<a href="mailto:alliance@sentex.net">alliance@sentex.net</a>			
Canadian Bottled Water Association	Elizabeth Griswold	905-886-6928	<a href="mailto:Griswold@cbwa.ca">Griswold@cbwa.ca</a>			
Canadian Chemical Producers' Association	Norm Hubbel	416-445-9353	<a href="mailto:nhubbel@sympatico.ca">nhubbel@sympatico.ca</a>			
Canadian Environmental Law Association	Sarah Miller <i>(BIG ADVISORY)</i>	416-960-2284x213	<a href="mailto:millers@lao.on.ca">millers@lao.on.ca</a>	Paul Muldoon	416-960-2284x219	<a href="mailto:muldoonp@lao.on.ca">muldoonp@lao.on.ca</a>
Canadian Institute for Environmental Law and Policy	Anne Mitchell	416-923-3529x25	<a href="mailto:anne@cielap.org">anne@cielap.org</a>	Maureen Carter-Whitney		<a href="mailto:research@cielap.org">research@cielap.org</a>
Canadian Plastics Industry Association	Serge Lavoie	905-678-7748	<a href="mailto:slavoie@cpi.ca">slavoie@cpi.ca</a>			
Canadian Steel Producers Association	Bruce Boyd	613-238-6049	<a href="mailto:b.boyd@Canadiansteel.ca">b.boyd@Canadiansteel.ca</a>			
Canadian Water and Wastewater Association	Kara Parisien		<a href="mailto:kparisien@cwwa.ca">kparisien@cwwa.ca</a>			
Canadian Water Resources Association	Ed Gazendam	519-651-2390	<a href="mailto:egazendam@watersedge-est.ca">egazendam@watersedge-est.ca</a>	Craig Mather	905-727-9456	<a href="mailto:cmather@aci.on.ca">cmather@aci.on.ca</a>
City of Toronto	Michael D'Andrea	416-397-4631	<a href="mailto:mdandre@toronto.ca">mdandre@toronto.ca</a>			
Conservation Council of Ontario	Chris Winter	416-533-1635	<a href="mailto:cco@web.ca">cco@web.ca</a>			
Conservation Ontario	Larry Field	416-661-6600	<a href="mailto:LField@trca.on.ca">LField@trca.on.ca</a>	Nicole Carter	905-895-0716	<a href="mailto:ncarter@Conservation-Ontario.on.ca">ncarter@Conservation-Ontario.on.ca</a>
Ducks Unlimited Canada	Mark Bassingthwaite	705-721-4444	<a href="mailto:m_bassingthwaite@ducks.ca">m_bassingthwaite@ducks.ca</a>	Jim Anderson	905-852-2827	<a href="mailto:js_anderson@ducks.ca">js_anderson@ducks.ca</a>
Federation of Ontario Cottagers' Associations	Kelly Warner	416-429-0444	<a href="mailto:twobusy2play@yahoo.com">twobusy2play@yahoo.com</a>	Terry Reeser	416-429-0444	<a href="mailto:trees@foca.on.ca">trees@foca.on.ca</a>
Federation of Ontario Naturalists	Heather Webb		<a href="mailto:heatherw@ontarionature.org">heatherw@ontarionature.org</a>			

Advisory Panel Partner	Representative	Phone Number	Email Address	Please cc	Phone Number	Email Address
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Great Lakes United	Derek Stack <i>JACKSON</i>	613-742-8150	drstack@glu.org	John Jackson	519-744-7503	jjackson@web.ca
Nature Conservancy Canada	James Duncan	519-826-0068	james.duncan@natureconservancy.ca			
Niagara on the Lake Irrigation Advisory Committee	Austin Kirkby	905-468-7433	FAX: (905) 468-1722; arrowhead1@sympatico.ca	Henry Bennemeer	905-468-3278	hbennemeer@notl.org
Ontario Clean Water Agency	Glen Lang	416-314-5600	glang@ocwa.com			
Ontario Farm Environmental Coalition	Ron Bonnett	416-485-3333x229	president@ofa.on.ca			
Ontario Federation of Agriculture	Betty Semeniuk <i>COG ADVISORY COMM</i>	519-285-2640	bettysemeniuk@rogers.com	Tina Shankula		tina.shankula@ofa.on.ca
Ontario Federation of Anglers and Hunters	Dave Brown	705-148-6324	dave_brown@ofah.org			
Ontario Forest Industries Association	Allyson Lemire	416-368-6188	alemire@ofia.com	Barabara Mossop		bmosso@ofia.com
Ontario Fruit and Vegetable Growers Association	Art Smith	519-763-6160	art@ofvga.on.ca	Madeline Mills	519-763-6160ext. 116	operations@ofvga.org
Ontario Golf Superintendents Association	Doug Breen	519-664-2923	dbreen@golfnorth.ca			
Ontario Groundwater Association	Earl Morwood	519-245-7194	ehmor@brktel.on.ca	admin		ogwa@bellnet.ca
Ontario Lumber Manufacturers Association	David Milton	416-367-9717	dgmilton@olma.ca			
Ontario Marina Operators Association	Al Donaldson	1-888-547-6662	adonaldson@omoa.com			
Ontario Mining Association	Peter McBride	416-364-9301	pmcbride@oma.on.ca			
Ontario Municipal Water Association	Mayor Deb Shewfeld	519-524-9581	lmccabe@town.goderich.on.ca	Ken Hunter		khunter@town.goderich.on.ca
Ontario Power Generation <i>COG ADVISORY COMM</i>	Bob Yap	905-357-0322x2668	robert.yap@opg.com	Deborah LeBlanc		deborah.hempel@opg.com
Ontario Water Power Association	Paul Norris	705-743-1500	pnorris@owa.ca	admin		ahorne@owa.ca
Pollution Probe	Riek Findlay	613-237-8666	rfindlay@pollutionprobe.org	Betty Papa	416-926-1907	bpapa@pollutionprobe.org
Sierra Club of Canada	Elizabeth May	613-241-4611	emay@sierraclub.ca <i>Teacher Green Party.ca</i>	Dan McDermott	416-960-6075	dmcd@sierraclub.ca
Sierra Legal Defence Fund	Robert Wright	416-369-7533	rwright@sierralegal.org			
St. Lawrence Seaway Management Corporation	Luc Lefevre	613-932-5170	llefevre@seaway.ca			

*in Ontario late January 2007.*

Advisory Panel Partner	Representative	Phone Number	Email Address	Please cc	Phone Number	Email Address
University of Windsor Faculty of Law	Marcia Valiante	519-253-3000x2963	mvalian@uwindsor.ca			did make written submissions
Walter Duncan Gordon Foundation	Brenda Lucas Linda Nowlan	604-675-9203	brenda@gordonth.org lnowlan@shaw.ca			6
Munk Centre for International Studies	Adele Hurley	416-946-8919	hurleyut@istar.ca			
Association of Municipalities of Ontario	Debbie Korolnek *	905-895-1231	Debbie.korolnek@york.ca	Lloyd Lemons	905-895-1200x5090	Lloyd.lemons@region.york.ca
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York Region	Debbie Korolnek *	905-895-1231	Debbie.korolnek@york.ca	Lloyd Lemons	905-895-1200x5090	Lloyd.lemons@york.ca
Ralph Pentland *	Ralph Pentland	613-521-8855	ralbet@cyberus.ca			
Soil and Water Conservation Society	Jim Bruce	613-731-5929	jpbruce@sympatico.ca			
Lake Ontario Waterkeeper	Mark Mattson	416-861-1237	mark@waterkeeper.ca	Tania Monteiro		Tania@waterkeeper.ca
Canadian Federation of University Women-Ontario Council	Carolyn Day	519-797-5558	day@bmts.com	Linda McGregor	416 - 604 - 1973	mac335@sympatico.ca
✓ Ministry of Natural Resources – Staff Responsible	Kevin J. Wilson	416-314-6131	kevin.j.wilson@mnr.gov.on.ca	?	416-314-6132	karen.richards@mnr.gov.on.ca
✓ David de Launay @ Sympatico.ca	David de Launay	416-314-1939	David.deLaunay@mnr.gov.on.ca	?	416-314-1400	patricia.wyver@mnr.gov.on.ca
✓ Robert Taylor	Robert Taylor	705-755-1620	robert.taylor@mnr.gov.on.ca	?	705-755-1204	bettyanne.west@mnr.gov.on.ca
✓ Rob Messervey	Rob Messervey	705-755-1278	rob.messervey@mnr.gov.on.ca	?	705-755-1222	judy.muschett@mnr.gov.on.ca
✓ Paula Thompson	Paula Thompson	705-755-1218	paula.thompson@mnr.gov.on.ca	BARAK ?		
✓ Danielle DuMoulin	Danielle DuMoulin	705-755-1219	danielle.dumoulin@mnr.gov.on.ca			
✓ Emily Chatten	Emily Chatten	705-755-5114	emily.chatten@mnr.gov.on.ca			
✓ Leith Hunter	Leith Hunter	416-314-2018	leith.hunter@mnr.gov.on.ca			
✓ Jennifer Tuck	Jennifer Tuck	416-314-2198	Jennifer.tuck@mnr.gov.on.ca			
✓ Communications	Carolyn Dodds	416-314-2110	carolyn.dodds@mnr.gov.on.ca			

\* did not attend meetings pulled strings behind the scenes on the E. May. A Hurley shadow cabinet.

Advisory Panel Partner	Representative	Phone Number	Email Address	Please cc	Phone Number	Email Address
Ministry of Intergovernmental Affairs	Bill Carr ✓	416-325-8552	bill.car@mia.gov.on.ca			
Ministry of the Environment	Risa Schwartz ✓	416-314-0928	risa.schwartz@ene.gov.on.ca <i>Kunzger</i>			
	Marta Soucek ✓	416-314-0382	marta.soucek@ene.gov.on.ca			
Ministry of Economic Development & Trade ?	Michael Helfinger	416-325-6519	michael.helfinger@edt.gov.on.ca			
Ministry of Agriculture & Food ?	Scott Duff ✓	519-826-4109	scott.duff@omaf.gov.on.ca			

✓ DPAIT Peter Jaworski - (613) 944-0910 Peter  
 ✓ Shawn

✓ IJC Michael Vetter Wechsler - (613) 995-0259 wechslerm@ottawa.ijc.org  
 Murray Ramm - (613) 995-0113 ~ debt message clamenm@ottawa.ijc.org

Ohio  
 ✓ Sam Speck - (614) 436-9912  
 COLO, David Koltzer -

✓ Louise Quebec 9074  
 Lapierre

and Basil (613) 314-2152

Ducks Unlimited

Bassingthwaite,  
Mark

**Survey of Members of the Ministry of Natural Resources Great Lakes  
Charter Advisory Panel from October 22, 2004 to December 2005**

The policy community of the Ontario Public Service sponsors regular learning events for its members. These events address a broad range of subjects, and focus on different aspects of policy development, analysis, and implementation. The Ministry of Natural Resources is sponsoring a policy symposium on March 21, 2007, to highlight the process used to develop the Ontario position for the Great Lakes Charter Annex Agreement as an example of a different approach to public involvement in complex, multi-party negotiations. The audience for this event will be Ontario Public Service staff and executives who may be involved in similarly complex endeavours in the future. By demonstrating how a more open process lead to a better result for Ontario and for the environment, we hope to encourage others to consider this approach.

**Name: Mark Bassingthwaite**

**Affiliation: Formerly of Ducks Unlimited Canada (DUC)**

**1. History of involvement with issue:**

- How did you first learn of the Great Lakes Charter Annex and why did you become engaged in the process?

Ducks Unlimited Canada was circulated and invited to join the process by MNR. DUC, as a private non-profit conservation organization interested in preserving and restoring wetland, was interested in the process as the subject matter of the Annex could have significant impacts on wetland conservation efforts.

- If you were invited to join the panel but did not participate, please explain why you chose not to. (If you did not participate you need not answer further questions after this one.)

- What sector did you represent?

Non-governmental Organization

- Once involved, did you feel you were heard and were able to influence the process?

Yes

- Were you able to inform others in your sector of progress as the negotiations evolved?

Yes

**2. Level of involvement with other government consultations (to compare and contrast this process):**

- Have you represented your sector in other government consultations?

Yes

- How did this one differ and compare?

More interactive and constructive. The process made the participants feel more capable of influencing policy.

**3. General satisfaction with MNR's Panel Process:**

- Please comment on the MNR Great Lakes Charter Annex Panel consultation process, considering the following components:

1. Make-up of Panel

Appropriate for the subject of the panel's work.

2. Confidentiality – did it work? Did it present challenges for you?

No problems.

3. Was the shared information adequate?

Yes.

4. Was the information timely?

Yes.

5. Facilitation of discussions.

Excellent. Karen W. did a fine job of moving things along.

6. Records of Meetings

Good.

7. Defining general objectives and principles.

The objectives and principles were clear.

8. Defining first preferences and fall back for bargaining positions

This was handled well by MNR staff.

9. Reporting back after each negotiation

Reporting back was done in a timely fashion, using conference calls as appropriate.

10. Holding emergency calls when quick decisions or changes arose



Was done well.

11. Overall democracy of the process

I thought the overall democracy was good. It is understood that when there are so many various opinions on one panel that sometimes decisions have to be made that are not unanimous.

- Were there facets of the process that you felt were particularly beneficial? Please identify them.

The face to face meetings were well handled and it was beneficial to see all points of view from the various panel members.

- Were there disadvantages or concerns with the process? Please identify them.

Sometimes the meetings had a tendency to get bogged down in bickering. Often times, there was a lack of technical knowledge from the various panel members.

- Did you feel that Ontario was the appropriate level of government to negotiate a Great Lakes' agreement? Please explain.

Yes. I think that Ontario is the correct level. The federal government likely wouldn't have the connections with Ontario specific NGO's.

**4. Impact of the process:**

- How would you rate the success of the process in meeting public expectations?

The process was successful. If anything, it should be promoted more by MNR as an example of good involvement of interest groups.

- Did the process promote better understanding of :

1. The issues under negotiation?

Yes

2. Of other sectors' views of those issues

Yes

3. Of perspectives of other Ministries represented on the Panel

Other ministry staff were not overly vocal.

4. Of challenges the Ontario government was facing in negotiations with the US and Quebec

Yes

5. Of challenges the Ontario Government might face domestically in drafting the Legislation and in implementation

Yes

6. Of the internal government approval process

Yes

7. Of the challenges faced by other governments?

No

- Did the process alter your positions on the topics under discussion?  
Not significantly.

**5. Continued involvement and commitment:**

- Did your participation in MNR's Great Lakes Charter Annex Advisory Panel make you better prepared to advocate for implementation of the final Agreements?

1. In the US?

No

2. In Ontario?

Yes

- Will you continue to be involved in the process? If so, how?

Likely not. I no longer work for DUC. I will still keep informed of the process, but will likely not participate directly.

**6. Future stakeholder involvement or public consultation processes:**

- Should Ontario establish similar panels for public consultation in the future?

Yes. Dependent on the type of issue.

- What recommendations would you make to improve the process?

I think there were too many participants. Some NGO's present did not have much technical knowledge and did not contribute constructively. HOWEVER, in order for the process to be entirely transparent it is critical than all interested parties be allowed to attend.

- In which situations do you think a similar process would be beneficial?

A similar process would be beneficial for other multi-party negotiations where NGO's could use their contacts in other jurisdictions to influence the negotiations. A process like this could be used in many other environmental fields where there are many concerned organizations that could be placated by an open process.

Please add other comments, advice, observations and feedback you might have.

Please indicate if you agree that your name may be used in our report

Yes

Jim Bruce – January 29, 2007

Pat Chair of GLWQ Board and Science Advisory Board,

Currently on the Public Interest Advisory Group on the Upper Great Lakes

- ✓ He didn't get to the face to face meetings because he lives in Ottawa and there was no funding for travel; he tried to get to one but it was postponed; he did get to telephone meetings;
- ✓ His involvement was triggered by doing a piece for the Gordon Foundation after the first draft agreement was released; he also appeared then with Ralph Pentland before a federal House Committee [expressing concerns about the first draft agreement];
- ✓ Wingspread was an important workshop that led to a general agreement in the position;
- ✓ The process was good; MNR kept us well informed; one key negotiator came to Ottawa to talk to us;
- ✓ Perhaps it would have been better to start the consultation earlier; however, the first draft gave us "something to shoot at";
- ✓ MNR kept us all in the picture, and are still doing it with the legislation they're proposing; the process is ongoing; MNR are very forthcoming;
- ✓ He did feel he was able to influence the agreement;
- ✓ One of the key things was that Elizabeth May was able to persuade the US Sierra Club branch to take the same position as ours; this was a big problem that the US ngo's had a different view; this happened at Wingspread; Canadians were against the idea of resource improvement measures for taking water or "ducks for water" as Ralph Pentland called it; the problem was that water taking is measurable but resource improvement was far from measurable;
- ✓ The original problem was that the first agreement talked about diversions under certain circumstances; he agreed with ngo's that the agreement should say no diversions with a few exceptions;
- ✓ Straddling counties – we didn't win that one but there are pretty good restraints around straddling counties; this was discussed in the consultation meetings but he doesn't know if that influenced the agreement;
- ✓ Throughout the consultation, MNR people were very accepting of proposals; "on the side of the angels";
- ✓ Similar consultations could be done in Ontario but some things are difficult e.g. nuclear versus coal;
- ✓ He would like to see people coming from outside Toronto have their expenses paid for meetings – people from Windsor, Thunder Bay, etc.;
- ✓ Yes, it's a good process and should be followed in other consultations;
- ✓ Two things that made it good:
  - International – trying to find a Canadian or an Ontario position brings us together more;
  - Staff seemed genuinely to want input and advice; this is not always the same in other consultations; in some consultations you have no confidence that they are listening or taking advice; this was refreshing from the start.

- One thing that happened early was the decision of the provincial government not to accept the original draft; this built confidence
- ✓ One question in the beginning was shouldn't the federal government be more involved? He was asked this at the House Committee; DFA would keep a close watch, but had confidence Ontario was handling it well.

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Charter Advisory Panel from October 22, 2004 to December 2005**

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**Name:**

**Affiliation:**

**1. History of involvement with issue:**

- How did you first learn of the Great Lakes Charter Annex and why did you become engaged in the process?

**AFTER FIRST DRAFT ISSUED – CONTRACT WITH GORDON  
FOUNDATION**

- If you were invited to join the panel but did not participate, please explain why you chose not to. (If you did not participate you need not answer further questions after this one.)
- What sector did you represent? **SOIL AND WATER CONSERVATION**
- Once involved, did you feel you were heard and were able to influence the process? **YES**
- Were you able to inform others in your sector of progress as the negotiations evolved? **YES**

**2. Level of involvement with other government consultations (to  
compare and contrast this process):**

- Have you represented your sector in other government consultations?  
**YES**

- How did this one differ and compare?

**WILLINGNESS OF GOVERNMENT REPRESENTATIVES TO LISTEN AND ACCEPT ENGO VIEWS**

**3. General satisfaction with MNR's Panel Process:**

- Please comment on the MNR Great Lakes Charter Annex Panel consultation process, considering the following components:

**(RATED 1 TO 10) 10 EXCELLENT**

- |  |          |
|--|----------|
| 1. Make-up of Panel  | <b>8</b> |
| 2. Confidentiality – did it work? Did it present challenges for you? | <b>6</b> |
| 3. Was the shared information adequate?                              | <b>7</b> |
| 4. Was the information timely?                                       | <b>8</b> |
| 5. Facilitation of discussions                                       | <b>7</b> |
| 6. Records of Meetings   | <b>8</b> |
| 7. Defining general objectives and principles                        | <b>8</b> |
| 8. Defining first preferences and fall back for bargaining positions | <b>8</b> |
| 9. Reporting back after each negotiation                             | <b>8</b> |
| 10. Holding emergency calls when quick decisions or changes arose    | <b>8</b> |
| 11. Overall democracy of the process                                 | <b>8</b> |

- Were there facets of the process that you felt were particularly beneficial? Please identify them. **OPENNESS OF MNR STAFF**
- Were there disadvantages or concerns with the process? Please identify them. **– NO FUNDS TO PARTICIPATE IN TORONTO MEETINGS**
- Did you feel that Ontario was the appropriate level of government to negotiate a Great Lakes' agreement? Please explain.

**YES – BUT SHOULD PROBABLY HAVE BEEN A LITTLE MORE FEDERAL INVOLVEMENT WITH ONTARIO SO THAT PRECEDENTS ARE ACCEPTABLE IN OTHER BOUNDARY WATERS.**

**4. Impact of the process:**

- How would you rate the success of the process in meeting public expectations? **HIGH**
- Did the process promote better understanding of :
  1. The issues under negotiation? **YES**
  2. Of other sectors' views of those issues **YES**
  3. Of perspectives of other Ministries represented on the Panel ?

4. Of challenges the Ontario government was facing in negotiations with the US and Quebec **YES**
5. Of challenges the Ontario Government might face domestically in drafting the Legislation and in implementation **YES**
6. Of the internal government approval process **NO**
7. Of the challenges faced by other governments? **SOME**

- Did the process alter your positions on the topics under discussion?  
**A LITTLE**

**5. Continued involvement and commitment:**

- Did your participation in MNR's Great Lakes Charter Annex Advisory Panel make you better prepared to advocate for implementation of the final Agreements?
  1. In the US? **YES**
  2. In Ontario? **YES**
- Will you continue to be involved in the process? If so, how?  
- **TO FOLLOW UP IMPLEMENTATION PHASE IN ONTARIO AND STATES**

**6. Future stakeholder involvement or public consultation processes:**

- Should Ontario establish similar panels for public consultation in the future? **YES**
- What recommendations would you make to improve the process?  
**HAVE SOME TRAVEL FUNDS. START EARLY**
- In which situations do you think a similar process would be beneficial?  
**ANY IN WHICH GOVERNMENT AGENCY GENUINELY WANTS TO LISTEN AND ACT ON ADVICE.**

Please add other comments, advice, observations and feedback you might have.

Please indicate if you agree that your name may be used in our report **\_OK**  
**JAMES P. BRUCE**



Michael D'Andrea – Interview February 9, 2007  
Director, Toronto Water

- ✓ Delighted to help on this project; his involvement was very positive; “hats off to Kevin and Rob”;
- ✓ He worked with the province before going to the municipal level and this consultation was second to none
- ✓ It was about compromise and negotiation; therefore, not everyone was perfectly happy with the result;
- ✓ He gets invited to a lot of things as a municipal representative, and he tries to represent a municipal perspective, and not just Toronto's; he can't speak for small municipalities, however;
- ✓ The only angst as far as the Agreements affected municipalities is York Region; during the discussions, he wasn't sure how it would apply but intrabasin transfers is a problem; especially when his Mayor is now the head of the Great Lakes and St. Lawrence Cities initiative;
- ✓ In spite of prohibition on transfers, there are fundamental on the ground problems; what will the new requirements mean; some projects are grandfathered but what about new projects – the choice is do we deplete groundwater reserves or bend and mitigate the [Great Lakes] needs of municipalities in the future.



Fareed M. Amin, Deputy City Manager

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Michael D'Andrea, M.E.Sc., P.Eng.  
Director

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November 29, 2005

Kevin Wilson  
Assistant Deputy Minister  
Ministry of Natural Resources  
Natural Resource Management Division  
Whitney Block, Room 6540  
99 Wellesley Street West  
Toronto, Ontario M7A 1W3

Dear Mr. Wilson:

**RE: Great Lakes Charter Annex:  
Great Lakes and St. Lawrence River Basin Sustainable Water Resources Agreement**

I commend you and the Ministry of Natural Resources negotiating team on the substantive positive changes you've been able to achieve, since the September 2004 draft, in the current draft Agreement. This achievement is particularly noteworthy given the bi-national interests and involvement of two provinces and eight states.

Further, your efforts to engage as many and diverse stakeholders as you have in the formation of the Advisory Panel in Ontario, your involvement of the Advisory Panel throughout the negotiations, by keeping the Panel appraised of the status and progress made and actively soliciting their feedback and input, is unprecedented. In particular, the involvement of the City of Toronto has been a recognition that municipalities are critical to the successful development and implementation of policies to protect the Great Lakes and St. Lawrence. This effective and successful consultation should serve as a model for future initiatives by all levels of government.

As I indicated at the Advisory Panel meeting of November 21, 2005, although the draft Agreement does not include the ultimate level of protection, espoused by the Advisory Panel, it is an important first step in ensuring that all jurisdictions around the Great Lakes Basin, recognize the importance of and work together to protect the Great Lakes ecosystem. For this reason, and the many improvements you've been able to negotiate within the Agreement, I support adoption of the Agreement by the Province.

One of the most significant positive additions to the earlier draft is the inclusion of requirements for the implementation of water conservation measures as a precondition in the consideration of future withdrawals. This supports the concept of sustainable development and helps ensure wise and efficient use of this precious resource, by all proponents and jurisdictions.

The following summarizes my other comments justifying support for the Agreement:

- An outright ban on “diversions” is the foundation and guiding principle of the Agreement.
- All Basin waters are protected through the Agreement: surface waters and groundwater.
- The Agreement acknowledges that where there are threats of damage, the lack of full scientific certainty should not preclude the implementation of measures to protect the basin ecosystem.
- The Agreement levels the playing field across the 10 international jurisdictions on the rules and considerations for future water withdrawal proposals. It provides a mechanism, wherein the “Regional Body” (including membership from Ontario) is provided with an oversight and technical review responsibility on the more significant proposals, to ensure consistency of approach and strict adherence to the requirements of the Agreement including impact assessment and mitigation.
- The requirement that all water withdrawn from the Basin shall be returned to the source watershed, less an allowance for consumptive use, together with requirements to ensure there are no significant impacts to the quantity and quality of the waters for future withdrawals, helps ensure that the Basin’s water balance and ecosystem is protected.
- A commitment to periodically review the Standard by all parties, to reflect advances in science, information and knowledge, is progressive, and provides a mechanism wherein existing thresholds and exceptions can be reviewed and tightened as may be necessary in the future.
- Agreement by all Parties to coordinate the collection and application of scientific information regarding the cumulative impacts of withdrawals on the Basin, and a commitment by all Parties to collaborate on strengthening water management decision making across the Basin is applauded.
- A commitment by the Regional Body to identify Basin-wide water conservation and efficiency objectives which will be used by the Parties in developing their own water conservation and efficiency programs, within two years of signing the Agreement, is strongly supported. The requirement, thereafter, that each Party is required to develop a supporting strategy, assess its effectiveness and report to the Regional Body every five years, with public access, is commended. It is also encouraging that the Agreement requires the Parties to develop and transfer the application of science and research related to water conservation and water use efficiency.

Finally, recognizing that the successful implementation of the Agreement, will require support from all affected stakeholders, particularly municipalities, I encourage you to engage municipal staff as you formulate policies and procedures supporting the Agreement. As I’ve noted in previous discussions, the City of Toronto and other municipalities have developed and implemented many of the types of measures referenced in the Agreement, particularly in the area of water conservation and water efficiency. The City of Toronto’s Water Efficiency Plan, for example, adopted by

Council in 2003, has served as a model for the development of similar plans by other municipalities in Ontario. We would be pleased to discuss the basis of the plan, our experiences in implementing the various measures contained within the plan and new policy directions which should be considered by the Province to help advance more efficient and sustainable water use across the Basin.

I would like to thank you for the opportunity to participate in this important consultation and provide input, from a municipal perspective, as member of your Advisory Panel, and wish you success in finalizing and adopting this important Agreement.

Sincerely,

A handwritten signature in black ink, appearing to read "M. D'Andrea". The signature is fluid and cursive, with a large initial "M" and a stylized "D'Andrea".

Michael D'Andrea, M.E.Sc., P.Eng.  
Director, Water Infrastructure Management  
Toronto Water

MD/sw

cc: F. Amin – Deputy City Manager  
L. Di Gironimo – General Manager, Toronto Water  
R. Messervey – Manager, Water Resources Section, MNR

Canadian Federation of University Women Carolyn Day

Carolyn Day – Interview February 8, 2007  
Canadian Federation of University Women

- ✓ Excellent process; a learning experience on both sides of the table;
- ✓ She was a volunteer; because she had written submissions on behalf of CFUW on water issues, she was invited on to Panel; she brought a bit of a different perspective because she is not from a single issue group but is looking at whole picture;
- ✓ It was a very risky step but the way MNR handled it engendered trust, and now around COA, the process is being accepted; this is one of the positive offshoots;
- ✓ On the ground results – the wording of the actual agreement was augmented by suggestions of Elizabeth May, Sarah Miller; the perspective was enlarged by their participation;
- ✓ She felt she was on a learning curve but could keep up with it; her organization doesn't do research but she had ability to assess different bits of information;
- ✓ One interesting thing was who came and who didn't; the invitation list looked good but some people didn't respond and didn't make it a priority;
- ✓ She came and heard voices of ngo community; Bob Yap was there quite often; industry doesn't always invest in long term; they go tell government what they think later;
- ✓ Cf. Clean Water Act process, there is such a different level of awareness both by people on committee making decisions and people making submissions; people like farmers making submissions are presenting what's in their self interest rather than what's in the interest of Ontario; mostly negative experience;
- ✓ She hopes MNR people aren't discouraged by the York Region "hiccup" thinking here we've wasted all this time and effort engaging with these groups and now they've turned on us; groups seem to be blaming the messenger when they're running into the wall of their political masters;
- ✓ Neat thing about the process was that it was cumulative; building on what had happened; was an education process on both sides; MNR learned because they had access to the networks e.g. what the Sierra Club is thinking on this;
- ✓ If Clean Water Act had gone through this process with stakeholders, instead of everyone saying what they wanted rather than what's going on as a whole for the good of the province, it would have been better; with Annex, everyone was working against a common enemy, trying to get something from the Great Lakes Governors for Ontario;
- ✓ In AP process, ngo's listening to farmers enlarged their understanding; it wasn't the same for the bottled water industry, although it was good for the industry to hear the concerns from a roomful of people trying to find solutions;
- ✓ Consensus building went on unlike other government consultations; normally government's immediate reaction in consultation is defensiveness; in this case, it wasn't; it was either explanation or let things sink in and filter through;
- ✓ Leadership was vital from MNR staff; some MOE staff came in at end and if they had been in earlier, it wouldn't have gone as well;
- ✓ This was genuine consultation as opposed to a propaganda exercise;

- ✓ COA is another good possibility for consultation and breaking down silos; in AP, when focus shifted from MNR to MOE, she noticed a difference because MOE was writing it but they didn't understand it very well because they weren't involved in the consultations; the advantage of the consultation is having more than one ministry thinking things through
- ✓ MNR were surprised at what came out of this; the COA talks are a result of this success; Ministry staff will say "that's a good suggestion"; they recognize the value of opening it up despite the risks; now they are building their negotiating stance;
- ✓ Process could be applied to Clean Water Act; haven't had people working through each detail;
- ✓ Another important thing is the level in the process of coming to legislation or policy, whether it's at the end or part way through; you have to have something you're working from; however, better if it's draft #1 before you get to draft #7 when there's a lot more ownership; timing is important and coming in early enough before positions are too fixed;
- ✓ The process takes a huge commitment of time and you want to be sure it's not window dressing; there's no funding for attending meetings
- ✓ Most people were Toronto based; if meetings were at 9 o'clock, you hit rush hour so you needed to pay for hotel and gas; good that they changed times of meetings; because of the process, this effort was worth it;
- ✓ As a single organization, lobbying is not as effective; what you're asking for becomes more meaningful when you've discussed it in the group and government moves in that direction.

Name: Michael D'Andrea  
Director, Water Infrastructure Management  
Affiliation: City of Toronto

1. History of involvement with issue:

. How did you first learn of the Great Lakes Charter Annex and why did you become engaged in the process?

- brought to my attention by David Ullrich – Executive Director, Great Lakes and St. Lawrence Cities Initiative

. If you were invited to join the panel but did not participate, please explain why you chose not to. (If you did not participate you need not answer further questions after this one.)

. What sector did you represent?

- Municipal

. Once involved, did you feel you were heard and were able to influence the process?

- absolutely!

. Were you able to inform others in your sector of progress as the negotiations evolved?

- informally.

2. Level of involvement with other government consultations (to compare and contrast this process):

. Have you represented your sector in other government consultations?

- yes

. How did this one differ and compare?

- this one was exemplary in that the opinions presented were genuinely considered/acknowledged

3. General satisfaction with MNR's Panel Process:

. Please comment on the MNR Great Lakes Charter Annex Panel consultation process, considering the following components:

1. Make-up of Panel

- good cross-section of key stakeholders

- participants were genuinely committed to strengthening the agreement, providing input to support the negotiations and were objective enough to realize that through any negotiations, compromises were also part of the process

2. Confidentiality - did it work? Did it present challenges for you?

- yes & yes!
- 3. Was the shared information adequate?
  - yes
- 4. Was the information timely?
  - yes – recognizing that this was driven by the schedule of the negotiations
- 5. Facilitation of discussions
  - excellent
  - I believe all those that had an opinion to express were given the necessary time to present their opinion/concern and were provided, where available, the necessary feedback/response
  - at key decision points, panel members were given opportunity to discuss, air their concerns and/or support
  - general process of consensus building was quite effective
  - facilitator used in earlier meetings was effective in drawing comments/opinions from less vocal participants
- 6. Records of Meetings
  - good record keeping and dissemination of relevant material (before, at and after the meetings)
- 7. Defining general objectives and principles
  - yes at all stages, particularly at key decision points
- 8. Defining first preferences and fall back for bargaining positions
  - yes, communicated all stages and seeking input/feedback from panel members
- 9. Reporting back after each negotiation
  - yes, commitments to reporting back to panel were met at all stages
- 10. Holding emergency calls when quick decisions or changes arose
  - yes, as necessary
- 11. Overall democracy of the process
  - a true model for stakeholder consultation

. Were there facets of the process that you felt were particularly beneficial? Please identify them.

- candidness of the negotiating team with respect to the state of negotiations and aspects that were particularly problematic and why
- open dialogue and active solicitation of feedback/input of panel members
- good discussion
- genuine commitment of all panel members and negotiating team to the stakeholder consultation process

. Were there disadvantages or concerns with the process? Please identify them.

- none that come to mind

. Did you feel that Ontario was the appropriate level of government to negotiate a Great Lakes' agreement? Please explain.

- I didn't initially, given the "bi-national" context of the issue, I initially felt that this should have been handled by a federal agency.
- However, as the process unfolded, I developed a great deal of confidence in the negotiating team's abilities, confirmed by the concessions they were able to obtain through the process.

4. Impact of the process:



- . How would you rate the success of the process in meeting public expectations?
- Very successful. Although, some compromises were made, on the whole, I believe all stakeholders were satisfied with the overall outcome.
  
- . Did the process promote better understanding of :
  1. The issues under negotiation?
    - yes
  2. Of other sectors' views of those issues
    - yes
  3. Of perspectives of other Ministries represented on the Panel
    - yes
  4. Of challenges the Ontario government was facing in negotiations with the US and Quebec
    - absolutely!
  5. Of challenges the Ontario Government might face domestically in drafting the Legislation and in implementation
    - yes – by virtue of the feedback received from the panel members/stakeholders
  6. Of the internal government approval process
    - yes – to some extent
  7. Of the challenges faced by other governments?
    - Yes – to the degree that it was relevant and/or could be communicated.
  
- . Did the process alter your positions on the topics under discussion?
- I don't believe so – if anything, the discussions, further strengthened my opinion/position.
  
- 5. Continued involvement and commitment:
  - . Did your participation in MNR's Great Lakes Charter Annex Advisory Panel make you better prepared to advocate for implementation of the final Agreements?
    1. In the US?
    2. In Ontario?
    - Yes – I believe so.
  
  - . Will you continue to be involved in the process? If so, how?
    - I hope to. I have noted our support to MNR both at the completion of the negotiations, and through the ongoing advisory panel process. I am hopeful, that those municipalities, such as Toronto, which have implemented processes espoused in the Agreement will be called upon for advice/input – particularly as it relates to developing Province-wide and/or Basin-wide policies.
  
- 6. Future stakeholder involvement or public consultation processes:

- . Should Ontario establish similar panels for public consultation in the future?
- Absolutely!
  
- . What recommendations would you make to improve the process?
- I can't think of any?
  
- . In which situations do you think a similar process would be beneficial?
- In any new legislation/and or regulation development at all levels of government.

Please add other comments, advice, observations and feedback you might have.

Please indicate if you agree that your name may be used in our report \_\_\_\_\_

Christine Elwell – February 2, 2007  
Friends of the Earth (formerly Sierra Club)

- ✓ Hard to say what she thinks of the consultation although generally she thinks it's good;
- ✓ “the proof is in the pudding” but generally supportive and supportive of MNR.

Larry Field – Interview January 31, 2007  
Conservation Ontario

- ✓ He was the representative appointed by Conservation Ontario from the Toronto Regional Conservation Authority; had spent 4 years on the Public Advisory Group of the IJC study reviewing orders of approval for outflow (set up in the fall of 2001); was also involved in COA through RAP discussions; he has been a waterfront specialist involved in planning for 23 years, especially waterfront trails that are part of the Toronto RAP;
- ✓ He became involved in the AP by providing comments on first draft; at that time he was somewhat supportive but saw major areas for improvement;
- ✓ Yes, he felt he could influence process;
- ✓ “Most engaging and most open process that he has ever been involved in”;
- ✓ Panel was getting inside information as the U.S., Quebec and Ontario discussions evolved – “who was for and who was against”;
- ✓ Discussions were always confidential; Ontario did not want stakeholders blabbing on the street because the negotiation were very sensitive;
- ✓ MNR was very open and appreciated the input of all stakeholders;
- ✓ The information and advice provided by the Panel helped influence and obtain a better agreement; Ontario had more support and advice than the US;
- ✓ The process allowed him to learn from others; learned and broadened his knowledge of water taking and diversions; what had to be approved;
- ✓ Also learned about the political processes and constraints on the agreements; learned about the problems of the different sectors such as the issues of the agricultural community;
- ✓ Because he represented CO and CAs, he had had a fair amount of involvement with watershed issues, upstream concerns and relationship to the Great Lakes; this gave him background that helped him understand diversions and intra-basin transfers such as the London pipeline, but whole process was a “big learning curve”;
- ✓ The key ingredients were:
  - Willingness of MNR and key government people to discuss openly how negotiations were going, explaining the agreement and issues e.g. water taking and what amounts would trigger review, straddling communities; MNR explained not only agreement but the specifics of the issues e.g. the Chicago Diversion and Lake Michigan basin and implications of previous agreements (quality of information and discussions!);
  - Commitment of MNR staff to Panel discussions compared to public meetings; public meetings were overarching and needed, but the quality of the agreement would not have been as good if the agreement had been left solely to the negotiators; the Panel was able to influence the agreements because of the interest groups;
  - Quality of the Panel and the broad range of interests – agriculture, First Nations, bottled water – contributed to the work of the negotiators; also Ducks Unlimited and their understanding of wetlands; Panel was a huge diverse group with interests in the Great Lakes; MRN reached out to

broad community group; wanted as many informed stakeholders as they could get; if someone was added, they were always willing to accept advice;

- At one point the Panel was a bit big so facilitated workshop sessions were good for seeking out information; facilitation was a strength; some structure helped guide the Panel through key issues; also true for documentation in minutes – they helped the Panel discussions by putting the positions out and discussing the reactions;
  - Some information was on the website but not all the discussions; kept everyone informed about meeting coming up
- 
- ✓ Confidentiality worked – people could be open but couldn't grandstand to impress others; this could mean the collapse of the negotiations, could end up with nothing;
  - ✓ Shared information was adequate and very timely;
  - ✓ Because of the size of the group, the Panel needed facilitation; the complexity of the discussions needed records which showed how positions might change;
  - ✓ When they were on tight timelines, instead of face to face meetings, they had the chance in phone calls to get to a position quickly; at some points everything was collapsing, then back on; in one critical period around December 2005, Kevin needed something in a week for final changes;
  - ✓ It was a collaborative process – the negotiators didn't take everything but they considered everything;
  - ✓ There were different opinions; at first the agricultural community felt unfairly treated; bottled water people wanted to know if they were doing things consistent with the agreement;
  - ✓ People had to move off hard positions e.g. you're at Level 10 and want to go to Level 20; some people say let's go to level 30 but the risk is you may end up at level 5; you had to be sure that you weren't jeopardizing the whole process; Sarah said at one point "we may want more but we're not going to get it"; as a Panel member, you had to be open and understand you can always improve later; you had to be able to say that I can't push it on this issue if you want major gains;
  - ✓ Better agreement because of the process; got the best we were going to get; the major gain was no diversions;
  - ✓ As process went along, CO's opinion did shift; it was not the same view they went in with; he reported back to the whole Council giving monthly progress reports on the AP; it was give and take at the Advisory Panel; he was learning from the Panel and the negotiators;
  - ✓ Agreed all items in #3 were good – timeliness of information, facilitation etc.
  - ✓ For Great Lakes issues, he has also found the IJC Study Board's public consultation process very good; somewhat similar process but based more on science and computer modelling;
  - ✓ He thinks the AP is not a bad model, but could be tweaked and improved; it's one of the first for the province for international negotiations;
  - ✓ He's not involved in the source water protection plans so is not sure whether this model is applicable to that process;

- ✓ In this negotiation, the key ingredients to its success were:
  - Not just the quality of the people sitting in but the level of people on the Panel; representatives of organizations were not just advocacy people fixated on one position (that wouldn't be helpful in this open AP structure) e.g. Mary Muter brought a position: past dredging of St. Clair River, has it affected lake levels? This helped mould the IJC study; it was good to have extreme positions as a reality check; there was a quality of perspectives with advocacy.
  - Process worked because it was spontaneous or voluntary, not legislated like EA process;
  - Ministry was open to adding people;
  - Sincerity of process and sincerity of MNR staff such as Kevin Wilson.
  
- ✓ Going into the new phase, CO is continuing but will have an alternate employee;
- ✓ Will be involved in the implementation which is huge - 8 states and 2 provinces dealing with water taking and diversions; questions about the regional body and how it gets made up
- ✓ The general framework and approach of this consultation was good; for other consultations, could tweak and improve this process;
- ✓ In this case AP was tailored to this process and it worked; other processes are different; going through EA which applies to most CO projects doesn't get you the best product; in one instance an environmental master plan was much better than the EA;
- ✓ His comments on the application of this Panel to other consultations: If you were doing similar panels, you should take the approach and tailor it to the issue; be careful not to take it exactly the same way into the next process; Panel was not in broadest terms a public consultation; it was stakeholder consultation and advice, a more targeted consultation; part of public consultation is to give more meaningful advice to governments;
- ✓ Overall through this Panel, CO was heard and were better informed.

**Survey of Members of the Ministry of Natural Resources Great Lakes  
Charter Advisory Panel from October 22, 2004 to December 2005**

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**Name:** Ed Gazendam

**Affiliation:** Canadian Water Resources Association – Ontario Branch

**1. History of involvement with issue:**

- How did you first learn of the Great Lakes Charter Annex and why did you become engaged in the process?

Generally been aware of the GLCA – CWRA became engaged in the process when invited to participate on the Advisory Panel.

- If you were invited to join the panel but did not participate, please explain why you chose not to. (If you did not participate you need not answer further questions after this one.)
- What sector did you represent?

Do not represent a "sector" but we represent a broad range of water-related industry professionals who promote proper water management in all areas.

- Once involved, did you feel you were heard and were able to influence the process?

Yes – while we were perhaps not the most vocal, our opinions were heard and ultimately, we believe, our concerns were addressed.

- Were you able to inform others in your sector of progress as the negotiations evolved?

Progress updates/reports were made at monthly board meetings.

**2. Level of involvement with other government consultations (to compare and contrast this process):**

- Have you represented your sector in other government consultations?

Not personally but the CWRA has been involved in other such consultations.

- How did this one differ and compare?

Can not personally compare.

**3. General satisfaction with MNR's Panel Process:**

- Please comment on the MNR Great Lakes Charter Annex Panel consultation process, considering the following components:

1. Make-up of Panel

Good cross-section of folk – problems with First Nations participation though.

2. Confidentiality – did it work? Did it present challenges for you?

It worked but was awkward at times.

3. Was the shared information adequate?

Yes.

4. Was the information timely?

Yes

5. Facilitation of discussions

Good

6. Records of Meetings

Good

7. Defining general objectives and principles



Well-defined

8. Defining first preferences and fall back for bargaining positions

Done effectively

9. Reporting back after each negotiation

Reasonably timely

10. Holding emergency calls when quick decisions or changes arose

Effective – Teleconferencing saves a lot of time

11. Overall democracy of the process

Good

- Were there facets of the process that you felt were particularly beneficial? Please identify them.

Face to face meetings with peers allowed for a lot of information exchange and learning about other aspects of the process.

- Were there disadvantages or concerns with the process? Please identify them.

Lack of real time involvement by First Nations folk

- Did you feel that Ontario was the appropriate level of government to negotiate a Great Lakes' agreement? Please explain.

Yes – geographically it is the most appropriate. Also, at a provincial level it would be equal to the state level in the US.

#### **4. Impact of the process:**

- How would you rate the success of the process in meeting public expectations?

Good

- Did the process promote better understanding of :

1. The issues under negotiation?
2. Of other sectors' views of those issues
3. Of perspectives of other Ministries represented on the Panel
4. Of challenges the Ontario government was facing in negotiations with the US and Quebec
5. Of challenges the Ontario Government might face domestically in drafting the Legislation and in implementation
6. Of the internal government approval process
7. Of the challenges faced by other governments?

Yes to all of the above.

- Did the process alter your positions on the topics under discussion?

Partially – had a better understanding of overall issues and complexity. Therefore probably left with a less critical, more practical opinion on critical issues

#### **5. Continued involvement and commitment:**

- Did your participation in MNR's Great Lakes Charter Annex Advisory Panel make you better prepared to advocate for implementation of the final Agreements?
  1. In the US? Perhaps
  2. In Ontario? Yes
- Will you continue to be involved in the process? If so, how?

Yes, the CWRA has been asked to participate on the Implementation Committee

#### **6. Future stakeholder involvement or public consultation processes:**

- Should Ontario establish similar panels for public consultation in the future?

Yes – where it makes sense to do so.

- What recommendations would you make to improve the process?

I think that the process works well and adapted to the needs and requirements of the panel as time went on – keep the flexibility in place.

- In which situations do you think a similar process would be beneficial?

Not sure – softwood lumber tariffs perhaps.

Please add other comments, advice, observations and feedback you might have.

I note that, as a representative of the CWRA, I was one of only a few panel members that was not being paid by my organization to participate in the process. Most other members were doing their job while this was voluntary participation with no remuneration. However, I personally accept that. We wouldn't mind getting mileage etc but that would just open a can of worms likely. I only note this as it made a difference in the level of participation. It is someone else's job to participate and be prepared.

Please indicate if you agree that your name may be used in our report YES

Rick Findlay – Interview January 26, 2007  
Pollution Probe

- ✓ Very supportive of consultation process; “probably most satisfactory consultation process that I’ve every been involved with”;
- ✓ Was engaged long before most people and was urging other people to get involved with it; he was drawn into Annex discussions through a research project with U.S. groups on ways to apply “improvement standard”; realized the Annex was interesting so he joined the Panel
- ✓ You felt you were heard by the individuals involved – Rob, Dave, Paula, Kevin
- ✓ It was a respectful and open process that provided comfort that it wasn’t a waste of time;
- ✓ One of the key factors and a big signal that the process would be meaningful was when MNR agreed to share confidential negotiating strategies; “if it had been thanks for your input, we’ll go away and do what we want with it”, then that would have been a different process; it was very important that they were working out negotiating strategies in an open way; people were participating in the process with a sense that “I’m a small part of the larger negotiating process.
- ✓ Another thing was that they were well organized, well prepared meetings and strategies were talked about openly;
- ✓ The make-up of the Panel was good; it was good that it expanded to outside engo’s, aggregates and bottled water people; however, the room was getting bigger and less effective; tighter and smaller probably would have been better; it may have been the right strategy but it diluted the impact of the Panel.
- ✓ Staff were very responsive to people; when Panel members wanted to change the meetings from the airport to downtown, it was done;
- ✓ Getting to meetings was a geographical challenge for him; he had “to eat it” (the costs of travelling) but felt it was worth it;
- ✓ Ontario was the appropriate level of government because the feds were even further behind the curve;
- ✓ Pollution Probe did alter their position during process; Pollution Probe wanted the “improvement standard” and disagreed with slippery slope concept; they didn’t want to see it abandoned but in the end they came to view that the Great Lakes application of the improvement standard was not the best, and that it would be better applied to local watersheds; they were interested in finding a way to apply the improvement standard at a watershed level so there was a net gain or improvement; water budgets done locally can work well but basin-wide it is hard to agree on what’s an improvement and what isn’t;
- ✓ One of the benefits of the Panel was the discussion of strategy and the understanding that it brought; the Panel discussed the impact of not having an agreement and whether they would regret it more if it was lost than if it was passed; Panel decided it was better to have an agreement even if it wasn’t perfect; the Panel process made it a better agreement; Panel process got achievable agreement; modifications and adjustments were made;
- ✓ Yes, he is involved in continuing process; he sees areas that need to be strategically shorn up and is looking at ways to do it;

- ✓ Panels like this should be considered for the future; lessons learned should be taken to heart by other Ministries; Environment Canada used to have a good handle on how to work with people but that expertise has been diminished; this process was a “refreshing return”;
- ✓ Only advice for improvement is not to make it quite so wide open;
- ✓ Pollution Probe promotes more open processes; maybe COA, it’s worth checking; could work for Great Lakes Water Quality Agreement where it’s a binational negotiating process; this type of process may be helpful for international agreements; where there is a bunch of Ministries involved, it helps to have clarity; here MNR was in the driver’s seat, but process would be less efficient if more Ministries were involved.

Note: See letter praising MNR “your candor and openness and the process you and your team have managed so well is a real credit to all, and a good model to consider in future negotiations on matters of significant public interest”. Also, “the discussion has been healthy and has resulted in better understanding by stakeholders as well as signatories and a stronger set of agreements”. (November 25, 2005)

November 25, 2005

Kevin Wilson  
Assistant Deputy Minister, NATURAL RESOURCE MANAGEMENT DIVISION  
Whitney Block  
Rm 6540  
99 Wellesley St W  
Toronto, ON M7A 1W3

The Great Lakes – St. Lawrence River Basin Sustainable Water Resources Agreement

Dear Mr. Wilson

Pollution Probe supports the governments of Ontario, Quebec and the eight Great Lakes states initiative to establish a common set of decision-making standards to manage and regulate proposed water uses in the Great Lakes Basin. We have reviewed the November 10, 2005 draft of the Great Lakes – St. Lawrence River Basin Sustainable Water Resources Agreement (Agreement) and the Great Lakes – St. Lawrence Basin Water Resources Compact (Compact) and agree that it should serve to meet its objective to “protect, conserve, restore, improve and efficiently and effectively manage the Waters and Water Dependent Natural Resources of the Basin...” (Chapter 1, Article 100). On balance, we believe that the current draft represents a significant accomplishment on behalf of all parties and should be signed by Ontario.

In our October 18, 2004 EBR submission Registry Number PB04E6018, Pollution Probe strongly encouraged the Great Lakes States and Provinces to engage with stakeholders and the public and to take their suggestions into account. I want to congratulate you and the Ministry for doing that so effectively, in Ontario. Your candor and openness and the process you and your team have managed so well is a real credit to all, and a good model to consider in future negotiations on matters of significant public interest.

The discussion has been healthy and has resulted in better understanding by stakeholders as well as signatories and a stronger set of agreements.

Sincerely,

Rick Findlay  
Director, Water Programme  
Pollution Probe

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Do not represent a "sector" but we represent a broad range of water-related industry professionals who promote proper water management in all areas.

- Once involved, did you feel you were heard and were able to influence the process?

Yes – while we were perhaps not the most vocal, our opinions were heard and ultimately, we believe, our concerns were addressed.



- Were you able to inform others in your sector of progress as the negotiations evolved?

Progress updates/reports were made at monthly board meetings.

**2. Level of involvement with other government consultations (to compare and contrast this process):**

- Have you represented your sector in other government consultations?

Not personally but the CWRA has been involved in other such consultations.

- How did this one differ and compare?

Can not personally compare.

**3. General satisfaction with MNR's Panel Process:**

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It worked but was awkward at times.

3. Was the shared information adequate?

Yes.

4. Was the information timely?

Yes

5. Facilitation of discussions

Good

6. Records of Meetings

Good

7. Defining general objectives and principles

Well-defined

8. Defining first preferences and fall back for bargaining positions

Done effectively

9. Reporting back after each negotiation

Reasonably timely

10. Holding emergency calls when quick decisions or changes arose

Effective – Teleconferencing saves a lot of time

11. Overall democracy of the process

Good

- Were there facets of the process that you felt were particularly beneficial? Please identify them.

Face to face meetings with peers allowed for a lot of information exchange and learning about other aspects of the process.

- Were there disadvantages or concerns with the process? Please identify them.

Lack of real time involvement by First Nations folk

- Did you feel that Ontario was the appropriate level of government to negotiate a Great Lakes' agreement? Please explain.

Yes – geographically it is the most appropriate. Also, at a provincial level it would be equal to the state level in the US.

#### **4. Impact of the process:**

- How would you rate the success of the process in meeting public expectations?

Good

- Did the process promote better understanding of :

1. The issues under negotiation?
2. Of other sectors' views of those issues
3. Of perspectives of other Ministries represented on the Panel
4. Of challenges the Ontario government was facing in negotiations with the US and Quebec
5. Of challenges the Ontario Government might face domestically in drafting the Legislation and in implementation
6. Of the internal government approval process
7. Of the challenges faced by other governments?

Yes to all of the above.

- Did the process alter your positions on the topics under discussion?

Partially – had a better understanding of overall issues and complexity. Therefore probably left with a less critical, more practical opinion on critical issues

**5. Continued involvement and commitment:**

- Did your participation in MNR's Great Lakes Charter Annex Advisory Panel make you better prepared to advocate for implementation of the final Agreements?
  1. In the US? Perhaps
  2. In Ontario? Yes
- Will you continue to be involved in the process? If so, how?

Yes, the CWRA has been asked to participate on the Implementation Committee

**6. Future stakeholder involvement or public consultation processes:**

- Should Ontario establish similar panels for public consultation in the future?

Yes – where it makes sense to do so.

- What recommendations would you make to improve the process?

I think that the process works well and adapted to the needs and requirements of the panel as time went on – keep the flexibility in place.

- In which situations do you think a similar process would be beneficial?

Not sure – softwood lumber tariffs perhaps.

Please add other comments, advice, observations and feedback you might have.

I note that, as a representative of the CWRA, I was one of only a few panel members that was not being paid by my organization to participate in the process. Most other members were doing their job while this was voluntary participation with no remuneration. However, I personally accept that. We wouldn't mind getting mileage etc but that would just open a can of worms likely. I only note this as it made a difference in the level of participation. It is someone else's job to participate and be prepared.

Please indicate if you agree that your name may be used in our report YES

Elizabeth Griswold – Interview February 9, 2007  
Bottled Water Industry

- ✓ She thinks industry didn't get involved because they just don't understand how it's going to affect them; they don't understand the relevance to them of the Annex Agreements; she doesn't think this is the fault of MNR who tried to get them involved; it's just a comment on a weakness in the make up of the Panel;
- ✓ She got involved because the bottled water industry became the poster child, and they wanted to make their position known and put in the proper context;
- ✓ In the original agreement there was direct language relating to the bottled water industry; whether this was bad or not, it was important to them to get this language out of the Agreement and this was finally understood by the Panel in general;
- ✓ Panel allowed groups with different points of view to have a better understanding of each other;
- ✓ She questions whether those who attended infrequently really understood the agreements or whether they just thought they did;
- ✓ It took a huge time commitment but it's important that the Great Lakes are protected and that industry is involved;
- ✓ Overall there was definitely good communication; not necessarily seeing enough views from industry'
- ✓ What surprised her most was that there was more common ground between industry and environmental groups than she would have thought;
- ✓ She felt the Ministry was thorough, that the minutes reflected the important points and that the information presented was good;
- ✓ The outcome? It was difficult for MNR to find a balance but they did very well.

Walter Duncan Gordon Lucas;  
Foundation Brenda

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**Name: Brenda Lucas**

**Affiliation: Walter and Duncan Gordon Foundation**

**1. History of involvement with issue:**

- How did you first learn of the Great Lakes Charter Annex and why did you become engaged in the process?
- If you were invited to join the panel but did not participate, please explain why you chose not to. (If you did not participate you need not answer further questions after this one.)
- What sector did you represent? NGO? Environmental?
- Once involved, did you feel you were heard and were able to influence the process? YES
- Were you able to inform others in your sector of progress as the negotiations evolved? YES

The Foundation supports the work of the Program on Water Issues at U of T, which was our primary engagement with Annex. We became involved because of our interest in protecting transboundary waters, especially groundwater. It was clear as we were becoming involved (around 2004) that the agreement was developing into something that could enable, rather than prohibit, diversions – and needed some new perspectives and political pressure. We commissioned external expert reviews of the first draft and communicated them (media and

other dissemination), supported Sierra Club Canada to become involved (they produced an excellent citizen's primer and Elizabeth May was a strong influencer of decision-makers). Elizabeth and Adele Hurley (POWI) had a significant impact on the negotiations, through the AAP process and through separate meetings with negotiators. It was critical that department and political staff were willing to meet with such "outside" influencers.

**2. Level of involvement with other government consultations (to compare and contrast this process):**

- Have you represented your sector in other government consultations? YES
- How did this one differ and compare? This one was different in that it was a longer-term commitment and the engagement was very open – the negotiators were very frank about the development of negotiations (ie it was clear that decisions had not already been made, that gov't people were open to input and influence).

**3. General satisfaction with MNR's Panel Process:**

- Please comment on the MNR Great Lakes Charter Annex Panel consultation process, considering the following components:
  1. Make-up of Panel – good, senior officials
  2. Confidentiality – did it work? Did it present challenges for you?  
Excellent
  3. Was the shared information adequate? Yes
  4. Was the information timely? Yes
  5. Facilitation of discussions – very good
  6. Records of Meetings -- excellent
  7. Defining general objectives and principles
  8. Defining first preferences and fall back for bargaining positions
  9. Reporting back after each negotiation
  10. Holding emergency calls when quick decisions or changes arose
  11. Overall democracy of the process

This was all excellent. I would note that it is somewhat less so currently, but for the process up to signing Dec 05 it was stellar on all fronts.

- Were there facets of the process that you felt were particularly beneficial? Please identify them.

- Were there disadvantages or concerns with the process? Please identify them.

I don't think that First Nations were adequately involved. They needed to be consulted with separately and enabled (ie funded) to do their own research and preparation for participation. This didn't happen.

- Did you feel that Ontario was the appropriate level of government to negotiate a Great Lakes' agreement? Please explain. Yes – but federal government involvement should have stronger and sooner.

#### **4. Impact of the process:**

- How would you rate the success of the process in meeting public expectations?
- Did the process promote better understanding of :
  1. The issues under negotiation?
  2. Of other sectors' views of those issues
  3. Of perspectives of other Ministries represented on the Panel
  4. Of challenges the Ontario government was facing in negotiations with the US and Quebec
  5. Of challenges the Ontario Government might face domestically in drafting the Legislation and in implementation
  6. Of the internal government approval process
  7. Of the challenges faced by other governments?

It did this absolutely for the stakeholders involved, not sure it did for the "public" (except via stakeholders – so I guess ultimately it did).

- Did the process alter your positions on the topics under discussion?

#### **5. Continued involvement and commitment:**

- Did your participation in MNR's Great Lakes Charter Annex Advisory Panel make you better prepared to advocate for implementation of the final Agreements?
  1. In the US? n/a
  2. In Ontario? Sure.



- Will you continue to be involved in the process? If so, how? Yes – still a member participation, still supporting work of others involved.

**6. Future stakeholder involvement or public consultation processes:**

- Should Ontario establish similar panels for public consultation in the future? Yes.
- What recommendations would you make to improve the process?
- In which situations do you think a similar process would be beneficial?

Please add other comments, advice, observations and feedback you might have.

Please indicate if you agree that your name may be used in our report \_\_\_\_\_yes  
– without attribution of specific comments of course.\_

Munk

Hurley,  
Adele

Adele Hurley – Interview Feb. 5, 2007  
Munk Institute Water Program

- ✓ The Panel worked; it was an unusual situation where the government had more to gain by doing the consultation than by not doing it;
- ✓ Had leadership from the political people (David Ramsay in particular and his staff) who recognized after first draft was released that they had to come at it differently;
- ✓ It was not a domestic issue so they could let it play out by creating a process that was transparent, not top down;
- ✓ Make up of Panel was good – electric, water users; MNR brought them all in;
- ✓ Bureaucrats misread language in original texts; resource improvement standard was anything but; environmentalists bought in so normal leadership was not there;
- ✓ Outsiders were brought in e.g. Andrew Nikiforuk, Ralph Pentland, Elizabeth May, people who understood the “sleight of hand”, that “resource improvement” was a Trojan horse for diversions and big conservation groups in the US would take their cut; first agreement commodified water but Council of Canadians had missed it because they were off doing other stuff;
- ✓ Munk Center and university took it on; civil society began to play a role during the 90 day public comment period doing their analysis; resulted in good political work and receptive Minister and bureaucrats; their analysis showed return flow wouldn't work;
- ✓ Kevin put it into another paradigm; MNR took pulse and walked; Minister realized biggest political gain was in walking, not signing; other political entities were willing to sign; Nikiforuk paper showed that it was about getting to “yes”; when Ontario wouldn't sign, Wisconsin, Michigan and Pa. wanted to know what was going on;
- ✓ Everybody had influence once they opened process; created transparency; (it was like the saying “my people are marching, I must go lead them”);
- ✓ Felt we were heard; being a coalition person, saw that it was the first time people understood how much more was at play (“they pulled back the curtain and we saw how big the dance floor was”)
- ✓ It made everyone sobre up; if you wanted it changed, you could see what you were up against; if you were industry, you could see the government would have a hard time giving you much once it was out in the open; it [transparency] was a good leveller;
- ✓ Flip charts and things – it was pretty sophomoric, but it had the effect of getting the text slowed down so you had a chance to look at it; MNR was developing skills at presentation;
- ✓ Bureaucrats were skillful at making people feel they were listened to; they had to deal with all kinds of constituencies;
- ✓ This kind of issue plays well in Canada; instead of a few people killing each other, people can recognize the US as the common problem;
- ✓ It's a mistake to believe they can replicate the process over and over again; had to do with the special nature of individuals and constellation of things lining up e.g.

water is a unifying topic, enough people of intelligence from different backgrounds all weighed in and explained it for them;

- ✓ Computer age helped – invitations could get out and changes made quickly; bringing everyone in and feeding them was a good thing;
- ✓ Transparency in this case was not Ontario's own; they didn't sign the important legally binding one that the states signed; the stakes in this case were high but not as high for Ontario as for the US.

DAN MACDERMOTO

Hi Anne,

I'll take a go at answering the questions.

### History

I became involved in the Annex process in Sept. 2004 during the comment period on the first draft. The concern that the first draft could result in substantial diversions of Great Lakes water was the key to my involvement.

I'm the Director of the Sierra Club of Canada, Ontario Chapter.

We were heard and had at least some impact on the process.

Communication links formed rapidly as the process unfolded.

2. I do represent my sector in other government consultations.

This process is unique in that we have been in substantial agreement with the Ontario Government as the process moved forward.

3.

1. Panel make up okay.

2. Confidentiality sort of worked.

3. Shared info okay but would have appreciated more info on Ontario Gov. political issues.

4-11. Communication and process were fine along a narrow band. Disconnects occurred when we tried to communicate up the Ont Gov. line. Example-Last Feb. we made it clear that Ontario should be the out front water conservation leader in the basin. This ask has yet to be fulfilled.

The process was fine as long as we were communicating about Annex particulars and not so useful in trying to change Ontario policy.

I have always thought that the Feds. should have played a lead role.

4. Diversions outside the Basin are less likely. This was the primary public concern.

1. Yes

2. Yes

3. No

4. Limited

5. No
6. No
7. Limited

My position on the key issues remained the same.

5.

1. Yes
2. Yes

I remain on the AAP. I will continue to work on Great Lakes water quantity issues.

6. Consultation is good. The AAP process was better than most. My bottom line concern is that consultation at the bureaucratic level has limited value. Consultation at the ministerial level was very limited and this is the level where we are now experiencing some disconnect.

In conclusion - The AAP process worked well up to the point where environmentalists began to press Ontario to commit to do more than carry out the letter of its Annex responsibilities.

I'm fine with my comments being used and attributed.

I hope I've been helpful.

Truly, Dan

Ontario Mining Assoc

McBride,  
Peter

Peter McBride – Interview February 8, 2007  
Ontario Mining Association

Question: why didn't he participate?

- ✓ He never went to any meetings;
- ✓ His name was put on the list and he tried to get it off but gave up;
- ✓ The OMA is only 5 people and he was never consulted in advance about participating;
- ✓ There are too many things and too few people; this consultation just wasn't a priority
- ✓ There are not enough resources for government meetings that don't go anywhere;
- ✓ Main reasons they didn't participate: time and money;
- ✓ Suggestion: government should do a better job of identifying who they want on these consultations and make sure they're available.

Waterkeepers

monteiro,  
Tania

Tania Monteiro - Interview February 1, 2007  
Formerly of Waterkeepers

- ✓ Went to most meetings representing Waterkeepers;
- ✓ Felt that process was democratic and fair; she appreciated that MNR was doing something that it didn't otherwise have the obligation to do;
- ✓ Has not been involved in other public consultations that she could compare it to;
- ✓ Had a voice and could influence the process; MNR was very concerned to listen to all participants
- ✓ Not everybody got what they wanted but everyone was heard; you put up your hand and you were heard;
- ✓ Waterkeepers wanted to see no inter-basin transfers and no straddling communities (a hole in the agreement the size of a Mack truck) but were not successful in getting these out of the agreement
- ✓ They did not change their position, but kept a firm position throughout;
- ✓ The process was education because they now know a lot about the agreement; it's important for groups to have a stake in the process so that when the agreement comes through, they will understand it;
- ✓ The key ingredients that made this a good process:
  - MNR made genuine efforts to take direction, they went back to the negotiating table and said we can't support this because the groups don't like it; they made best efforts to represent the Panel's views at the negotiating table and worked hard on behalf of the stakeholders; they came back with the best possible deal;
  - Consultation apprised us at every step; after drafts got feedback, detailed notes; at end of very session, reviewed with us the decisions, process very effective especially in an international agreement
- ✓ The agreements weren't perfect; nothing's perfect but she would have written 85 per cent of the agreement; in fact MNR negotiators weren't 100 per cent satisfied;
- ✓ It was discussed with the panel whether an imperfect agreement was better than no agreement and the consensus was yes, it was;
- ✓ MNR staff were excellent, forthright and candid;
- ✓ All the information, facilitation, records she said were "very thorough";
- ✓ The most educational part for her was the knowledge of the agreement which would be applicable to future discussions and policies;
- ✓ Believes it was a better agreement because of the consultation; "we pushed them (the negotiators) and they pushed the Americans"; negotiators represented as best as possible view of Ontario stakeholders;
- ✓ No major concerns except the meetings were long and tiresome ("minor complaints");
- ✓ Waterkeeper's position was that no agreement was better than a flawed agreement but at the end of the day the momentum towards an agreement was unstoppable;
- ✓ In the process though the majority of people got what they wanted; the process was good because in this sense it generated the best results;

- ✓ Yes, the federal government should have been involved; process should have been done at a federal level because feds have the legal authority for international agreements
- ✓ Yes, the process should be done again in the future
- ✓ However the process was pretty ad hoc with no set of rules; future processes should be ad hoc to be able to address stakeholder concerns; MNR was very sincere and candid and made up rules as they went along



Earl Morwood – Interview February 1, 2007  
Ontario Groundwater Association

- ✓ Represents well drillers, hydrogeologists, groups like CELA who are interested in groundwater (3 million people in Ontario or one-third drink it); they co-ordinate with bottled water people;
- ✓ Got involved because he was on the Implementation Committee for Source Water Protection (MOE) where he met Rob Messervey who asked him to be on this panel;
- ✓ Really liked process but he couldn't go as often as he wanted because it was in Toronto; he's near Chatham and it's pretty far away;
- ✓ He made first batch of meetings, then kept up through emails and phone calls;
- ✓ Didn't feel that he needed to be as intensely involved because main concern of Panel was surface water;
- ✓ Groundwater gets forgotten because of the mass of surface water in Ontario but people don't consider recharge; pretty much everyone at the Panel was interested in surface water;
- ✓ He felt that Rob and Kevin really tried hard to get everyone's view;
- ✓ "you felt you were heard"
- ✓ The process was topnotch;
- ✓ The key thing was that it was such a big group but MNR was able to break it down;
- ✓ They were really receptive to idea
- ✓ First rate learning experience – learned about issues and learned about players; particularly worked that MNR put everyone at a roundtable where you also ate and did workshops;
- ✓ His concern is that people don't appreciate groundwater;
- ✓ Did his views change during the process? Yes, because the process soften everyone;
- ✓ Was never in a process before where there were so many "fruits and nuts"; for farmers, the environment gives us a living but many groups have rose-coloured glasses;
- ✓ Doesn't agree with Bottled Water Association that there wasn't enough industry;
- ✓ Of all consultations, this is one of the better ones for people;
- ✓ Key ingredients were: many diverse players in a room together, allowed them to experiment with their ideas, kept everyone up to date with tons of emails;
- ✓ Compared with lots of things done through EBR (HATES EBR); EBR not good because it's urban & elitist – "rural people do it looking you in the eyeball";
- ✓ Part of the success was the staff; in source protection the staff was junior and it makes a big difference where there are senior staff; senior staff are more comfortable with diverse opinions;
- ✓ Hope they do more of these
- ✓ There should be a study of groundwater itself; no good rules for wells in the province;
- ✓ Negatives? The consultation should be split into two so there could be east and west consultations instead of everything taking place in Toronto; going to

Toronto is a big problem driving in and expensive to stay; he would have gone to every meeting but too expensive

P.S. He would love to have a good working relationship with CELA (He sounds like a terrific guy!) Tried with Rick but it didn't pan out. Encourages anyone to call him.

Muter

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**Name:** *Mary Muter*

**Affiliation:** *Georgian Bay Association*

**1. History of involvement with issue:**

- How did you first learn of the Great Lakes Charter Annex and why did you become engaged in the process?
- Our organization has been watching this area with interest since 1995
- If you were invited to join the panel but did not participate, please explain why you chose not to. (If you did not participate you need not answer further questions after this one.)
- What sector did you represent? environmental
- Once involved, did you feel you were heard and were able to influence the process? Until the very last meeting the answer was yes but then it all fell away
- Were you able to inform others in your sector of progress as the negotiations evolved? absolutely

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**2. Level of involvement with other government consultations (to compare and contrast this process):**

- Have you represented your sector in other government consultations?

- yes

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- How did this one differ and compare? There appeared to be more openness

### **3. General satisfaction with MNR's Panel Process:**

- Please comment on the MNR Great Lakes Charter Annex Panel consultation process, considering the following components:
  1. Make-up of Panel broad range of stakeholders BUT MOE should have been far more involved right from the beginning. In fact I know wonder why MOE was not the lead agency.
  2. Confidentiality – did it work? Did it present challenges for you? Yes it worked and I was able to explain that to my board
  3. Was the shared information adequate? No, they initially agreed to share draft legislation then cancelled that meeting, then said they would share policy of the legislation. But they did not do that either and posted the legislation prior to any meeting or discussion
  4. Was the information timely? Except at the end yes
  5. Facilitation of discussions – the facilitator was excellent but then was dropped likely due to budget
  6. Records of Meetings totally inadequate – they kept minutes but did not share with the Panel
  7. Defining general objectives and principles excellent
  8. Defining first preferences and fall back for bargaining positions again good but promises made at the last minute and not respected
  9. Reporting back after each negotiation yes
  10. Holding emergency calls when quick decisions or changes arose yes except at the end when they held a conference call and invited only a few panel members and that sent a red flag up for me
  11. Overall democracy of the process fairly good
- Were there facets of the process that you felt were particularly beneficial? Please identify them. Yes to be able to hear the views of all the different sectors
- Were there disadvantages or concerns with the process? Please identify them. Yes in the end I felt betrayed – they had requested confidentiality and we respected that but then they did not live up to a promise
- Did you feel that Ontario was the appropriate level of government to negotiate a Great Lakes' agreement? Please explain. I felt the Federal

government should have been more actively involved so thwt we knew we were not treading on their toes.

#### **4. Impact of the process:**

- How would you rate the success of the process in meeting public expectations? Not good if they allow intrabasin transfers – the Americans could easily cry foul play.
- Did the process promote better understanding of :
  1. The issues under negotiation? yes
  2. Of other sectors' views of those issues yes
  3. Of perspectives of other Ministries represented on the Panel no  
MOE kept sending different low level staff who didn't seem to understand what was going on.
  4. Of challenges the Ontario government was facing in negotiations with the US and Quebec yes
  5. Of challenges the Ontario Government might face domestically in drafting the Legislation and in implementation – not entirely  
because at the end it was clear that MOE had to drive a train that they were not on for most of the ride
  6. Of the internal government approval process ditto and a problem because MOE staff did not have a relationship with the Panel or an understanding of their knowledge due to extensive consultations with MNR
  7. Of the challenges faced by other governments? If Ontario allows intrabasin transfers the Americans could accuse Ontario of being disingenuous as they have straddling communities that can access Great Lakes water but are required to return it to the same source. We would be better off with straddling counties then allowing diversion of water from Huron/Georgian Bay to Erie and Ontario
- Did the process alter your positions on the topics under discussion? No not really

#### **5. Continued involvement and commitment:**

- Did your participation in MNR's Great Lakes Charter Annex Advisory Panel make you better prepared to advocate for implementation of

the final Agreements? Yes if Ontario requires return flow for all intrabasin transfers

1. In the US? With the above caveat yes
2. In Ontario? ditto

- Will you continue to be involved in the process? yes If so, how? To get restrictions on intrabasin transfers and conservation measures in place

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#### **6. Future stakeholder involvement or public consultation processes:**

- Should Ontario establish similar panels for public consultation in the future? Yes as long as they listen and follow through with commitments
- What recommendations would you make to improve the process? After spending all that time on the negotiations they should have figured out a way to share how they were implementing rather than wait until they were into a very tight time frame
- In which situations do you think a similar process would be beneficial? Canada Ontario Agreement for the Great Lakes, all IJC consultations where Ontario has an interest ie GLWOA review

Please add other comments, advice, observations and feedback you might have.

Please indicate if you agree that your name may be used in our report \_\_\_\_\_

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**Name: Paul Norris**

**Affiliation: Ontario Waterpower Association**

**1. History of involvement with issue:**

- How did you first learn of the Great Lakes Charter Annex and why did you become engaged in the process?

The OWA has been involved from the outset. Our engagement is related to the significant waterpower production on the system.

- If you were invited to join the panel but did not participate, please explain why you chose not to. (If you did not participate you need not answer further questions after this one.)

- What sector did you represent?

Waterpower (hydro-electricity)

- Once involved, did you feel you were heard and were able to influence the process?

Involved more than influence.

- Were you able to inform others in your sector of progress as the negotiations evolved?

No. We were requested to maintain confidence at the Panel.

## **2. Level of involvement with other government consultations (to compare and contrast this process):**

- Have you represented your sector in other government consultations?  
Yes, several.

- How did this one differ and compare?

This exercise was, by definition, different in that it was used to help Ontario develop a negotiation position and stance (very few approached this as the development of Ontario's policy). I have been involved since with processes that have attempted to apply the "Panel" concept, with little success – I expect that for initiatives in which participants are providing perspectives on Ontario policy, it will be ineffective (other than the ability to have many voices at one table).

## **3. General satisfaction with MNR's Panel Process:**

- Please comment on the MNR Great Lakes Charter Annex Panel consultation process, considering the following components:
  1. Make-up of Panel – it was somewhat a combination of "vested" interests and broader ENGOs – there was no equivalent broad socio-economic interest brought to the table for balance
  2. Confidentiality – did it work? Did it present challenges for you? It is difficult to determine whether it worked or was universally respected – on one hand you were asked to respect confidence, on the other to influence counterparts in other jurisdictions
  3. Was the shared information adequate? In most instances, yes. Though there seems to now be some confusion on what was or wasn't committed to.
  4. Was the information timely? In most instances, yes, though we were often challenged with very quick or immediate responses.
  5. Facilitation of discussions It was helpful to have a facilitator at the beginning, but this was dropped later in the process – there were definitely some dominance issues that could have been better addressed.
  6. Records of Meetings Adequate.
  7. Defining general objectives and principles Adequate.
  8. Defining first preferences and fall back for bargaining positions First preferences were well constructed, but I don't know that the Panel helped Ontario to develop fall-back positions very well.
  9. Reporting back after each negotiation Adequate



10. Holding emergency calls when quick decisions or changes arose  
Adequate.

11. Overall democracy of the process While the process was "democratic", there were some dominance issues that arose. Some voices were muted.

- Were there facets of the process that you felt were particularly beneficial? Please identify them. Having the array of interests in one room was helpful. The initial use of a facilitator was helpful. Respect for the participants through the direct involvement of MNR Sr. Management was essential.

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- Were there disadvantages or concerns with the process? Please identify them. "Government" did not seem to have a collective thought process for much of the dialogue – often MNR/MOE/OMAF did not seem to be on the same page. The lack of the broader socioeconomic NGO or expertise was also problematic in that the balance of issues was skewed.

Did you feel that Ontario was the appropriate level of government to negotiate a Great Lakes' agreement? Please explain. Yes. Though it would have been beneficial for Canada to have made some representation to the Panel directly.

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#### **4. Impact of the process:**

- How would you rate the success of the process in meeting public expectations? This is hard to gauge – the public wasn't actively involved (other than the disastrous open houses) – I am always concerned that the outcomes will be positioned as having had the "approval" of those involved as a means to satisfy public concern.
- Did the process promote better understanding of :
  1. The issues under negotiation? Yes.
  2. Of other sectors' views of those issues Somewhat.
  3. Of perspectives of other Ministries represented on the Panel Somewhat
  4. Of challenges the Ontario government was facing in negotiations with the US and Quebec Yes.
  5. Of challenges the Ontario Government might face domestically in drafting the Legislation and in implementation. Not until recently.
  6. Of the internal government approval process Somewhat

7. Of the challenges faced by other governments? Not particularly

- Did the process alter your positions on the topics under discussion?  
This is one of the challenges I saw in the process – many came (and left) with “positions” as opposed to articulating interests – not an effective way to help negotiations.

**5. Continued involvement and commitment:**

- Did your participation in MNR’s Great Lakes Charter Annex Advisory Panel make you better prepared to advocate for implementation of the final Agreements? (Presumes an objective of the process is my advocacy)
  1. In the US? No.
  2. In Ontario? No.
- Will you continue to be involved in the process? If so, how?

Yes – I will participate in the implementation panel, as required.

**6. Future stakeholder involvement or public consultation processes:**

- Should Ontario establish similar panels for public consultation in the future? Ontario should design each process to suit the situation – the “Panel” model will not work in many instances.
- What recommendations would you make to improve the process?  
Improve the balance of perspectives – avoid positions – confirm commitment.
- In which situations do you think a similar process would be beneficial?

Where Ontario is negotiating with another jurisdiction (e.g. Federal Government)

When policy priorities are being established.

Please add other comments, advice, observations and feedback you might have.

I think one needs to be careful about jumping onto the Panel bandwagon – it can work in the right situation, with the right cross section dealing with the right issue. My sense is that it is being held up as THE model for engaging interests – it's one.

Please indicate if you agree that your name may be used in our report

Yes

Terry Rees – Comments January 29, 2007  
FOCA

- ✓ “positive process”;
- ✓ There are a number of us who end up having so many hats and going to so many consultations that we can’t get to all of them;
- ✓ It’s important to have other folks around like Sierra Legal and CELA to contextualize and give the history;
- ✓ Making it wide open is great but to try and show up is a challenge;
- ✓ The reason government doesn’t do this a lot is because it’s complicated and not a small undertaking;
- ✓ Democracy is messy, not a small undertaking;
- ✓ One reason this was a better process was the longer timelines; they put the draft together over months and talked it through in meetings;
- ✓ The previous government would put a Ministry notice on the EBR at the last minute even for major environmental laws;
- ✓ The length of time was helpful because it allowed for discussions of what was at issue and gave room to move;
- ✓ Another important part of this consultation was the regular attendance with senior people; having done consultations with bureaucrats in finance, you’re not sure if you are being spun or being listened to;
- ✓ In this case, senior folks were there on a regular basis; this speaks to the sincerity of the process; you may still get a political answer;
- ✓ Don’t throw the baby out with the bathwater; no one is happy with the final outcome but it’s better than the alternative; some people will say thanks but no thanks to the agreement;
- ✓ For bureaucrats, consultation is the answer they want to get to in the end but if you can move them off that answer in a direction that you want them to go, then that’s good.

Ontario Farmers Association

Schmeleck  
Betty

Anne

Unfortunately, this is the only time I am going to find to respond. my schedule is very full right now.

I should give credit where credit is due, I have been impressed by the caliber of some of your representatives and the presence they bring to the table. It is sobering for me as a primary producer that relies so much on mother nature and her moods to being to understand the footprint we all have on this world, it is daunting to say the least and it will make a difference to our next generation if my daughter has any say in the matter. I take solice in the fact that she is taking it seriously in her everyday life, the work I do has so little impact that I at times step back to try and catch a breath. I do my battles wherever I can fit it in, come home to family and farm and wonder do I ever see a difference. It is my younger daughter who I look and say yes it made a difference, but the world that you work in, they won't get to see her efforts, because she is just one gal doing her part.

I looked at your survey and most of the questions I am not able to respond to but what I can I will put down. The above statement is what is real to me, it is my frustration as well so take it as you will.

History

It was the foresite of a previous OFA president that got agriculture a seat at the table on the great lakes issue, hense the correspondence via email. If that correspondence had not kept crossing my desk because of my water issue involvment I wouldn't had been involved.

I represent the agricultural sector and proud of it. I bugged Omafra for info and questioned the document and why they weren't involved.

I pushed for MNR to come and inform the persons who sat on a coalition of ag groups. At least someone had answers to questions, it was overwhelming to most because it was outside of there normal realm. Why are we involved was the question put to me.

Was I heard, yes in part some changes were made. But I also feel as I did then that Ontario has set the bar for years and when you look cumulatively with all the pressures of other regulations I feel we are once again being asked to come to the starting gate ahead of everyone else. We have to be the ones who set the mark.

I was impressed with the MNR for taking the initiative to bring people to the table, the table got very large and I felt unweldy and unproductive as how many voices do you need saying the same thing, it made things more difficult to have your voice even heard at all.

I have felt frustration with the "normal" process, more so the federal level than provincial, I will admit.

This process has been very inclusive, combining several vehicles of communication together in an effort to spread the word.

I had difficulty justifying the expense of getting to downtown toronto for meetings, my farm cannot carry that expense. I didn't care that a person was travelling from Ottawa and she had federal political aspirations. This seemed to just be a

convince for that process. Frustration set in.

Provincial worked for me, I sat in on the Great lakes , water quality/ IJC session in Windsor and there was a lobby effort to reinstate efforts,,,, too political for me.

Public expectations:

It has to be real, we all have a role to play in this. One person or one sector can't carry all the weight. Every citizen needs to understand that if they want to wash the paved driveway, and I need to give water to my cow so she can produce milk, my cow has to be able to drink. She doesn't need 24/7 but neither does the paved driveway.

Better understanding, yes that was positive. Good luck with both US and Quebec

I will restate it has to be real, what is doable, not just politically doable. what can the person afford to pay for! In my sector, why are we putting more regulations in front of us when the neighbours get to carry on because they are back at first base and we are on third. Somehow I need to put it back to how does my business stay afloat with no more money coming into pay for the changes that more regs will bring?

Internal government...no comment

I would rather not have my name attached

This isn't what you are looking for i know but that is all I have

Betty

-----Original Message-----

**From:** [anne@cela.ca](mailto:anne@cela.ca)

**Date:** 01/29/07 16:59:25

**To:** [bettysemeniuk@rogers.com](mailto:bettysemeniuk@rogers.com)

**Subject:** Great Lakes Charter Annex Advisory Panel

Dear Betty,

Here's the questionnaire we were talking about. If it's possible to look at it over the next couple of days, I would really appreciate it. I'm hoping to talk to everyone or receive the questionnaires by the end of this week.

Thanks for your help on this.

Anne Wordsworth

Dear Members of the Great Lakes Charter Annex Advisory Panel,

In the fall of 2004, you were invited by the Ministry of Natural Resources to join this Advisory Panel. The work of this panel was unique, and the government now wants to document this public consultation and share it with other members of the Ontario Public Service. The Ministry of Natural

Resources is sponsoring a policy symposium on March 21, 2007, to highlight the process used to develop the Ontario position for the Great Lakes Charter Annex Agreement as an example of a different approach to public involvement in complex, multi-party negotiations. The audience for this event will be Ontario Public Service staff and executives who may be involved in similarly complex endeavours in the future.

By demonstrating how a more open process can lead to a better result for Ontario and for the environment, we hope to encourage others to consider this approach. MNR has asked CELA to write this report. Researcher, Anne Wordsworth, will be the principal writer on this project, and John Jackson will act as a consultant offering his expertise on government consultations in Ontario.

We have developed a questionnaire to gather Panel Members' input. We would like you to answer the questions, then email or fax back your responses by January 31st. If you can't answer all the questions, please respond to those most relevant to your participation. (Note that the questionnaire is in Word format in order to accommodate lengthy responses, and it is necessary to save it before sending it back.)

We will also try to be in touch with you by phone to see if you prefer a phone interview or for further elaboration. In addition, the Ministry has indicated that they would like to do a video for their March event so we may arrange some interviews in person with willing volunteers.

As you can see from our attached questionnaire, we are interested in your detailed thoughtful responses, and evaluations of the process that led up to the two Agreements being announced in December 2005. As well, we want to focus on other efforts that might benefit from a similar approach.

We recognize the Panelists are all busy people and we will try to be efficient with your time. We hope to complete this interview phase of this project by the end of January so that we can spend the next month writing the report. We will be following up with you sometime between January 24th and 31st. Thank you for helping us to make this experience an informative one.

Anne Wordsworth

Research Associate, Canadian Environmental Law Association

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Toronto, Ontario M5V 2L4

phone (416) 960-2284 ex 222

fax (416) 960-9392

[anne@cela.ca](mailto:anne@cela.ca)

Visit CELA's web site ~ <http://www.cela.ca/> <<http://www.cela.ca/>>



Thomas Schmidt – Interview February 8, 2007  
Region of Waterloo

- ✓ Yes, I'm listed on AP but I didn't go to a single meeting;
- ✓ Meetings were set up too quickly and not enough days in advance; doesn't work when you are dealing with people with lots on their plate who can't turn around on a dime;
- ✓ Meetings tended to be set up at last minute so he can't say that he participated; conference calls are difficult because it's hard to get your point across when you're not face to face;
- ✓ He received documentation and had staff looking at it;
- ✓ Advises a regular schedule and flow of meetings set up in advance – say every second Tuesday or Wednesday, or every 2 weeks;
- ✓ Says that if you set up meetings every two weeks, even if something urgent comes up on average you're only a week away from another meeting; perhaps not enough thinking went into how process worked;
- ✓ On plus side, MNR did try to get participation;
- ✓ Looking at it from a municipal perspective, they recognized even before process started that intrabasin transfers were dead in the water because of requirement to prove no impact; the impact may be negligible but you could spend years proving it;
- ✓ Intrabasin transfers not as big an issue in Ontario as south of the border;
- ✓ He didn't see one voice (his) as making too much of a difference; he believes that the Chicago Diversion is a much bigger issue by no one is dealing with it;
- ✓ He was invited on to panel because in 2000 his Council had approved a pipeline for year 2035; right now they are primarily on groundwater with some surface water from local river; they were considering a pipeline from Huron or Erie but saw early on that going to Huron had technical hurdles including the Annex and that Erie was much more feasible; for Erie water taking permit is already in place.

Ontario Fruit & Veggie Growers,

Art Smith

Art Smith – Brief Interview February 1, 2007  
Ontario fruit & Vegetable Growers

- ✓ It's not just this process that they are frustrated with;
- ✓ Their view: "all too often government is perceived to have an agenda"; they come into meetings with an agenda, then ask groups for their opinions; if groups suggest something different from the agenda, it gets downplayed;
- ✓ For societal programs, costs are on the shoulders of farmers e.g. farm plans, although the costs were recognized and \$ was put towards the program

# Great Lakes (linked)

Stack  
Derek

Derek Stack

Interview January 30, 2007

- ✓ Agrees that it was a really good consultation
- ✓ The bigger piece of the success of this consultation was the legitimate sincerity of the process; the federal government's consultations don't differ structurally but they differ in that people felt that the government wanted to hear from them
- ✓ This was demonstrated by the engagement of senior bureaucrats e.g. Kevin came into meeting; legitimately planning to have ADM's at meetings demonstrates the sincerity
- ✓ In comparison, in meetings on COA, not one person on the management committee that is negotiating with the federal government was at the meeting;
- ✓ "if senior bureaucrats are engaged in the discussion, it shows sincerity";
- ✓ Diversions was the big crisis that engendered consensus; in this consultation, industry was in agreement with stopping diversions; in general, everyone was aligned but after that goal was accomplished, the agreement splits; not everyone is agreed on strong in-basin conservation approaches
- ✓ Negatives in this consultation were: too many meetings (he wouldn't discourage this because it allows a level of detail); the number of meetings caused considerable expense to GLU; the Ministry seemed sensitive to this and moved the meetings to be held downtown instead of at the airport; smaller groups than GLU without staff capacity would have found it difficult
- ✓ Confidentiality was a bit of smoke and mirrors; Ontario had to commit to confidentiality with other parties but still had to talk to advisors
- ✓ For Ontario, everyone was on the same page but negotiations had little to do domestically with hard problems like intra-basin transfers and near basin communities; therefore, other jurisdictions like Wisconsin had tougher issues, less incentive to consult;
- ✓ For GLU the biggest issue was in basin use of water, but we tried to use out of basin diversions to get this; without addressing in basin use of water, we're just saying "let's keep water here so we can keep wasting it"; Ontario is not going one bit beyond Annex Agreement
- ✓ Ontario did good job in Annex but true test in intra-basin transfers;
- ✓ Good things: makeup of panel, lots of info (all speak to sincerity, not just hoop jumping)
- ✓ Ontario government was right level of government for getting in-basin house in order but in this case, some transboundary issues were avoided; IJC and federal governments did have a role to play e.g. the IJC has a role in conservation which is committed to in Annex; however, feds did not have their house in order and should not have been asked to come in at last minute (as they were by CofCanadians);
- ✓ He didn't change his views or position during negotiations but observed that other groups did; they initially came in making unrealistic demands but realized they were dealing with 9 other jurisdictions;
- ✓ Feels this type of consultation should be used for issues like water where people are emotionally involved and where it is a provincial jurisdiction

John Jackson – Interview January 25, 2007

- ✓ “great process”; What was unique was that here they were in confidential negotiations with other governments and they were completely open with us; they were asking us what do you want us to say;
- ✓ Included a large number of people and a viable turnout for meetings; it was confidential but people could talk to their colleagues; “I’ve never seen a process like it”;
- ✓ Good things:
  - Frequent meetings
  - Always up to date
  - Government made changes in position
- ✓ The question is will it work when it’s internal domestic policy, will people steal water; when it’s internal, it’s harder to make it work;
- ✓ The position of John, Sarah and Rob Wright on the problems of intrabasin transfers is we agree that we want to work on it, but we want the legislation passed.
- ✓ This raises the question of whether this type of process would work in domestic situation;
- ✓ In the talks now industry is there; it’s not just ngo’s; there is a common message from stakeholders because it doesn’t directly affect them; international negotiations represent more of a broad interest;
- ✓ After the government started with the first draft, they were bombarded and condemned; usually government throws up bulwarks or comes out fighting, but in this case they set up the Advisory Panel; this is not the usual reaction.

University of Windsor

Valiante,  
Marcia

**Survey of Members of the Ministry of Natural Resources Great Lakes  
Charter Advisory Panel from October 22, 2004 to December 2005**

The policy community of the Ontario Public Service sponsors regular learning events for its members. These events address a broad range of subjects, and focus on different aspects of policy development, analysis, and implementation. The Ministry of Natural Resources is sponsoring a policy symposium on March 21, 2007, to highlight the process used to develop the Ontario position for the Great Lakes Charter Annex Agreement as an example of a different approach to public involvement in complex, multi-party negotiations. The audience for this event will be Ontario Public Service staff and executives who may be involved in similarly complex endeavours in the future. By demonstrating how a more open process lead to a better result for Ontario and for the environment, we hope to encourage others to consider this approach.

**Name:** Marcia Valiante  
**Affiliation:** University of Windsor

**1. History of involvement with issue:**

- How did you first learn of the Great Lakes Charter Annex and why did you become engaged in the process?  
General involvement in Great Lakes issues at local level;  
professional interest (writing about) Great Lakes legal issues
- If you were invited to join the panel but did not participate, please explain why you chose not to. (If you did not participate you need not answer further questions after this one.)  
I put in comments on each draft of the annex documents but attended only one meeting of the panel. I did not participate after that because the meetings were set up to be convenient only for people who live in or near Toronto – there was no money for travel (and it's expensive to get there); also difficult to go back and forth in one day, so the meetings were inconvenient when I teach usually 4 days per week. I also was not representing a particular interest or sector – so figured the panel wasn't set up to hear from people like me!
- What sector did you represent?
- Once involved, did you feel you were heard and were able to influence the process?

- Were you able to inform others in your sector of progress as the negotiations evolved?

**2. Level of involvement with other government consultations (to compare and contrast this process):**

- Have you represented your sector in other government consultations?
- How did this one differ and compare?

**3. General satisfaction with MNR's Panel Process:**

- Please comment on the MNR Great Lakes Charter Annex Panel consultation process, considering the following components:
  1. Make-up of Panel
  2. Confidentiality – did it work? Did it present challenges for you?
  3. Was the shared information adequate?
  4. Was the information timely?
  5. Facilitation of discussions
  6. Records of Meetings
  7. Defining general objectives and principles
  8. Defining first preferences and fall back for bargaining positions
  9. Reporting back after each negotiation
  10. Holding emergency calls when quick decisions or changes arose
  11. Overall democracy of the process
- Were there facets of the process that you felt were particularly beneficial? Please identify them.
- Were there disadvantages or concerns with the process? Please identify them.
- Did you feel that Ontario was the appropriate level of government to negotiate a Great Lakes' agreement? Please explain.

**4. Impact of the process:**

- How would you rate the success of the process in meeting public expectations?

- Did the process promote better understanding of :
  1. The issues under negotiation?
  2. Of other sectors' views of those issues
  3. Of perspectives of other Ministries represented on the Panel
  4. Of challenges the Ontario government was facing in negotiations with the US and Quebec
  5. Of challenges the Ontario Government might face domestically in drafting the Legislation and in implementation
  6. Of the internal government approval process
  7. Of the challenges faced by other governments?
  
- Did the process alter your positions on the topics under discussion?

**5. Continued involvement and commitment:**

- Did your participation in MNR's Great Lakes Charter Annex Advisory Panel make you better prepared to advocate for implementation of the final Agreements?
  1. In the US?
  2. In Ontario?
  
- Will you continue to be involved in the process? If so, how?

**6. Future stakeholder involvement or public consultation processes:**

- Should Ontario establish similar panels for public consultation in the future?
- What recommendations would you make to improve the process?
- In which situations do you think a similar process would be beneficial?

Please add other comments, advice, observations and feedback you might have.

Please indicate if you agree that your name may be used in our report \_\_\_\_\_



**Survey of Members of the Ministry of Natural Resources Great Lakes  
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**Name: Kelly Warner**

**Affiliation: Federation of Ontario Cottagers' Associations**

**1. History of involvement with issue:**

- How did you first learn of the Great Lakes Charter Annex and why did you become engaged in the process? Through CELA. FOCA's mandate is to be a leader on issues that are of concern to cottagers. The quality of the water that flows into the Great Lakes and the quality of the Lakes themselves is important to the health of all of Ontario's lakes.
- If you were invited to join the panel but did not participate, please explain why you chose not to. (If you did not participate you need not answer further questions after this one.)
- What sector did you represent? FOCA represents the interests of resident waterfront property owners.
- Once involved, did you feel you were heard and were able to influence the process? Yes.
- Were you able to inform others in your sector of progress as the negotiations evolved? Yes.

**2. Level of involvement with other government consultations (to compare and contrast this process):**

- Have you represented your sector in other government consultations?  
Yes, Clean Water Act
- How did this one differ and compare? Advisory Panel: Much more consultative, better access to the process and to the government officials who were directly involved. Completely different experience compared to the Clean Water Act which did not have the cross-over and was a much more formal process. The purpose of Clean Water Act consultation seemed more to be an opportunity for the government to ask for support and there was less interest in sharing ideas or addressing concerns and not necessarily a relationship building experience.

### **3. General satisfaction with MNR's Panel Process:**

- Please comment on the MNR Great Lakes Charter Annex Panel consultation process, considering the following components:
  1. Make-up of Panel – I think it would have been beneficial if the Panel had heard from and discussed with MPs on the GL and other related committees the concerns and merits of the agreement and the issues involved. The Panel was asked to recommend others who might be interested in being represented on the Panel so the panel made up in large part by those who were already engaged in the process. Perhaps the Panel would have been well served to encourage more representation from those constituents who were not as supportive of the agreement or as involved.
  2. Confidentiality – did it work? Did it present challenges for you? Yes it worked, and no it didn't present challenges.
  3. Was the shared information adequate? It seemed to be though hard to know what might have been missing at this time. Certainly the information was well presented.
  4. Was the information timely? Yes.
  5. Facilitation of discussions – the MNR team was well prepared and open to all view points and discussion
  6. Records of Meetings - excellent
  7. Defining general objectives and principles - again MNR team well prepared and organized
  8. Defining first preferences and fall back for bargaining positions – again well prepared and organized
  9. Reporting back after each negotiation – good job of this, seemed open and willing to hear criticism of their position from the Panel

10. Holding emergency calls when quick decisions or changes arose - timely

11. Overall democracy of the process – MNR was fair when giving time to different opinions and interested in communications from all those on the Panel. In the setting of negotiating international agreements, the Panel had no influence over the other 9 jurisdictions so to some extent this Panel is in a different situation than a Panel put together to deal with internal legislation.

- Were there facets of the process that you felt were particularly beneficial? Please identify them. Particularly because this was an international agreement, FOCA was given the chance to see from the inside the process and understand the limitations of government power in taking a stand against the further erosion of the health of the GL.
- Were there disadvantages or concerns with the process? Please identify them. This is generally covered in the answers to the other questions.
- Did you feel that Ontario was the appropriate level of government to negotiate a Great Lakes' agreement? Please explain. Yes, the Federal government's involvement would have required a larger U.S. Federal presence which would have had the potential to delay an agreement and may have require input from across the country which would have meant input from those with less invested interest in the environmental protection of the Lakes. The issues at the moment are regional and if consensus can be built on a regional basis, when the water crunch comes, there has been a strong partnership already developed between the GL jurisdictions which may protect the Lakes from wholesale commoditization of the GL water.

#### **4. Impact of the process:**

- How would you rate the success of the process in meeting public expectations? I don't have a feel for what the public expectations were. Before the panel, FOCA's members were not well informed about the Annex. If success is measured by how knowledgeable the panel, if that is how public is defined, has become, then the process would be highly successful. I think there has been some disappointment in how the concerns of the panel were translated into the legislation. Perhaps, the transition from agreement to legislation would have been better handled. However, this is not a typical situation as most of Ontario's legislation deals with policy within it's borders.

- Did the process promote better understanding of :
  1. The issues under negotiation? Yes.
  2. Of other sectors' views of those issues. Somewhat.
  3. Of perspectives of other Ministries represented on the Panel. Would have been interested in more perspectives across the ministries particularly agriculture and finance.
  4. Of challenges the Ontario government was facing in negotiations with the US and Quebec. Yes.
  5. Of challenges the Ontario Government might face domestically in drafting the Legislation and in implementation. Yes, though this part of the process has met some late resistance from some on the Panel. Issues could have been discussed earlier and perhaps more input into the legislation from the Panel.
  6. Of the internal government approval process. Same as above.
  7. Of the challenges faced by other governments? Perspectives of the other jurisdictions were certainly presented and their impact on the process was evident. I think there is some inherent conflict between the substance of what is being negotiated and the reality of the seriousness of the issues. The urgency of the situation is lost in the business of coming to agreement. The agreement was not judged upon any objective merits by the 10 jurisdictions. A scientific view speaking fundamental truths about the health of the Lakes would have given some urgency and sense of reality to the negotiations which often are an abstract process.
  8. Did the process alter your positions on the topics under discussion? Not necessarily altered our position but I think it informed our position and provided perspective.

## **5. Continued involvement and commitment:**

- Did your participation in MNR's Great Lakes Charter Annex Advisory Panel make you better prepared to advocate for implementation of the final Agreements? Certainly on the initial outcome. There is still much work to be done but the Agreement provides the framework.
  1. In the US? Yes, though limited in our contact with organizations outside Canada.
  2. In Ontario? Yes.

- Will you continue to be involved in the process? If so, how? Through being involved in this process, FOCA has a better sense of what waterfront residents should be aware of and where future threats lie. FOCA can better inform and organize its members to affect future change and better stewardship. As well, the open lines of communication with the MNR will provide a greater opportunity for FOCA to express directly concerns of the association and its members to the government.

**6. Future stakeholder involvement or public consultation processes:**

- Should Ontario establish similar panels for public consultation in the future? Yes.
- What recommendations would you make to improve the process? This panel was somewhat unusual in that it was advising on an international agreement. When it comes to internal legislative matters, it would be helpful to hear from more stakeholders who will be pushing back against the recommendations. I have no recommendations for the organization or running of the meetings.
- In which situations do you think a similar process would be beneficial? Open consultation and closer contact with interested parties is always beneficial. Any area of government would benefit where there is a significant shift in policy being discussed and a timeframe that allows the panel to come together.

Please add other comments, advice, observations and feedback you might have. To my mind the process is not just so that MNR would know what the NGO community was thinking, but a way to encourage future action once the agreement/legislation was passed. The interaction of the panel with the Ministry came close to a pure form of democracy which should result in a sense of inclusiveness and empowerment. The proof of the success of the advisory panel will be when the legislation is passed and the panel members go out to inform the public and act to use their knowledge of the agreement to benefit the Great Lakes. If the members of the panel do not do more than they would have without the added input into the agreement/legislative process then the potential is lost and the Ministry's time wasted.

Please indicate if you agree that your name may be used in our report \_\_\_\_\_

Federation of Ontario's College

Warner,  
Kelly

Kelly Warner – Interview February 9, 2007  
FOCA

- ✓ All volunteers at FOCA; she's also on the Board;
- ✓ Her experience of GL legislation in general is pretty thin, so what she has to compare the Panel experience with is pretty small;
- ✓ At the Panel, she didn't have a lot to say; FOCA doesn't have a lawyer and her opinions on the ins and outs of legalities is zero;
- ✓ Her role was more advocacy for environmental issues within FOCA membership and keeping them informed, whether it's good for rural landowners or not;
- ✓ The legislation was technical; we have little control over how the US presents the agreements to their constituents and how they position themselves; therefore, there is no room in the agreements for anything other than technical information;
- ✓ MNR presented the issues well enough; she understood issues; they had wonderful charts that laid out different levels; they did a great job in presenting information in layman's terms; it helped that the agreement and the parts that were discussed were fairly short, not 1,000s of pages long;
- ✓ My issue was more how is the agreement going to interact with the private sector and are there loopholes in the agreement; is the agreement general enough that people can get around it if they're interested; can the government even deal with that in the agreement;
- ✓ She wanted to get it passed because they had put a lot of effort into talking about it;
- ✓ It was educational to see how government worked, how sincere the bureaucrats were and what an effort they made to understand the parties;
- ✓ The only thing lacking was there weren't enough people against conservation and against limits so that you could understand what their point of view was e.g. the York Region people or the Chicago people who want to be the exceptions, the people who are searching for the loopholes; because of this on the environmental side, you will end up having to persuade the public later that the loopholers have to be stop;
- ✓ The parts of the agreement that aren't concrete like the opening preamble for conservation and better science you will have to take those intentions and advocate for governments to fulfil them;
- ✓ This legislation is not typical legislation; it's a bit of an anomaly for future advisory panels;
- ✓ However, she would love to see it used in more domestic legislation; if the Clean Water Act had had this process, it would have been more interesting; you could have understood what the roadblocks were and who was against it;
- ✓ It's better if they did this for legislation that is going to change the path we are taking, for example, controlling carbon dioxide; this kind of process would allow government to see people's commitment to making changes;
- ✓ The Panel was "fun", "interesting", she "really enjoyed seeing it happen"; she felt privileged; if she hadn't been part of FOCA, she wouldn't have been on the Panel but there was "no test to pass, no beauty contest, it was democracy at its purest".

Mark Wales - Interview February 1, 2007  
Ontario Fruit and Vegetable Growers Association

- ✓ Has come in at the end of the process but is now fully involved;
- ✓ He has definite concerns about the process and what's going on;
- ✓ Timeline concern: For a year and a half nothing happened and now Ontario is trying to do everything to quickly – 1<sup>st</sup>, 2<sup>nd</sup> and 3<sup>rd</sup> reading before April; no chance for any public consultation
- ✓ Issue concern: MNR is suggesting changes to the PTTW that will affect horticulture; they want Annex legislation to supersede OWRA and to require anyone with a pump capable of pumping over 50,000 litres per day to have a permit; everyone will say to hell with it and that's a real problem;
- ✓ Problem is you have something (legislation) with flaws and there's no opportunity for public consultation;
- ✓ He's having real difficulty being heard – was on a conference call with people in the states and negotiators but only they were allowed to talk; has only had one face to face meeting in September where he told people what agriculture has done to promote conservation; he missed meeting where PTTW program was discussed because he wasn't notified of it;
- ✓ He feels the meetings are too infrequent and that everything is being done at the last minute; he has no comfort with the process and the idea that everything has to be wrapped up by spring;
- ✓ The farm community will not be satisfied and the government will have a problem on their hands;
- ✓ He suggests for improving the process – lose the timeline, slow it down and be willing to back track; most of the stuff in the Annex is fine but things are coming in at the last minute; also right now there are lots of other demands on their time eg Source Water protection, EBR;
- ✓ He says there hasn't been much consultation compared to labour consultations that he's involved in where they talk every 2 to 3 weeks; with Annex it's face to face once every 6 to 10 months.

Art Smith – Brief Interview February 1, 2007  
Ontario fruit & Vegetable Growers

- ✓ It's not just this process that they are frustrated with;
- ✓ Their view: "all too often government is perceived to have an agenda"; they come into meetings with an agenda, then ask groups for their opinions; if groups suggest something different from the agenda, it gets downplayed;
- ✓ For societal programs, costs are on the shoulders of farmers e.g. farm plans, although the costs were recognized and \$ was put towards the program



SLDF

Wright  
Rob

**Survey of Members of the Ministry of Natural Resources Great Lakes  
Charter Advisory Panel from October 22, 2004 to December 2005**

The policy community of the Ontario Public Service sponsors regular learning events for its members. These events address a broad range of subjects, and focus on different aspects of policy development, analysis, and implementation. The Ministry of Natural Resources is sponsoring a policy symposium on March 21, 2007, to highlight the process used to develop the Ontario position for the Great Lakes Charter Annex Agreement as an example of a different approach to public involvement in complex, multi-party negotiations. The audience for this event will be Ontario Public Service staff and executives who may be involved in similarly complex endeavours in the future. By demonstrating how a more open process lead to a better result for Ontario and for the environment, we hope to encourage others to consider this approach.

**Name:** Robert Wright

**Affiliation:** Counsel, Sierra Legal Defence Fund

**1. History of involvement with issue:**

- How did you first learn of the Great Lakes Charter Annex and why did you become engaged in the process? A Munk Centre symposium here in Toronto. Early on.
- If you were invited to join the panel but did not participate, please explain why you chose not to. (If you did not participate you need not answer further questions after this one.) NA
- What sector did you represent? ENGO
- Once involved, did you feel you were heard and were able to influence the process? Yes.
- Were you able to inform others in your sector of progress as the negotiations evolved? Yes.

**2. Level of involvement with other government consultations (to compare and contrast this process):**

- Have you represented your sector in other government consultations? Yes. Quite a few.

- How did this one differ and compare? More groups (ENGO and industry) and govt. reps. (MOE, MNR, Municipal, and occasional fed.) involved. There were more meetings in this consultation and generally more helpful summaries and presentations of information from the Ministries (MNR and OE). There was also more feedback on responses to the advisory panel's suggestions.

### **3. General satisfaction with MNR's Panel Process:**

- Please comment on the MNR Great Lakes Charter Annex Panel consultation process, considering the following components:
  1. Make-up of Panel – Generally broad representation.
  2. Confidentiality – did it work? Did it present challenges for you? It worked and did not present challenges. This may have been because there was not high media involvement.
  3. Was the shared information adequate? Yes.
  4. Was the information timely? Yes.
  5. Facilitation of discussions- The format worked well and everyone seemed to have an opportunity to comment and be involved.
  6. Records of Meetings – Good preparation materials and records were adequate.
  7. Defining general objectives and principles – This was well done. The govt. participants remained reasonably flexible to include those raised by other panel members.
  8. Defining first preferences and fall back for bargaining positions – This occurred and was handled above board and reasonably.
  9. Reporting back after each negotiation – Yes. This was useful.
  10. Holding emergency calls when quick decisions or changes arose – Handled well.
  11. Overall democracy of the process – Very satisfied.
- Were there facets of the process that you felt were particularly beneficial? Please identify them. - The ministry staff were prepared to meet with those particularly concerned on certain issues on a small group basis to clarify the issues and provide and additional necessary information. In addition,
- Were there disadvantages or concerns with the process? Please identify them. – We knew that there were separate discussions between the Ministries and aboriginal groups but we did not know their progress, substance or outcomes. Federal participation was minimal or not

apparent at all. Meaningful involvement required a large amount of our resources in the sense of work time of a senior employee.

- Did you feel that Ontario was the appropriate level of government to negotiate a Great Lakes' agreement? Please explain. – Yes in the sense that the agreement has the most apparent impact on Ontario as a province. However, federal involvement would have helped place the agreement in the broader legislative framework and perhaps helped to anticipate potential overlap or conflict with federal legislation down the road.

#### **4. Impact of the process:**

- How would you rate the success of the process in meeting public expectations? Very successful for those participating. Do to the necessary confidentiality, the general public was not so aware of the process and therefore wouldn't have expectations. A negative aspect is that because of time lines external to the process (i.e. time pressure due to the upcoming provincial election and various political issues as to taking a leading role), the advisory panel will have a very limited opportunity to see the actual draft legislation.
- Did the process promote better understanding of :
  1. The issues under negotiation? – Very much so.
  2. Of other sectors' views of those issues – Yes.
  3. Of perspectives of other Ministries represented on the Panel – Yes, but not all. MOE primarily; Agriculture as well. Not Infrastructure
  4. Of challenges the Ontario government was facing in negotiations with the US and Quebec – Yes, very well.
  5. Of challenges the Ontario Government might face domestically in drafting the Legislation and in implementation – Yes.
  6. Of the internal government approval process – Yes.
  7. Of the challenges faced by other governments? – Yes.
- Did the process alter your positions on the topics under discussion? Yes. Largely this was due to explanation of the above matters and recognising necessary compromises. Some matters of fundamental importance that could not be compromised also became apparent. Also, see the last para. of item 6. below.

## **5. Continued involvement and commitment:**

- Did your participation in MNR's Great Lakes Charter Annex Advisory Panel make you better prepared to advocate for implementation of the final Agreements?
  1. In the US? – Limited opportunity, but yes.
  2. In Ontario? Yes.
  
- Will you continue to be involved in the process? Yes. If so, how? Preferably through the continuation of the panel. Implementation through preparing regulations.

## **6. Future stakeholder involvement or public consultation processes:**

- Should Ontario establish similar panels for public consultation in the future? Yes.
  
- What recommendations would you make to improve the process? Federal participation. Better information re. aboriginal issues and consultation.
  
- In which situations do you think a similar process would be beneficial?
  - Most beneficial where there is some likelihood that industry, ENGOS and govt. will want to move, for the most part, in the same direction. The process will also depend to a large degree on the directions given to Ministry staff by the Minister (i.e. flexibility, openness, etc.) and the personalities, integrity, and negotiating and presentation skills of Ministry staff.
  
- -

Please add other comments, advice, observations and feedback you might have.

This was a unique process in my experience. It is hoped that the implementation will be as successful as the panel participation. The regulations that are still to come will have a large impact on whether the process has in fact been successful. I devoted a great deal of time to this process, as did all involved, but certainly feel at this juncture that it has been worthwhile.

The process was respectful, and well run.

Please indicate if you agree that your name may be used in our report \_\_\_\_\_

We should discuss this.

Bob Yap – Interview February 6, 2007  
Ontario Power Generation

- ✓ He got involved because OPG nominated him; they wanted someone who worked in the water area to represent them on the Panel;
- ✓ His primary comment is that there needs to be a better balance on the Panel; although he was in agreement with the ngo's on the Panel, he felt that better representation from industry was needed, that the Panel was too heavily weighted with ngo's;
- ✓ Industry could have participated directly or through the Panel but didn't do it;
- ✓ For OPG diversions were the important issue; "we like to protect what we have. We're investing \$1 billion in Adam Beck; we take water and put it back so every gallon taken upstream is less electricity for us";
- ✓ His position is simple: he doesn't want a burdensome process of implementation; industry would have similar concerns;
- ✓ OPG is continuing to be part of the discussions but one of his staff members is now going to meetings and in on phone calls;
- ✓ In his case, he didn't have to influence the process a lot because his position was aligned with ngo's; the objections will be in the implementation stage;
- ✓ MNR tried hard to address the issues; it was a tough process with lots of ups and downs;
- ✓ When the first agreement was released, all saw it; this was before the Panel and it was clear the population didn't like it;
- ✓ Did the Panel influence the next draft agreement? He's not sure because the chances are the second draft would have been different anyway because people wanted a different agreement;
- ✓ The Panel was a more direct way of getting input; "pretty unique"; provided opportunities for people to provide input; more direct approach than he's seen in other consultations;
- ✓ Is it a good model? Depends on the subject area; when you are talking about public policy that's very complex, not sure it's the right forum; on the downside, perhaps not everyone had the same level of expertise; others had the benefit of lots of resources;
- ✓ He learned a lot about the process itself, the complexities it took to cut a deal;
- ✓ It was a difficult process to run; not sure I'd do it myself; it was very resource-intensive and a lot of conflicting opinions; he commends MNR for having the guts to do it;
- ✓ Its application to future process? It would depend on the subject area; knowledge is important and expertise in the bureaucracy and on the Panel;
- ✓ Recommends for improving the process that the Panel have the right balance and right expertise; it should be a good cross section; government might have to make a decision that it's not completely open and that some engo's can represent each other's interests;
- ✓ The devil is in the details; he wants to make sure the next part of the process and implementation is not overly burdensome.

## Government and Agency

Kevin Wilson  
David de Launay  
Rob Messervy  
Paula Thompson  
Danielle DuMoulin  
Leith Hunter-done  
Bill Carr  
Risa Schwartz  
Louise La Pierre refused  
Peter Fawcett on behalf of himself and Anne Charles done  
Sam Speck  
David Naftzer Friday  
IJC Micheal Vechsler  
Murray Clamen  
Scott Duff

## **Bill Carr Interview**

Bill Carr, Team Leader Western Hemisphere, Office of International Relations and Protocol, Ministry of Enterprise, Opportunity and Innovation

Describe your role...He already had relations with Canadian Consulates in the US Great Lakes. The Chicago Consulate General acted as observers on behalf of the Federal Government for most of the Annex process. He was part of the Ontario negotiating team and they all took responsibility for regularly updating Peter Fawcett at DFAIT on progress of the negotiations.

### Question 1. & 2

- Ontario's position became stronger after the formation of the Water Panel.
- They gained CREDIBILITY at the negotiating table. They were not just speculating about amorphous public opinion but could strongly endorse actual positions endorsed by stakeholders.
- Allowed Ontario to say no definitively that certain options would not be accepted by the public.
- This was key to getting the ban on diversions in the US.

### Media.

After the negative media following on the first release in the summer 2004 the Ontario negotiating team was criticized for being unable to effectively control their public and the messaging to the Media.

In contrast the release of the second draft the Minister's press statements were credible because the strengthened draft had support of the stakeholders and the pressure from the media was eased.

### Public

The difference in the public meetings in London 2004 on the first draft and the London meeting 2005 was an example. The 2004 meeting was hijacked by COC and very negative. In 2005 the meeting was much smoother because there was a stronger agreement due to Ontario's intervention at the table, stakeholders and Panel members had been involved and attended the meeting to speak to their role. This buttressed the government.

### Highlights

TRANSPARENCY the government's regular reports back to the panel on developments at the negotiation table were central to building TRUST and these two elements should be central to any new consultation.

While there were different viewpoints on the Panel there was also understanding and acceptance that the Ontario negotiators had to speak with one strong voice at the negotiating table and collective efforts made to shape Ontario's positions.



This could be more difficult with a more domestically based consultation.

Stakeholders could see their input had value and the government officials could also feel appreciation for the tough job they had.

Confidentiality worked because stakeholders could see that leaks could jeopardize the negotiations and this might mean that the government may have stopped being so responsive.

#### Improvements

He was very impressed with the process and cannot think of any changes needed. (given the dissent going on now in hindsight more care might have been taken to clarify expectations once the Agreements were signed).

#### Aside

I asked Bill, the CGLG and Paula of their memories of the selection criteria for the Advisory Panel to the GGLG and the Premiers.

CGLG (Lisa) said they wanted to have a manageable number and people who could speak with a regional voice.

Bill and Paula verified that Maggie Grant (Dave Naftzger's predecessor who later went on to work on the White House Staff as GL Advisor to Bush prior to the mid-term US elections) refused to allow AMO to join.

She also rejected Ontario's efforts to get First Nation's on the Advisory Panel because she could not get one representative to speak for and represent all FN and Tribes.

Bill Gunn (416) 325-8552

Reserve this file.....

• Consulates in Great Lakes -  
a team about keeping up to date with feeds - Peter Jankovik not em. Canada.

• Position became stronger  
• Australian type (GDP/B/L/T)

not just an acronym of  
not just a position.

• helped to establish real guidelines could say no way.

• the ban on oilseeds was the main one.

• Media's impact on  
give credibility of IMF's position

to give them credibility & store  
based pressure with media

advantages  
at London in public meetings London 2014 targeted only  
meet together 2005 -  
pay members are there to  
takes the part ..

panels - work loads - resourcing.

helped me if at any - strong arguments  
in preparation from govt strong around

First Nations were rejected

one vote (magnum)  
- couldn't give them one person

→ Bill Carr -

David Delaunay – Interview February 2, 2007  
ADM, Ministry of Natural Resources

- ✓ Important lessons of Advisory Panel
  - Get a group that represents different points of view including the whole spectrum; set up some process that they're involved in; particularly important to get the people who disagree;
  - Establish and agree on a set of objectives – in this case, the fundamental negotiating objectives were laid out e.g. to raise the level of water management in the Basin without sacrificing Ontario's standards, regional collaboration on ecosystem conservation; allows you to bring people back to fundamental objectives;
  - Action and effect – in a consultation process, the worst thing is when the government goes away and does nothing; if you are putting in your time and energy in being involved, it's going to be important that people see something is happening;
  - Feedback loop – it's also important to explain why things didn't happen; in this way this consultation was unusual; it made it vibrant for people because the Panel was setting the negotiating position;
  - Political support – it's important that there is support for the process at the political level and that they are advocates for the process;
  - Everything aligned – political people and bureaucrats are all supportive of direction of process.
  
- ✓ Resources are important; the government needs to ensure that there is money and resources as part of every policy project

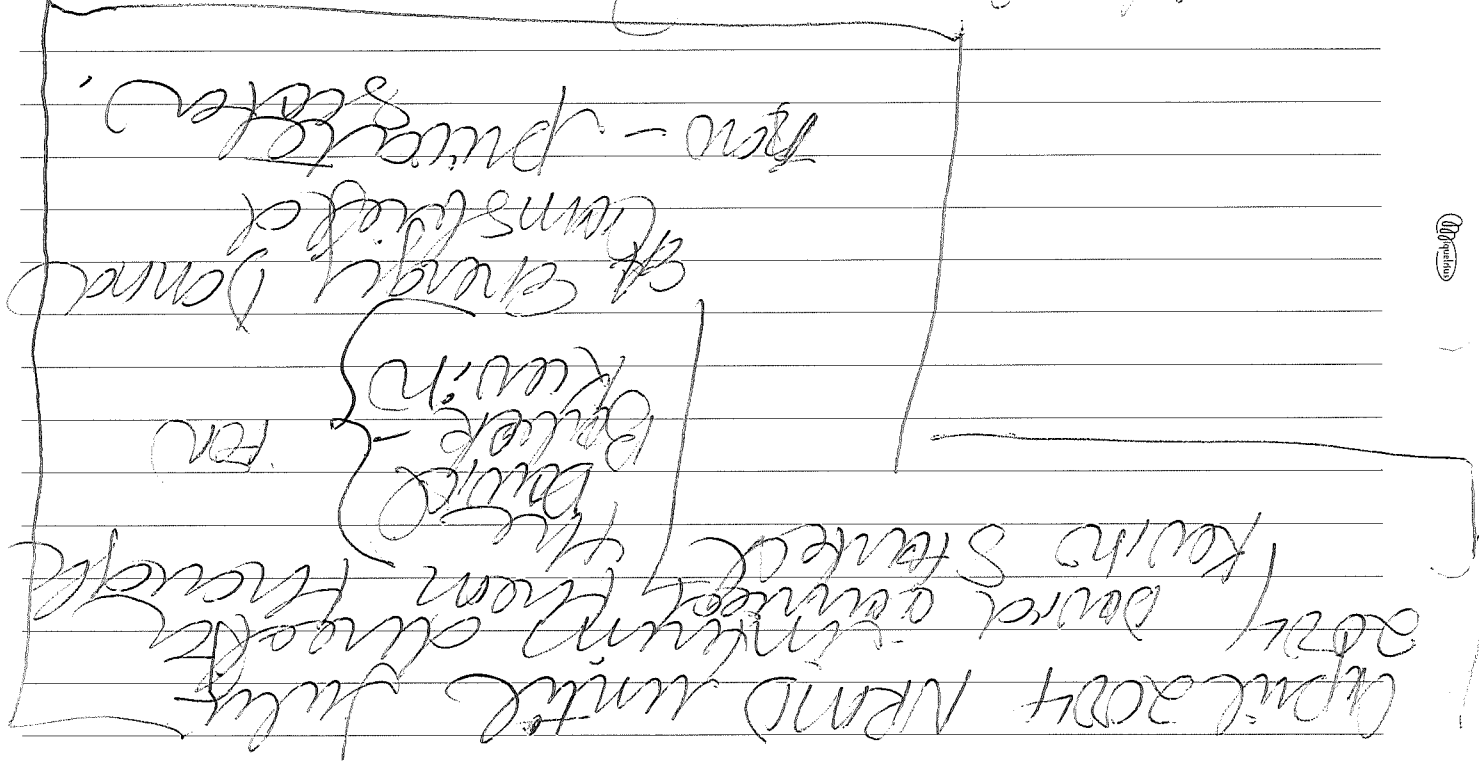
new have an agreement to get to US  
agreement to get to US  
is another discussion

of taking up the issues of the  
guide of the

Sierra Club  
create fund as negative  
as positive as sources

David King  
we have good relationship  
with

David King



B. GND. like to play the game

the wisdom more political  
driver → spreading gap  
what the gap could be

David's in tomorrow

see the minutes for

when you are negotiating with the U.S. of ITC, make up your mind

at the end of the day they will all agree & you will be left out of it.

my PA course. Minnesota + ont. Quebec

all of a sudden they were singing the same tune.

From one had more weight than one vote.

US wanted a cross-border agreement

they wanted an agreement that took it out of the federal realm

Everyone on the way group knew on how it was not a luxury smoke

"Five years into it"

"is it the Stohrman situation?"

Quebec ministers on

environmental policy the

same then huge water party -

Northrup, Peters, Sandison, Paris

Mitochondria celebration  
a secret here dinner

phone calls made,  
touch and ~~touch~~ go.

negotiate -  
anti - negotiators

anti negotiators  
DNR type a message; ~~negotiators~~  
touch

Thursday night before the signing  
came back night Inland

Kevin handled most of

went to half of the  
2005 negotiations.

stayed active until the agreement  
was signed

consultation overload.

if you really want to go  
just tell them. (I have to let  
able to go back.

first time around got  
me.

had separate agreements  
that were meetings

helps to be invaluable in  
darning gaps & specifics

"speed-back loop - as to why  
things did not happen"

more vibrant -

determining the negotiations.  
an extension of negot. learn.

• The minister gave the support  
as strong as it could get -  
political. Staff & civil service.

→ similar process in Greenbelt  
our Ridges Macaulay Rick S.  
Liping Lee  
hands for life

a whole cadre of people  
Rick S. FAN John Riley  
Wildlands League  
WWF. have moved onto  
involvement

MNR Species at Risk - Biodiversity  
continuing processes

MOE side - harder - water land  
→ not regulatory



at hand  
Kiran Patel & Robert Taylor  
as per the this honesty

offering  
of negotiations

government  
will did people respond to this  
conversations compared to other

- a model.
- a balanced representation of interest
- if it were unbalanced at all not work.

Overall an improvement.  
Agreement for confidentiality for  
process.

- way we work the process
- at times it was not clear sailing - needs to pursue & address issues
- the government might feel & MMTA a part of a team.

not a change embraced  
some opportunities  
influence on details of cooperation

government resources -  
participation & forums  
topics - to computers  
total public meetings

### Europe

govt needs to share balance  
between interests

You can't always get what  
you want, make people  
understand you need that  
goals.

• make people can  
participate

• has not been successful in  
any thing comparable

• feedback & information flow  
quickly

• every intention to be democratic  
at the end

• feedback needs to be from  
the panel as an entity  
when people try to do one of  
and step away

### General

• ~~panel~~ strength & direction  
purpose  
fundamentals were strict  
if you

Fauvel,  
Peter

**Questionnaire**  
**For the Government Participants and other Agency Participants in the negotiations on the Great Lakes Charter Annex from October 22, 2004 to December 2005**

**Questions to gauge how the the Ontario Ministry of Natural (Resources (MNR) Great Lakes Charter Advisory Panel Panel Process contributed to the Province's Input at the International Negotiating table**

How did Ontario's position in international negotiations change after the establishment of the Ministry of Natural Resources Great Lakes Charter Annex Advisory Committee in the Fall of 2004?

The creation of the Advisory Panel allowed Ontario to take a very well informed position regarding Canadian concerns into the negotiations based on the advice provided by the Panel. Some of these were related to the possible implications for the Boundary Waters Treaty and more generally for water policy in Canada, notably the prohibition on bulk water removal.

What advantages did the Water Panel give the government? Please give examples wherever possible.

1. In negotiations
2. Within Ontario
3. In promoting specific issues
4. In the Media
5. In drafting regulations and regulation

Deleted: ¶

NA as DFAIT was not directly involved in the negotiations or implementation.

Did the Water Panel create specific problems for you in any of the above areas? Please explain?

No, DFAIT continued to consult directly with the Government of Ontario.

Would you recommend that the government look to this Panel as a model to reform public consultation?

I cannot address the question of reform, as I am not aware of the current model. However the advisory panel approach is used by DFAIT for consultation on wide variety of issues. We have encouraged the International Joint Commission to include a similar model for their consultations on the Great Lakes Water Quality Agreement, and many members of this panel were also advisors to the Commission.

DFAIT were observers to the CGLG meetings via their consulate in Chicago and made submissions on behalf of the federal government (They often did not agree with Environment Canada)

Are there particular recommendations you would highlight from this process?

Engage an advisory panel early often and throughout the process, as I'm certain Ontario has appreciated from its experience on this issue.

Are there recommendations you would make to improve a reformed consultation process?

As above, in response to the previous question.

Please add other comments, advice observations and feedback you might have.

I strongly support this advisory panel process, as it is widely used at DFAIT. As in the Charter Annex process, DFAIT consults directly with provinces and not as aprt of a multi-stakeholder process and Ontario continued with this process. However, consultation with municipalities present special challenges, as they do not want to be included in a larger panel process, preferring to have separate consultations.

Please indicate if you would like your name to be used in our report  X

Or if you would prefer to remain anonymous \_\_\_\_\_

Rob Messerly

MNR

Section 35 of the ~~Consolidation~~<sup>Stat</sup>

3 major TN

Fall 2003, six locations across  
provincially all local  
communities to learn about  
to advise them if ~~was~~  
con

2004 90 day consultation  
period  
a series of public meetings  
Senate PM meetings  
included MBOS.

Efforts made  
Kingstons & Reps

went out again 2005  
did some things

political confidence of chiefs  
engage with Ministry  
their scientific

supported financially the  
Basin  
United Nations of the U.K.

significantly raised these issues  
 outside the ILMAN nearly 3  
 records all water connected.  
 They cannot speak for all  
 First Nations.

They will withdraw their J.R.  
 applications on inappropriate  
 consultation, were conducted <sup>on their own</sup> <sup>terms</sup>  
 a high level of <sup>IMR</sup> <sup>abuse</sup> <sup>of</sup> <sup>power</sup> <sup>and</sup> <sup>control</sup> <sup>is</sup>  
 CPPA may have been missed.

Earl MacLeod (Ingrawdwater) ass  
 stepped away.

good people  
 " representation critical  
 status

were knowledgeable  
 direct & a personal interest  
 good group of people  
 committed the time to  
 meetings & homework

Terms of Reference that stated  
 that you would not go  
 forward without talking  
 to Panel. committed  
 under

know what they were doing  
 was important

not a "token" consultation

Minister established the  
 Advisory Panel

ADM present and a Keen  
 always in attendance

another good panel and thorough &

one on one consultation w

weekly call with Budget team  
IJC. Staff met regularly  
as well as with DPAIT & EC.

Council of Canadians.

Did have a concern ~~at~~ at the  
number of ministerial people  
you had on Board

OMAFRA

MOS Key. They are utilizing  
the ~~services~~ services.

Intergovernmental

consulate offices - mood  
& temperature state side

concerned there not be talking  
heads. (too much gov't).

had to manage

Jennifer Juck. Press  
ministers office panel  
members panel. They could  
contact her.

Call Jennifer Juck. —

Impaired?

Concerned at lack of some  
representation. Industry

might have been more productive

have a pretty sign <sup>of</sup> continuity

# Council of Great Lakes Governors

Naftzger  
David

David Naftzger – Interview February 2, 2007  
Executive Director, Council of Great Lakes Governors

- ✓ High volume of comments received after the release of the first draft agreement; 10,000 comments; the mix of people commenting included people informed by groups and people informed by the media; in the US a number of groups mobilized their memberships to do mass submissions; in addition, there were submissions from organizations and people on their own;
- ✓ After the Advisory Panel process in Ontario, the release of the second draft agreement led to a better informed public and media; everyone involved in the Panel process understood the issues better and when the media went to them for comment they were able to comment in a more informed way;
- ✓ The Panel were an important part of why the public comment on the second draft were more informed;
- ✓ After the release of the first draft, there was more coverage in the Canadian press than the U.S.; the release of the first draft made it evident that there was a need for more public education;
- ✓ Ontario recognized the need for more work; MNR was forward-thinking in the ways to do it and talked to the working group about plans for an advisory group; there was an interest in making other jurisdictions aware of it and that it could lead to a more positive outcome;
- ✓ Issue of confidentiality: as different jurisdictions talked about stakeholder outreach, there was a concern about confidentiality; it was very important for the Working Group to maintain trust; Ontario was very candid about AP meetings and what they were doing; Ontario was very transparent; as negotiations hit more sensitive points, jurisdictions were more concerned about confidentiality, but no problem materialized; all jurisdictions wanted to know that the final product could be supported; no one wanted a surprise;
- ✓ Doesn't know how structured the other states were in terms of public consultation or engagement; states that might have had advisory groups would be Michigan and Ohio; thinks states relied on less formal arrangements; the Regional Council itself had more U.S. groups so there was better understanding of U.S. groups;
- ✓ Key ingredients – (his are based on impressions from MNR and working group):
  - 1) AP was a useful way to work through policy options; there was a diversity of opinion reflected in the membership of the group and MNR listened carefully; not just the loudest or more vocal groups that got attention; MNR would come to the working group and based on Panel process say they heard loudly from group X and discussed it with Panel; interest-based discussions; as a result, policy positions were more well thought out; Kevin brought issues to the table so others could put it into their own lens and think about how it might play out in their own jurisdictions; led to a better understanding of policies and how it might be implemented politically;
  - 2) Options developed in the working group could be taken back to AP; MNR could say the working group is considering this; Panel provided province with more certainty and comfort to bring to the working group;



knew certain policies would get support from non governmental groups; focussed attention on options that held most promise

- 3) provided a better informed group and public (see earlier comments)
  - 4) made Ontario better prepared to move ahead with implementation, as compared to jurisdictions like Wisconsin where it's been harder to move ahead.
- ✓ Having an established group like the AP or Regional Council is key to building trust; there's a stronger commitment to a positive outcome; there's a shared commitment to process
  - ✓ Challenges:
    - Timing, schedules and timeliness – The AP process affected the pace of the negotiations; working group would wait until after the AP meeting to have a working group call; with complex public policy discussions, there's no way around this problem but it is a challenge;
    - The process itself can overwhelm people and weigh them down.
  - ✓ Very important to have a balanced and representative group; if there are perspectives that are not included, you need to invite other people in (it can be a problem if people come into the process later and want to revisit issues that have been extensively discussed, so as new parties come in, you have to make sure they are given comprehensive briefings so they don't sidetrack process)
  - ✓ Gives a lot of credit to MNR staff and Kevin Wilson; it's evident that they spent a lot of time listening carefully and bringing it to the negotiations; KW invested a lot of time and energy; AP was a useful tool for developing the second draft agreement.

Moz

Rosa Schwartz

**Questionnaire**  
**For the Government Participants and other Agency Participants in the negotiations on the Great Lakes Charter Annex from October 22, 2004 to December 2005**

**Questions to gauge how the Ontario Ministry of Natural Resources (MNR) Great Lakes Charter Advisory Panel Process contributed to the Province's Input at the International Negotiating table**

How did Ontario's position in international negotiations change after the establishment of the Ministry of Natural Resources Great Lakes Charter Annex Advisory Committee in the Fall of 2004?

**The government of Ontario was able to get instant feedback from stakeholders (industry, municipal, NGO) concerning issues under negotiation. Ontario's position at the negotiation table was strengthened as Ontario negotiators were able to bring this knowledge and input to the meetings of the Parties.**

What advantages did the Water Panel give the government? Please give examples wherever possible.

1. In negotiations **Ontario's position at the negotiation table was strengthened as Ontario negotiators were able to bring this knowledge and input to the meetings of the Parties**
2. Within Ontario **The government was able to receive comments from a large group of stakeholders, some with competing interests. Therefore, the government was able to assess many of the implications of the negotiations.**
3. In promoting specific issues **The negotiating team was able to consult on specific issues with the water panel prior to attending negotiating meetings. The comments and advice from stakeholders in Ontario could be shared with other negotiating parties so they were able to understand Ontario's concerns or comments.**
4. In the Media **Stakeholders were able to support the negotiation of the Agreement and provide well reasoned comments to the media as they were**
5. In drafting regulations and regulation **Meetings with stakeholders helped identify issues of concern during the EBR comment period. These comments should strengthen the final proposed bill.**

Did the Water Panel create specific problems for you in any of the above areas? Please explain?

**Some members of the Water Panel have recently joined together to express their dissatisfaction with the proposed intra basin provisions in the EBR posting. These members have brought the concerns outside of the Water Panel process which does not allow for the entire panel to comment on their potential concerns. Therefore, the benefit of the water panel has been lost as the government is not hearing from various stakeholders that may have competing interests, but are instead just hearing from a small group.**

Would you recommend that the government look to this Panel as a model to reform public consultation?

**I would recommend the Water Panel as a precedent for complex policy issues which would benefit from many meetings with stakeholders representing all interests.**

Are there particular recommendations you would highlight from this process?

**Future panels need to have varied memberships, and municipalities and AMO should be encouraged to be more involved with the process**

Are there recommendations you would make to improve a reformed consultation process?

**If this model is adopted, I would recommend that issues raised by smaller groups should be referred back to the larger group of stakeholders to keep the integrity of the consultation process**

Please add other comments, advice observations and feedback you might have.

Please indicate if you would like your name to be used in our report no

Or if you would prefer to remain anonymous yes

## Sam Speck – Interview

- ✓ Canada and US do our consultation in different ways; after the release of the first draft agreement Ontario reaction was very different from the US;
- ✓ Water panel helped Ontario be in better touch with people, have people understand better;
- ✓ How did it change negotiations? “it was clear that there were some serious concerns in Canada”; in the environmental community there were folks that were nationalist and concerns about what Canadians had to address in terms with First Nations;
- ✓ There was a substantial public meeting in Toronto where Americans were a little surprised that all these concerns had blown up at that point; he was surprised that that had not been more discussion
- ✓ As a result, process helped a lot; it helped bring about discussions that brought out the logic of concerns; created situation that showed some people were adamantly opposed;
- ✓ Americans appreciated that there were concerns Canadian negotiators had to address vis a vis the US; on one hand, it re-opened diversions discussions; on the other hand, issues of concern were raised again in US e.g. straddling counties also got taken up;
- ✓ If diversions was critical to Canada and also for the states, the issue of straddling communities also came to be appreciated more;
- ✓ The next stage of negotiations allowed us to address that were of concern in both US and Canada;
- ✓ In Ohio, we were a little different in consultations; we had quite a number of public hearings and went before the Legislature twice; if there was a feeling that we had to be talking behind closed doors, we didn't take it that we had to limit consultations; after first draft agreement, we had a number of public hearings;
- ✓ The issue that bothered Canadians compared to Americans was the Chicago Diversion; Canadians would look at the amount of diversion and say wow, why isn't this part of the discussion, but there was no way to re-open the Supreme Court decision; there is a difference in our systems;
- ✓ Re advisory process, “it was a pretty neat way they went about it”;
- ✓ After the 30 day review, there were still ongoing discussions in the US; as it turned out there were issues that continued to trouble the business community;
- ✓ Problems that came out early on, from the Canadian papers, I saw that there was considerable opposition;
- ✓ During negotiations, it was a 2 way street – MNR took ideas from Panel back to negotiators, took ideas from negotiations back to Panel;
- ✓ From start idea of Compact was getting support in the US so he was surprised at the opposition in Ontario'
- ✓ Early on it appeared that the Canadian press wasn't very balanced on the Compact and the Agreement; as time went on and changes were made, there was a better understanding;
- ✓ Re Advisory Panel, he was reluctant to say too much because “from the outside looking in, there are a lot of blind spots”;

- ✓ The second draft agreement was a function of changes made, education and time;
- ✓ He was impressed by the quality of the delegation from Canada, Kevin Wilson and David Delaunay before him;
- ✓ Four states don't have First Nations; therefore, this created a difference in understanding;
- ✓ Industry have big fears; they played a big role in negotiations and are clearly trying to get more in Ohio.

## **Interview Paula Thompson**

Paula was very thoughtful and added components others had not:

1. More in depth feedback on how the process affected Ontario's effectiveness.
2. Early history that set the stage for the negotiations ( Aside I was building a foundation in my history to make points later on how the Panel helped addressed some of the historic deficits, inequities and conflicts in the GL and Paula's interview has reinforced this).
3. How the Panel helped Ontario make their input more specific.
4. Resourcing future endeavours from a government perspective.
5. Recommendations for when and when not to use this process in the future

She is getting back to me with specific answers on several things.

### **On how Ontario's position changed Paula offered this history for contrast pre Panel and Post panel.**

After the IJC report in 2000 there were preparatory meeting between the jurisdictions to frame the endeavour they would collectively be undertaking. They was a lot of discussion of controversial issues such as legal interpretations of Trade Agreements, the ability of the U.S. States to ban diversions, and having an improvement standard in the new scheme.

### **To make the point that Ontario and Quebec were out numbered and ignored early in the process and in negotiations leading up to the first Draft.**

Ontario pressed hard for the ban on diversion from the beginning of these discussions but the States argued it ran counter to their inter-state commerce laws. Ontario also argued against the Improvement Standard. Without the support of Ontario and Quebec in December 2000, the States released a version of the Annex for review. This version had a de minimus clause that withdrawals of 1 million gallons or less would be automatically approved under the US Water Resources Development Act.

The Ontario Minister of Natural Resources Snobolen at the time issued a cautious release stating they had some concerns with this framework as it did not consider "no net loss" recommended by the IJC Report or cumulative use of Great Lakes Water. The Province did not post this Draft on the EBR as they did not want it to be considered to have their support yet. They asked responses to go directly to the CGLG. Environmental groups voiced similar concerns. Ontario held meetings with individual sectors to alert them to these concerns (Info on # of meetings).

Again when Annex 2001 process was announced in Niagara Falls in \_\_\_\_\_ the Provinces were surprised at the short time line for the process to have a new Agreement in place in three years.

The negotiators instructions going into the negotiations were to stick to current policy and legal framework in Ontario. Ontario did have one of the best current management regimes in the Basin. However this did leave the negotiators "kinda in the dark" on issues not yet addressed in policy.

The Panel discussed many issues outside of current policy framework and actually changed and advanced the province's negotiating mandate. It became more proactive and visionary. This meant the negotiators were able to advance and participate in discussions of more issues with more credibility and strength. The politicians were also able to address the issues more in depth reflecting the quality and level of discourse of the Panel.

Issues such as the Chicago Diversion that were discussed early before the first draft and were not substantively revised later did not yield strong results for the Provinces. Had the Panel been in place, Ontario might well have been able to have had a more successful strong outcome on this historic contentious concern.

As Ontario was getting so few concessions in the first round of negotiations they often considered leaving the negotiations. They indeed were outnumbered 8 to 2. Much of their issues were overlooked and they found themselves being reactive to alternatives. Once the panel was in place this changed and they were able to be proactive.

On other key issues the Panel caused the States to reconsider their previous assumptions. The issue most important to the Ontario and Canadian public, the banning of diversions on the US side was revisited when then Minister Ramsay stated that Ontario could not return to negotiations unless this option was reconsidered. The States commissioned further legal opinions and found that their inter-state commerce laws did not present a barrier to such bans.

MNR Staff were also able to speak to public reaction in Ontario with authority in workshops and forums in the US and Canada. DD attended academic forums in Universities the University of Toledo Law School and the Munk Centre for International Studies Program on Water as well as a key meeting between Canadian and US ENGOs held at The Wingspread Foundation to assist these groups with discussing their differing perspectives on the draft.

One issue of contention to Canadian nationalist groups and others was their initial concern that the federal government should be involved in these negotiations from the on set. These were some of the biggest and most vocal

groups concerned about the first draft. They had built campaigns on water and trade in North America and mass movements opposing water privatization. They were able to orchestrate mass mailings directly to the CGLG and the Federal government after the first release of the Agreement. This led to the Standing Committee on Environment and Sustainable development holding hearings from October 28, 2004 to November 25, 2004. DFAIT took an active role by having their consulate generals attend CGLG negotiators/ Advisory Panel meetings. The IJC also attended these meetings as observers and made submissions. MNR Staff held regular briefing sessions for the federal government.

In the US, the attitude was completely different and the public was concerned that the federal government not be involved until all eight states had ratified the compact as there was fear of their fettering State's sovereignty over water management.

Efforts within and outside the panel made by MNR ADMs and staff meant that these nationalist concerns quieted and there was wider public acceptance of the second draft because the public could see the improved draft addressed many of their concerns. Because the panel could be honest and candid with members they were able to understand that some of the issues were non-negotiable even though Ontario had gone back time and again in efforts to change them. The Panel members were more able to weigh the gains against the losses and endorse passage and encourage others to as well.

Ontario negotiators advocated strongly that there be a second public consultation before the deadline to have negotiations completed by September 2005 (before the US Federal election year began in November 2007). They could not get agreement on a 90 day comment period so the second draft was released without full jurisdictional consensus in \_\_\_\_\_2005 with a 60 day comment period.

Ontario went out early to hold meetings on this draft but was met with criticism there was not adequate notice for these meetings. Consequently, they held additional meeting and went back again to St. Catherines and to Windsor. (On all of these consultation pieces Paula will get back to me with meeting dates and numbers of responses.)

There is the crucial period between September 2005 and the signing in December 2005. The "public consultation" was officially over. However as there was not consensus among all of the jurisdictions the negotiations were still fluid. And new suggestions were still being floated and controversial issues were still being discussed and misconceptions and interpretations required clarification. While concerned groups were still lobbying politicians for their support in the US States, in contrast the Ontario public through the Panel were still feeding into the



finessing of the final Agreement terms and word smithing language. Throughout this incredibly sensitive phase they were abiding with the confidentiality agreement they were asked to honour. Paula will get back to me on the number of formal invitations went out to the panel in this period to meet or be on emergency calls.. (This is not to go in the report but there was a smaller group of panellists who were consulted almost daily She and I agree this was something that should not be repeated as it was not formalised with the approval of the whole group democratically).

### **Other observations**

Involving panel earlier would have been better.

Unlike other consultations where sectors are often dealt with exclusively and separately, the Panel brought these sectors together. They also continued to meet with some sectors outside the Panel when groups requested or needed better understanding of many of the complex issues. During the implementation phase they are doing both as the Agreement will impact many municipalities.

Was disappointed when First Nations did not see themselves as stakeholders and asked for a parallel process because their participation could have enriched the Panel ( Paula clarified that they started to meet actively with FN in 2003).

Should this process be used elsewhere there will need to be adequate resources provided for simultaneous coordination of the policy work, coordination the stakeholder workgroup, coordination of all the entities such as FN which was a whole parallel process in this case. There also needs to recognition that resources will be needed for the implementation phase. It is important to understand that when the Panel has invested this much in this process they will want to continue to be involved in implementation. MNR may have lost time and momentum when resources were limited after the signing.

### **When to use and not to use this process (we need to incorporate this into our recommendations)**

#### **Best suited**

- When a lot is at stake,
- For complex issues with many facets,
- When many sectors are impacted,
- When it will be a long haul'
- When it is a multi-jurisdictional issue
- When "new knowledge and science will need to inform the policy in an on-going way and
- Must be prepared to be flexible.

## **Interview Kevin Wilson, Assistant Deputy Minister Policy Ministry of Natural Resources.**

### **How will this report be used?**

The Report will not just be shelved. He will be sharing it as a useful model with Ministries across the country as well as Ontario. He has people from other Ministries asking him how he did this and achieved the results, consensus and the working relationship with stakeholders. They want to learn from this experience. After a year and a half with the Advisory Panel, he still believes this model is useful and applicable elsewhere.

### **Significant elements for government**

- The process helped us establish a solid negotiating mandate
- The negotiating process was fluid and dynamic enough that Ontario could press hard for what they wanted.
- The lesson he learned was it pays to be open and transparent about the challenges that they were facing
- While this would make some governments anxious taking people into their confidence about these challenges and including them in discussions of how to meet those challenges **was a "risk worth taking"**
- The consequence of being more inclusive was a better product, a better public policy outcome
- A better understanding of everyone's interests government and stakeholder's different perspectives
- This aided everyone to balance those interests and build consensus for the common goal
- Transparency was important to building trust and being honest about what Ontario was after and how they wanted to get there. This helped them to bridge government and stakeholders' interests.

**The Environmental scan** revealed that threats would build overtime. This allowed diverse interest groups to understand the impacts on them all. Ontario also shared the scan with the other negotiators. This helped the US States to understand the long term risks of proportional representation increasing in Congress for the U.S. southwest as their water supplies diminished. This made negotiators realise that the sooner they acted the more chance they would have of avoiding a future crisis. It helped them come on-board. (At the end of the day they all thought the threat was greater than Ontario did).

**The other significant risk** that the government took in this consultation was disclosures of things other government consultations would never reveal to stakeholders. They gave them **the complete picture**. They asked for confidentiality in exchange for giving the stakeholders the opportunity to work with government negotiators on the way forward. The risk for the government

was that if stakeholders violated the confidence they might lose political support. The stakeholder's own commitment was to be part of the solutions and reinforced the governments trust in them.

A more truncated engagement would lead to limited consensus.

The Panel built a better platform for additional work and challenges of implementation.

The Panel was a good start but it is not the end. The Agreement was not perfect even though it is far better than the status quo. Ontario could only move the States so far. There will be more opportunities for on-going engagement of the water panel in shaping the international agenda as well as implementation in Ontario. On issues like cumulative impacts it will take time to push for improvements. The Water Panel will be able to assist with this and other implementation challenges such as water conservation programs. Ontario wants to develop more measurable prescriptive results and this will take long-term government and stakeholder integration with the process. Development of the Agreement science strategy will be important to achieve this.

It is likely events will dictate that there needs to be more specificity in the Agreements climate change impacts will make this irrefutable. The Great Lakes Region will need to put the best stewardship practices in place to be able to refuse others access to our waters. We cannot continue to be seen as profligate wasters of water.

Continued engagement with the Water Panel will be essential to improving the outcome. As well they will be able to assist the government with the integration of this Agreement with other related initiatives ( source protection).

### **Resources**

The government did find additional resources to invest in making the Water Panel work. Those investments were worth the time and additional effort. Anyone adopting this approach should find resources to assist stakeholders with participation.

As some groups could only participate intermittently. The government could keep them up to date electronically on developments when needed. Groups also made efforts to inform others in their sectors.

### **First Nations Engagement**

There is a lot they can bring with their experience and traditional knowledge.

The move by Tribes and First Nations to re-establish a transboundary organization to discuss common Great Lakes issues was a positive outcome.

There was discussion supported by Ontario to establish a place on the Regional Body for one Tribal and one First Nation Representative. The Tribes refused to go this far.

### **Bringing in Municipal voices**

Although AMO was refused as a member of the CGLG advisory Panel, Ontario is committed to bringing municipalities into the process. This has been achieved in the Water Panel where Ontario could give them a window on the agreement. The Great Lakes Mayor's initiative helped with leveraging a better result on the US side. They issued two press releases during the process in the Fall 2005 and earlier. David Ulrich of the Great Lakes Cities Initiatives was a very credible voice as a participant in the CGLG Advisory Panel representing municipal interests and informing the Mayors.

Media coverage opened the eyes of many municipalities and helped push the States toward implementation.

### **Applying this process elsewhere**

Kevin can see two places where this process could be replicated for complex policy initiatives and legislation that need stakeholder consensus.

COA and the GLWQA fit very well. It is a complex multi-faceted issue and fits well within many of the existing water Panel member's interests.

The new Endangered Species Act will require this sort of consensus and understanding and among many diverse stakeholders.

This process has helped bridge the environment verses the economy conundrum. By putting all of the issues on the table and building understanding that there are no winners or losers.

**When stakeholders are never out of the picture there will be a much improved outcome.**

Kevin Wilson  
416) 314-1057

years to with Advisory Panel.  
useful outcome with the model.

showing results with other  
ministries, across the country  
significant elements.

process helped us establish  
a new mandate  
a very effective

trust & dynamic reg. process.  
Allowed them to press hard  
the lesson they wanted.

green & forthcoming about  
changes on issues of a very  
ambitious

"Ask with today" taking  
people in to their confidence  
about their challenges & how  
they are going to meet them  
make initiative

at better place for outcome  
of better understanding of  
interest

a gathering of ministers  
a point of convergence (meeting)

Risk if they do not  
centralizing their  
vision of the

that the stakeholders own  
the game threat to be part of  
the solutions

more limited agreement  
limited consensus.

build a better path  
about old hand & future  
changes

a good start is not the end  
could only move the states  
to move so far

commisive impacts  
over time will degrade push  
for improvements

is not perfect  
better than status quo  
needs to be shared  
opportunities for  
improvement -  
future...

need to continue to make  
investments in work  
integration  
science on the lakes

did not wait out as they had far  
were not waiting to go that far

usage rate of municipalities  
as another gov. panel

show them a correlation on  
the agreement.

The mayors initiative helped  
with participating in state  
result on the U.S. state.  
mayors made 28 statements  
mayors fall 2005

5 earlier

moder coverage to municipal  
improvement towards agreement  
pushed states

shocking countries loss of any threat  
original threat proposals.  
will be few approvals.  
David Wenzel a very evocative  
voice.

In Ontario this appears well  
to continue with.

Gov. it's very well complex  
overlaps with the bank groups  
interest

New environmental services are  
worse than type of work. adapt a  
process to make it work. understanding  
a clear understanding

Karen Wymaneekei  
905) 428-6113

9:45  
John Jackson  
519) 744-7503

has worked for MNR <sup>1987</sup> for 12 years  
Ministry of Environment

policy advisory to Deputy in  
Lands & Water

environmental mediation @ Harvard  
downsizing mid 1990's  
consulted with them  
on water

looking for help  
with coordinating

credit to Kevin Wilson

- emphasis on information  
exchange

- confidentiality - based on trust

- upfront transparency

paradigm shift

linear app moving away from  
stakeholder

more from a systems perspective

- one of critical pieces (Kevin W)  
merge views water

commissioned  
environmental scan looking  
at the long-term

trend lines - U.S. short medium

Karen developed the scan



clear needs critical  
what opinion concerns were raised  
what action etc.

there would have been better  
clarity of a model.  
Must listen up speak for  
themselves not for others.

not involved in the first nation  
dialogue - they were more  
government to government.

not only but government develop  
strong understanding

cannot be an government solution  
everyone stakeholder to craft the  
opportunities.  
allocate more ability to attend  
meetings for state spend the  
agreements that reflect the  
interests of state holder opinion

the below through is important  
bottom ground rules  
communicate openly & honestly  
never playing the role  
- level

Forward motion in project,  
Steven Dennis

a committee based on  
a committee based on

committees of people  
with class. Organize

co-ordinator in

state - town

police -  
The State holds strategy

man's change

Simon Fraser University  
and Spence

a whole system

Wednesday - Friday

known -  
@symptoms

movement from the  
movement to movement

known -  
(905) 428-6113

Love, Sergio

or our Resource Library web site ~ [www.ecolawinfo.org](http://www.ecolawinfo.org)

**From:** karen wianecki [mailto:karen.wianecki@sympatico.ca]  
**Sent:** January 24, 2007 5:44 PM  
**To:** Sarah Miller  
**Subject:** Stakeholder Engagement & the Great Lakes Charter Annex

Hi Sarah:

What a lovely surprise to hear your voice this afternoon - it is always refreshing to have a conversation with like-minded professionals. I am delighted that you would think to include me in the Report-Back on the GLCA Advisory Panel. Like you, I believe the approach was innovative and exciting and produced fabulous results.

In keeping with my commitment to you, I wanted to provide you with some references and resources that speak about the theory behind stakeholder engagement and the building of social capital. I believe the approach that was taken with respect to the Charter Annex was one that applied systems theory to stakeholder relations and in the end, demonstrated the value-added in defining a co-creative network.

As a consultant, I have noticed a real move away from stakeholder management (consultation) and the move toward stakeholder engagement (collaboration). There are many excellent references - academic and otherwise - that point to a paradigm shift in thinking across corporate America.

I have taken several courses with Ann Svendsen, Executive Director of the Centre for Sustainable Community Development (formerly Centre for Innovation in Management) at Simon Fraser University (SFU). Ann specializes in systems thinking and her courses are thought-provoking and in my view, leading edge. Ann offers a number of courses through SFU that address systems thinking and collaborative dialogue - she is offering, for the first time, a Teleforum that I have found extremely informative and useful. The SFU website provides additional information on the course offerings available.

I made reference to Ann's book, which I find a fabulous read and one I happen to keep on my night-stand. Sarah, I read and re-read it regularly as it helps keep me focused. The reference is included below, along with several others that I have found particularly interesting:

- Ann Svendsen. The Stakeholder Strategy. Profiting from Collaborative Business Relationships. Berrett-Koehler Publishers, Inc. San Francisco. 1998. (Call Ann directly at 604-437-6112 or reach her by email at [asvendsen@sfu.ca](mailto:asvendsen@sfu.ca))
- Margaret Wheatley and Myron Kellner-Rogers. A Simpler Way. Berrett-Koehler Publishers, 1996. (Order through [www.bkpub.com](http://www.bkpub.com) and/or [www.amazon.ca](http://www.amazon.ca))

One excellent reference is the following text that I found offers a profound way of looking at organizations, particularly organizations in conflict:

- Peter Senge, Joseph Jaworski, C. Otto Scharmer & Flowers. Presence: Human Purpose and the Field of the Future. Society for Organizational Learning. 2004.

You can order a copy from the web: [publisher@solonline.org](mailto:publisher@solonline.org). They also have an excellent website with additional references that you may find of interest.

There are also excellent references from Dr. Steven Waddell who runs an organization entitled "The Collaboration Works" out of Boston. Steve has done a lot of work in developing countries using stakeholder mapping. If you and others are interested, I would be happy to provide hard copies of Steve's work - just send me along your coordinate information and I will forward to you (unfortunately they are only available in hard copy and not electronically) but the concept of stakeholder mapping is an interesting one.

On the issue of stakeholder engagement, there are many websites that may prove of interest to you include the Community Based Collaboratives Research Consortium - another one we spoke of today. This is a web-based information site devoted to community based collaboratives (grass roots organizations that have developed over one issue or another and become empowered )- established by Dr. Daniels & Gregg Walker out of Oregon State University - an excellent resource for those interested in 'on-the-ground' stakeholder

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engagement.)[www.cbcr.org](http://www.cbcr.org).

We have, for many years, focused on environmental sustainability and perhaps more recently, talked about economic sustainability - the piece in the puzzle that has been missing is the social sustainability component - the building of social capital. That foundation emerges through stakeholder engagement - the type of process instituted through the GLCA effort.

Sarah, if I can assist you further, please keep my number handy. There are many references dealing with stakeholder engagement and I am only too happy to share these with you and others.

I would also like to thank you for your email. I will spend this evening reviewing the questions to familiarize myself with the content, focus and orientation and I will wait to hear back from you regarding a suitable time next week.

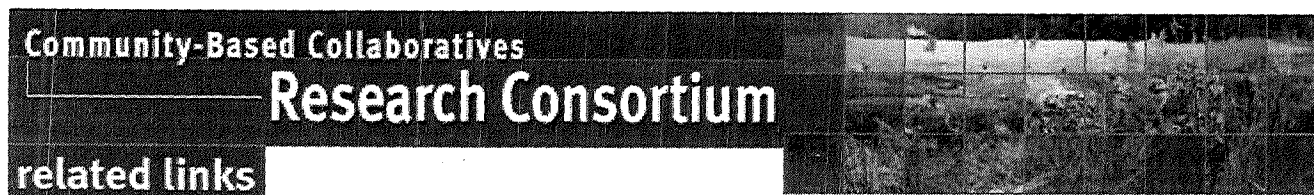
Thank you again for taking the time to reach me. It was wonderful to be able to reconnect with you.

Kind Regards,

Karen Wianecki, M.Pl., MCIP, RPP  
Director of Practice  
Planning Solutions  
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**Community-Based Collaboratives  
Research Consortium**

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#### Government Websites ▾

[EPA](#) - Community-Based Environmental Protection - EPA's Community-Based Environmental Protection (CBEP) program offers a place-specific, collaborative approach for achieving EPA's stated goals of protecting human health and safeguarding the natural environment.

[Enlibra](#) - The Western Governor's Association Enlibra Principles

[FACA](#) - The Federal Advisory Committee Act.

[U.S. Institute for Environmental Conflict Resolution](#) - Assists parties in resolving environmental conflicts around the country that involve federal agencies or interests.

[USDA Forest Service, Cooperative Forestry](#) - The Cooperative Forestry program provides technical and financial assistance to help rural and urban citizens, including private landowners, care for forests and sustain the communities where they live, work, and play.

#### University Websites ▾

[The Institute for Environmental Negotiation](#) - Makes mediation and consensus building services available to governments, citizen organizations and businesses dealing with conflicts and complex policy choices related to land use and the natural and built environments.

[The Institute for Environment and Natural Resources](#) - Its mission is to advance effective decision-making on environmental and natural resource issues by promoting and assisting collaborative informed approaches that sustain both the economy and the environment.

#### Non-Profit Organizations and Networks ▾

[CRInfo](#) --The Conflict Resolution Information Source - The Conflict Resolution Information Source (CRInfo) provides five extensive databases of information related to conflict resolution. Funded by the William and Flora Hewlett Foundation, CRInfo's searchable databases focus on web-based resources, print-based literature, organizations, programs, events, and scholar/practitioner listings.

[Loka Institute](#) - The Loka Institute is a non-profit research and advocacy organization concerned with the social, political, and environmental repercussions of research, science and technology.

Community Stewardship Exchange - Administered by the Sonoran Institute, this site "includes information, contacts, and examples of community-based strategies that preserve the ecological integrity of important natural systems while meeting the economic aspirations of adjoining communities."

Sustainable Communities Network - Provides information on a wide array of community-building and sustainability issues as well as substantial networking resources.

National Civic League - Provides a variety of community building resources.

Policy Consensus Initiative - Policy Consensus Institute (PCI) is a national nonprofit program working with leaders at the state level-governors, legislators, attorneys general, and others-to establish and strengthen the use of collaborative practices in states to bring about more effective governance. To fulfill its mission, PCI provides information, consultation, technical assistance, educational and training programs, and sponsors meetings, networks, and joint projects.

#### Mediation/Facilitation Groups ▼

Association for Conflict Resolution - ACR represents and serves a diverse national and international audience that includes more than 7000 mediators, arbitrators, facilitators, educators, and others involved in the field of conflict resolution and collaborative decision-making.

mediate.com - Contains over 700 articles and discussions concerning mediation and conflict resolution, and over 5000 mediators searchable through both a practitioner directory and a referral program.

#### Funding Sources ▼

<http://www.loka.org/crn/funding.htm> - Examples of U.S. Federal Programs that Fund Community-Based Research from the Loka Institute.

<http://www.sonoran.org/bank/private.html> - Sources of funding for Community Stewardship projects listed in the Sonoran Institute's Community Exchange website.

<http://www.epa.gov/ecocommunity/resources.htm> - Funding sources listed in the EPA-CBEP program website.

The Hewlett Foundation - Supports activities in a number of areas including conflict resolution and the environment.

Conservation Fund - The Conservation Fund forges partnerships to protect America's legacy of land and water resources. Through land acquisition, community initiatives, and leadership training, the Fund and its partners demonstrate sustainable conservation solutions emphasizing the integration of economic and environmental goals.

#### Links to Links ▼

Western Governors Association - Listservs/Web Sites

Policy Consensus Initiative - General Resources for State DR Programs

Karen Wyanecki, Facilitator of Annex consultation  
Interview January 31<sup>st</sup>, 2007

- ✓ Paradigm shift moving away from linear stakeholder process to a systems perspective; from stakeholder management (consultation) to stakeholder engagement (collaboration)
- ✓ Annex applied systems theory to stakeholder relations and demonstrated the value-added in defining a co-creative network (from email);
- ✓ For Karen, this consultation was an example of best practice – the benefits are huge and the value well-recognized;
- ✓ Environmental scan – long and short term view of water; illuminating for government as they seldom get to take long view; also got stakeholders in the same boat
- ✓ Innovative and co-creative process
- ✓ High profile of issues demanded attention of high profile people; huge limitations with linear approach;
- ✓ Huge outcry after first draft allowed bureaucrats to take leap to be more democratic;
- Key ingredients for a successful outcome:
  - internal champion leadership within government;
  - each stakeholder has to understand their stake;
  - atmosphere of respect;
  - follow through is important;
  - follow ground rules;
  - communicate openly & honestly (real difference is promoting shared decision-making, no hidden agenda, bureaucrats played their cards openly and participants saw them as transparent e.g. “what position do you want us to take” and they would take it; bureaucrats listened)
  - level playing field;
  - real commitment by senior staff; having right people in the right place;
  - sincerity promoted an atmosphere of commitment in combination with other factors
  - neutral facilitation very important (not aligned with any perspective, not attempting to steer it in any direction)
- ✓ Cannot be a preconceived solution; must allow stakeholders to craft the ground rules;
- ✓ Logistically very important to have clear records, to understand what everyone’s agreed to and what’s actionable; creates a record of common concerns raised and the followup;
- ✓ What stimulated a different approach in this case? Government recognized that it didn’t have all the answers;
- ✓ Look at history of public involvement and different models to understand how they emerged
- ✓ Evolution of public consultation:
  - 1970s – linear process in which the role of the public was limited; the government had the answers and informed the public;



Then moved to more defensive listening as public made appeals, requested bump-ups, made presentations in public meetings or questioned officials;

1980s – conflicts were increasing and models of mediation appeared with neutral third parties; governments moved away from linear process and introduced dispute resolution and mediation;

- 1990s, 2000s Gregg Walker at Oregon State University advocated systems approach; government realized the importance of co-operation, commitment and strong leadership; public is more informed and government can capitalize on this intelligence; in government's interest to bring the public in at the outset; unless you bring them in, you miss out
- ✓ Annex Agreements were high profile and involved a number of jurisdictions – the process had to be done right the first time and had to have the support of stakeholders; government recognized that ideas needed to be “ground truthed”
- ✓ Still lots of examples of linear consultation in Ontario; progress is gradual; move towards more engagement; we're in a period of transition where old values still prevail;
- ✓ A successful process will create a snowball effect; real inherent value in doing things differently;
- ✓ Regardless of what scale it's on, it's effective; can be applied to local models;

**Great Lakes Charter Annex  
Advisory Panel**

**Issues, Trends, Possible  
Futures: Why We Need to Work  
Together**

**Inaugural Meeting**

**December 15, 2004**

**Travelodge Toronto Airport**

# Great Lakes Charter Annex

## Key Drivers

- Demographic Trends & Issues
- Geo-Political Trends & Issues
- Development Economic Trends & Issues
- Socio-Cultural Trends & Issues
- Environmental Trends & Issues
- Legal Issues

# Quotable & Notable Quotes

- “Water Quality has remained Canadian’s top environmental concern since early 2001.”  
(Environmental Monitor, 2003)
- “The biggest threat to fresh water supply is exports of bulk water.” (Environmental Monitor, 2003)
- Water “promises to be to the 21<sup>st</sup> Century what oil was to the 20<sup>th</sup>.” (Fortune Magazine)
- “By 2025, as much as 2/3 of the world’s population will be living with water shortages or absolute water scarcity.” (Maude Barlow)

# Kudos

- Material from this Presentation derives from many sources:
  - Public Opinion Polls
  - US Census Bureau
  - IJC Reports
  - Academic Research

# Demographics - Global

- World population is growing by 80-85 million people per year
  - More births than deaths
  - Advancements in health science; longer life span
  - Population momentum = people of child-bearing age (50% of world's population is under age 25)

# Demographics – North America

- U.S. growing faster than Canada
- In the U.S. - Southwestern States are seeing rapid growth
  - 10 Fastest Growing States accounted for 57% of national growth between 2002-2003

Nevada (3.4%)	Texas (1.8%)
Arizona (2.6%)	Idaho (1.7%)
Florida (2.0%)	Georgia (1.6%)
Delaware (1.4%)	Utah (1.4%)
California (1.4%)	Hawaii (1.4%)

# Demographics – North America

- U.S. Midwest and Northeast experienced net domestic migration loss (offset to some degree by immigration)
  - US 2000 Census – in 1990s in-migration occurred between adjacent states
  - Except in New England and Great Lake States where large proportion of population relocated to warmer, drier climates in the south and west

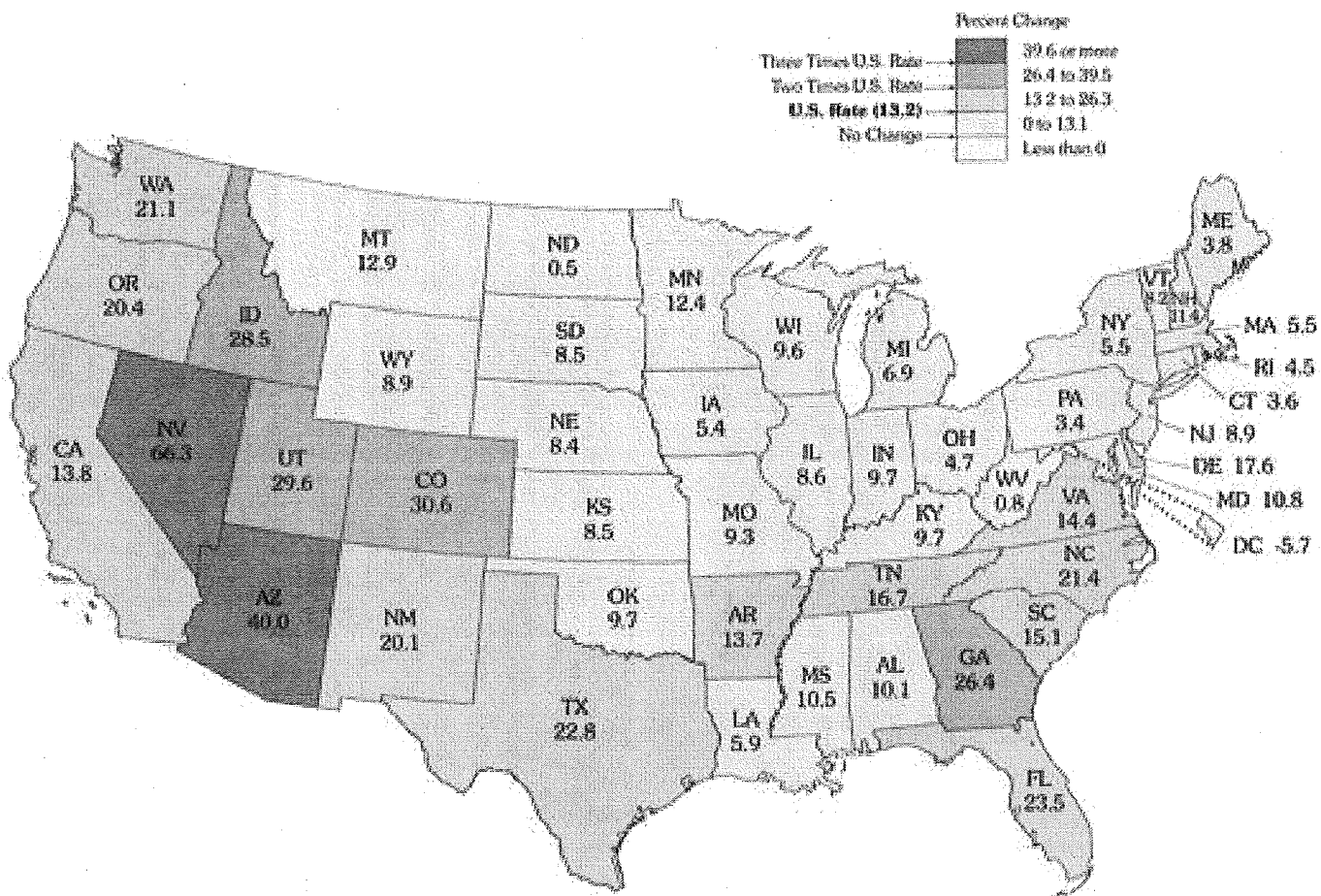


# Demographics – Canada & Ontario

- Canada when compared with world population comprises a 1:200 ratio – but we have 7-13% of the world's fresh water supply
- Movement within Canada from the “rust belt” States (Great Lakes) to the “rest belt” – Rockies & Great Plains
- Some movement from Eastern Provinces to Alberta
  - Growth rate in Calgary = 5%/annum

# Demographic Changes: Population Has Grown Fastest in the West, Particularly in the "Public Land States"

Percent Change in Resident Population for the 48 States and the District of Columbia: 1990 to 2000



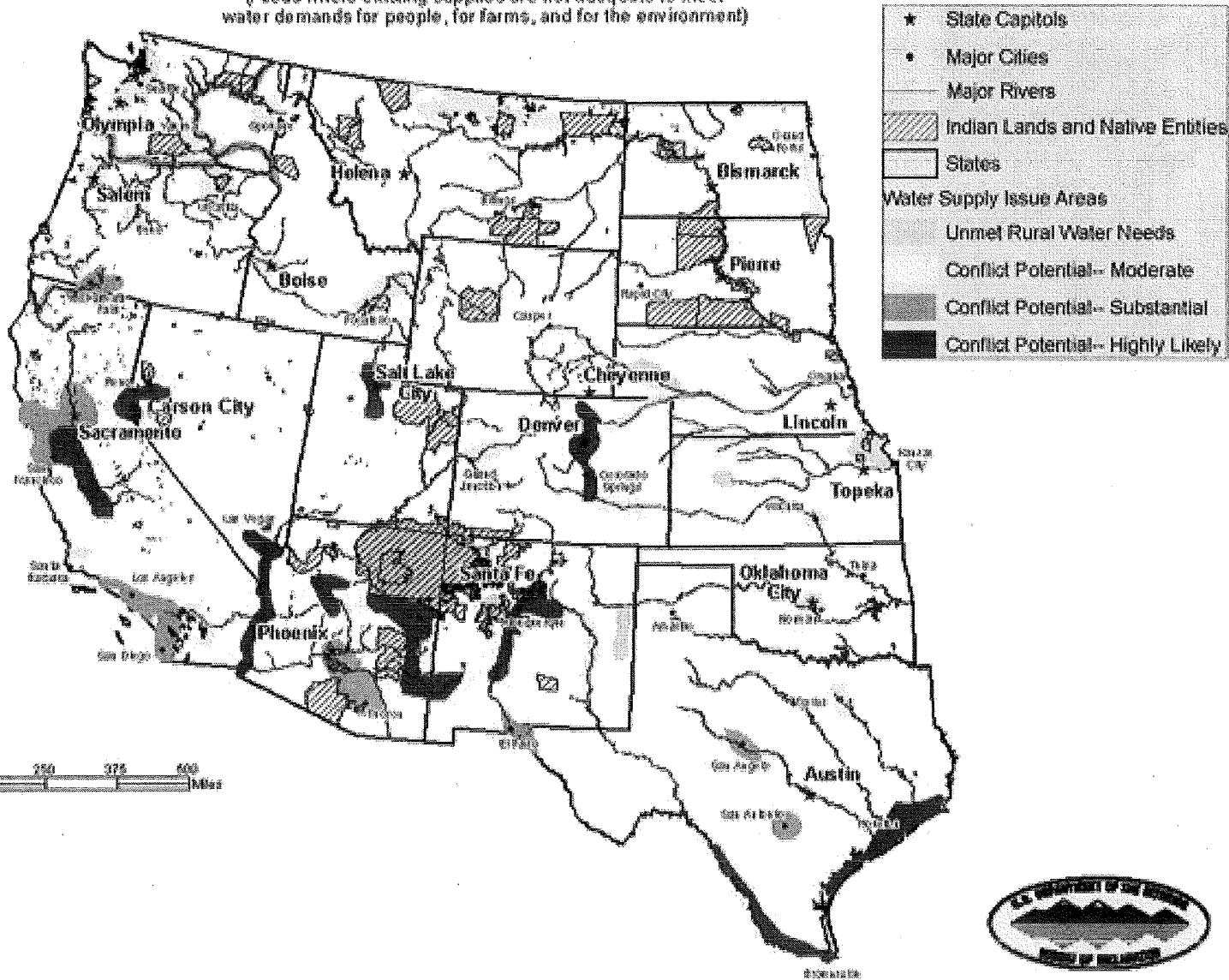
- Darker areas denote faster growth rates.
- Nevada (66%) and Arizona (40%) lead the nation.
- Intermountain states average about 30%.

# Development/Economics

- **Population shifts to the south and west U.S.** impact incredibly on development activity, municipal infrastructure & water usage
- **Golf course development in Arizona** is particularly concerning from a water use perspective – here evaporation rates are highest
- **Water 2025** (US Dept. of the Interior) predicts a water crisis in several area of the US southwest by 2025 – Arizona in particular

# Potential Water Supply Crises by 2025

(Areas where existing supplies are not adequate to meet water demands for people, for farms, and for the environment)



# Environmental Trends & Issues

## - Water -

- Water shortages anticipated in nearly half the world by 2025
- More than 80 countries now face water shortages
- Over 1 billion people still lack access to safe water
- Canada ranks 28<sup>th</sup> out of 29 OECD nations in terms of per capita water use
- Only the U.S. uses more water than Canada
- Since 1980, overall water use in Canada has increased more than 25%. This is 5 times higher than the overall OECD increase of 4.5%. In contrast, 9 OECD nations decreased their overall water use since 1980.

# Environmental Issues

## - Climate Warming -

- Still much debate about climate change
- Reinsurance Sector & Others are monitoring climate warming for:
  - Atmospheric instability (e.g. occurrence of severe weather events)
  - Changing patterns of precipitation

**Implications for groundwater recharge and availability.**

# Water Consumption

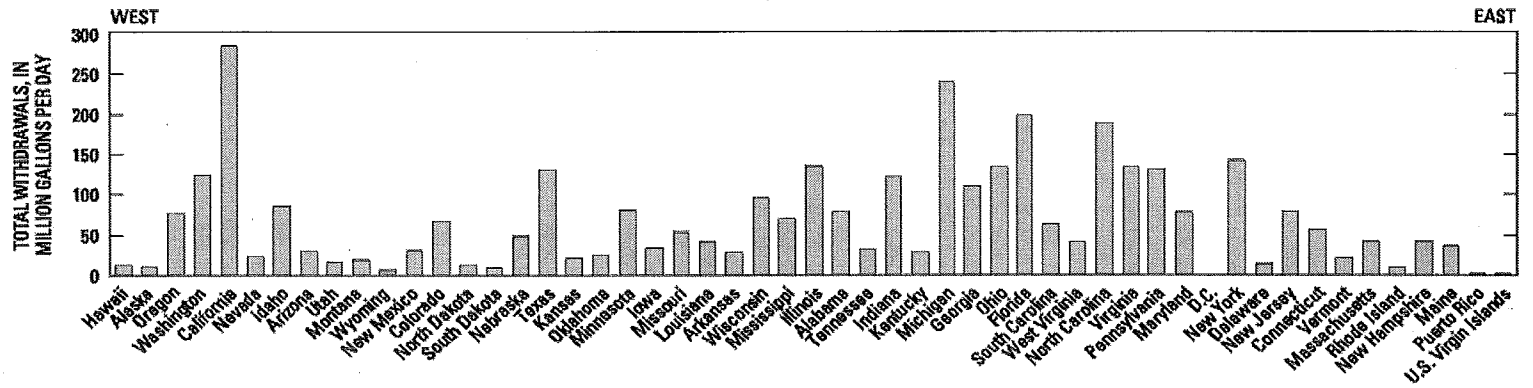
- Total Water withdrawals in the U.S. has varied less than 3% since 1985 as withdrawals for thermoelectric power & irrigation have stabilized
- California, Texas and Florida accounted for  $\frac{1}{4}$  of all water withdrawals in 2000
- Irrigation was largest use of freshwater in the U.S. in 2000

# Basin Water Use

- General agreement that water use will increase in future, but no agreement as to how much
- US Forest Service estimate that US Basin withdrawals could rise 2% from 1995-2040
- D. Tate estimates consumption will rise by 27% between 1995-2020; by 19% in the Canadian portion and by 25% Basin-wide



### Total withdrawals



# Geo-Political Trends & Issues

- Centre of political gravity is shifting
- Population shifts in the U.S. have altered the composition of the House of Representatives
  - 435 seats were reapportioned in favour of the Southern and Southwestern States.
  - Every Great Lake State lost at least 1 seat, except Minnesota. This is consistent with stats that show Minnesota's average growth rate is similar to U.S. average growth, while all other GL States fall below the national average.

# Geo-Political Trends (cont'd)

- Since George Bush Sr. was elected, 27 electoral college votes have shifted to the southwestern states – now accounting for 59% of national growth in eligible voters since last presidential election
- By 2009, all elected presidents for 44 consecutive years will have come from 3 southern states (Texas, Arkansas, Georgia + S. California)

# Geo-Political Trends & Issues

## What Does This Mean?

- Population increases in the South and West may cast a political spotlight on this part of the U.S. in terms of both congressional issues and influence and future elections
- By Assumption,
  - Issues that are of import to the South and West may be more likely to find their way to the forefront
  - Water issue may be expected to take a front seat politically

# Socio-Cultural Trends & Issues

## ➤ World Values Survey

- Gradual shift in public opinion away from material well-being to quality of life and having input into important decisions

## ➤ Joyce Foundation + The Biodiversity Project = Surveyed the US. GL States and found

- Residents place high priority on protecting GL resources but there is a lack of awareness about the threats (broad support for restricting water export)

# Great Lakes – Basic Facts

- Supply drinking water to 45million
- Sustain 50%+ of Canada/U.S. trade
- Support most of Canada's manufacturing
- 25% of agricultural sector supported
- \$80billion in goods shipped through the Great Lakes to the St. Lawrence

Source: A. Hurley & D. Schindler

# What Are the Implications for the GLCA Negotiations?

- We need to work collaboratively
- We need to be part of the GLCA negotiation process
- We need to articulate our shared interests in the GLCA negotiations

**Better to be at the table than not.**

# Legal Framework for the GLCA

## **International Boundary Waters Treaty**

- Does not apply to all waters in the Basin
- BW do not include all surface or any groundwater
- BW do not include Lake Michigan
- IJC approval limited to very large uses, diversions that may affect levels or flows of boundary waters

## **Implications:**

- Will not protect against future proposals to:
  - Use/divert water that is not “boundary water”
  - Use/divert water if proposals include return flow
  - Use/divert Lake Michigan water.



# Current Legal Framework

## U.S. Water Resources Development Act

- Applies to diversions only (not consumptive uses)
- Does not apply all Basin water ie groundwater (so some diversions would not need approval)
- Unanimous approval of 8 GL Governors to divert lake or tributary water
- No standard to base approval on – could be vulnerable to US constitutional challenge
- Diversions have been approved under WRDA (Pleasant Prairie Wisconsin, Akron, Ohio)
- Ontario, Quebec may be notified but consent not necessary

## Implications:

- Diversions of lake and tributary water may proceed with approval
- Diversions of groundwater and some surface water may proceed without approval

# Current Legal Framework

## Chicago Diversion

- Historic diversion of great magnitude, controlled by US Supreme Court
- Order prohibits diversion of more than 2.3 bgal/day for domestic use and navigation
- Paragraph 4: Illinois is permitted to apply to modify the decree if “reasonable domestic water needs” cannot otherwise be met

## Implications:

- Not clear if Ontario or Canada would get standing as a party if an application to reopen the Order were made. Lake Michigan is not a boundary water.
- Decision respecting standing is at Court discretion
- If not, Ontario would not be able to argue in court to protect its interests

## BACKGROUNDER: CHRONOLOGY OF EVENTS LEADING UP TO AND FOLLOWING GREAT LAKES CHARTER ANNEX 2001

- pre-1980s** → *Mega Continental Diversion proposals*, including GRAND Canal proposal to divert waters flowing into James Bay down to Great Lakes then to U.S. midwest and southwest.
- 1984** → *Futures in Water Conference*, hosted by Premier Davis, MNR Minister Alan Pope – bringing bi-national recognition to emerging water issues, including Great Lakes diversions.
  - *Great Lakes Governors/Premiers' Task Force on Water Diversions and Great Lakes Institutions*
- 1985** → *Great Lakes Charter*, signed by governors and premiers of Great Lakes States and Provinces to conserve & protect Basin waters through control of diversions, consumptive uses – requires notice, consultation on major proposals.
- 1986** → U.S. *Water Resources Development Act (WRDA)* passed, requiring unanimous approval of Great Lakes governors for any proposed diversion out of the Great Lakes Basin.
- 1987** → *Pleasant Prairie, Wisconsin Diversion Proposal* – approved under WRDA, Charter, on condition that water returned to Great Lakes Basin (i.e. no net loss).
- 1988** → *Chicago Diversion Tripling* proposed by Illinois governor to address drought conditions on Mississippi R. – proposal later withdrawn.
  - *Canada – U.S. Free Trade Agreement* – considerable debate, media attention, public concern over potential implications to water resource protection. Canada amends enabling legislation to explicitly state that water is not a good.
  - *Water Transfer Control Act* – introduced by Ontario (MNR) to address concerns re: free trade implications through control of inter-basin water transfers – Act never proclaimed.
  - *Canada Water Preservation Act* – introduced by federal government to address free trade concerns through control of diversions out of boundary waters – Act later died on order paper.
- 1989** → *Lowell, Indiana Diversion Proposal* – small-scale diversion vetoed under WRDA.
- 1992** → *TransCanada Pipelines* seeks Ontario approval in principle of proposed water pipeline(s) to service GTA.
- 1993** → *North American Free Trade Agreement* – renewed debate over treatment of water and implications to water protection.
  - *Joint Statement on Water by NAFTA Parties* – issued to clarify that "water in its natural state...is not a good.. and is not and never has been subject to the terms of any trade agreement"
  - *Water and Power Conservation Act* – drafted (MNR) to address trade concerns and

improve upon weaknesses of Water Transfer Control Act – bill not tabled.

→ *Mud Creek, Michigan Consumptive Use Proposal* – pilot irrigation district proposal reviewed under Charter; Michigan proceeded despite concerns of Gt. Lakes jurisdictions.

**1994** → *Oswego, New York Consumptive Use Proposal* – reviewed under Charter – proceeded.

**1997** → *Great Lakes States enter into Memorandum of Understanding on Chicago Diversion, concluding lengthy mediation on issue of over-diversion* – Ontario participated as an observer to the mediation.

**1996** → *Akron, Ohio Diversion Proposal* – approved following lengthy Charter/WRDA review, on condition that water returned to Great Lakes Basin (i.e. no net loss).

**1998** → *White Pine Mine, Michigan Consumptive Use Proposal* – temporary use to decommission mine. reviewed under Charter – status unknown

→ *Nova Group, Ontario Water Export Proposal* – permit to take water issued, later rescinded following considerable concern raised by public, ENGOs, media, Gt. Lakes states

→ *York Region Long Term Water Supply Strategy* – review of alternative water supply options initiated, leading to proposed Lake Ontario pipeline

**1999** → *Federal Strategy to Prohibit Bulk Removals from Canadian Watersheds* launched, including IJC Water Uses Reference (Ontario represented), Canada-Wide Accord (Ontario endorsed, proposed amendments to International Boundary Waters Treaty Act (tabled – later died on order paper).

→ *Water Taking and Transfer Regulation* passed (MOE) to address issue of bulk removals – prohibits transfers out of three major water basins of province, based on earlier Water Transfer Control Act.

→ *Legal Team Report to Governors Governing Withdrawal of Water from the Great Lakes* – recommends "net benefit standard" to evaluate proposed water uses and diversions in context of potential trade issues.

→ *Great Lakes Leadership Summit (October)* – Premier Harris supports governors in pledge to strengthen protection of Great Lakes water resources; Great Lakes Water Management Working Group established to deliver on commitment.

**2000** → *IJC Water Uses Reference Study* – announces final recommendations to governments including no net loss approach for Great Lakes removals, conservation, prior notice and consultation on removals, diversions and major consumptive uses under Charter and need for common standard to evaluate proposals.

→ *U.S. Water Resources Development Act Amended* – urges states, provinces to develop common standard, recognizes exports as requiring unanimous approval of governors, recognizes need for Secretary of State to work with Canadian government to encourage provinces to implement common standard.

2001

- *ENGOs Release Water Use and Ecosystem Restoration Agenda for Great Lakes – proposing conservation strategy, common improvement standard and prohibition on removals, diversions between watersheds of Great Lakes Basin.*
- *Draft Annex 2001 Released for Public Review by Council of Great Lakes Governors.*
- *International Boundary Waters Treaty Act amendments re-tabled by Canadian government to prohibit removals out of boundary waters, regulate obstructions, diversions.*
- *U.S. Public Meetings on Annex 2001 – in Indiana, Michigan, N.Y., Ohio, Pennsylvania generate considerable debate, media attention.*
- *Close of Annex Public Review Period – generates thousands of written submissions to governors expressing support for intent, concern for potential weaknesses.*
- *Private Group Seeks U.S. Support for selling recycled freshwater from James Bay (similar to GRAND Canal Diversion Proposal) – Council of Great Lakes Governors informs Ontario.*
- *York Region submits final Environmental Assessment Report on proposed Lake Ontario pipeline to meet its long term water supply needs (March 2001)*
- *Newfoundland Considering Lifting Bulk Water Export Ban – re-igniting debate on treatment of water under free trade (March 2001)*
- *New York State community advertises "water for sale" in Wall Street Journal and The New York Times, generating criticism from Michigan governor Engler (March 2001)*
- *Federal Government considers parliamentary committee to study freshwater issues, including freshwater security and commercial trade in water (April 2001)*
- *Premier Harris and New York Governor Pataki agree to reject present draft Annex 2001, highlighting their concerns with diversions and the need for more work to ensure protection of Great Lakes waters (April 4, 2001)*
- *Michigan Governor Engler writes to Council of Great Lakes Governors chair, announces concerns with Annex diversion exemption and need to continue progress to protect Great Lakes (April 18, 2001)*
- *Environmental Review Tribunal issues decision on scope of evidence for June 2001 Tay River water taking permit appeal hearing – including claims that permit contrary to Great Lakes Charter, NAFTA (May 2, 2001)*
- *Prime Minister, Atlantic Premiers discuss bulk water removals at U.S. trade mission (May 14, 2001)*
- *Environment Canada, Statistics Canada post tender for research on economic value of water to, in part, help "make decisions on issues such as water exports" (May 29, 2001)*

→ *Gt. Lakes premiers, governors sign Annex 2001 to the Great Lakes Charter at Leadership Summit in Niagara Falls, N.Y., June 18, 2001; commit to binding agreement(s) in 3 years*

→ *U.S. President Bush expresses interest in discussions with P.M. Chretien on water export, continental water pact (reported July 18, 2001)*

→ *International Boundary Waters Treaty Act amendments receives Royal Assent. Bill C-6 prohibits bulk water removals out of boundary waters, and provides for the licensing of uses, obstructions, diversions that affect water levels and flows (December 18, 2001)*

**2002**

→ *Environmental Review Tribunal releases its decision regarding the appeal of MOE's issuance of a Permit to Take Water to OMYA (Canada) Inc. The decision supports the position that the phase 1 taking was not considered to have any adverse impact on the "integrity of the Great Lakes Basin" but states that "further consideration needs to be given to the Great Lakes Charter in evaluating the obligations of Ontario in subsequent applications for water takings" (February 19, 2002)*



# Environmental Scanning &

## Global Trends:

### Implications for Natural Resources and Natural Resource Managers

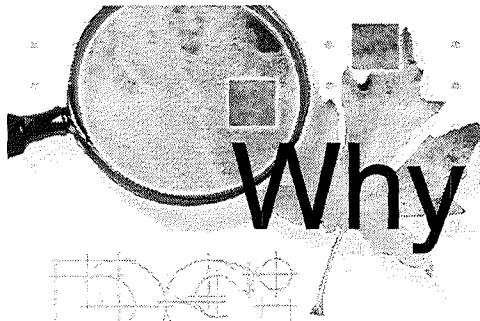
- Facilitation
- Mediation & Adjudication
- Natural Resource Project Management
- Municipal & Strategic Planning
- Policy Development
- Public Consultation & Stakeholder Engagement

*Natural Resource  
Socio-Economic Network*

December 6th, 2006

Presented By: Karen Wianecki  
Director of Practice  
Planning Solutions Inc.  
(905) 428-6113

**Planning  
Solutions**<sup>INC.</sup>

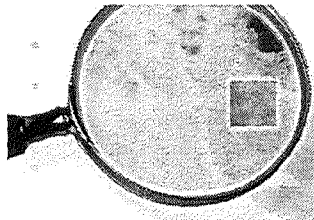


# Why Is Scanning Important?



- Fast-paced information age
- Focus on operational issues – crisis management
- Old ways of doing business won't allow us to keep pace
- We need to move from reactive to proactive
- Need to secure an 'edge for the future' – the future is a moving target
- We need to know how the highly probable future will look – how can we influence the future today
- Understanding driving forces of change allow us to act as catalysts for change



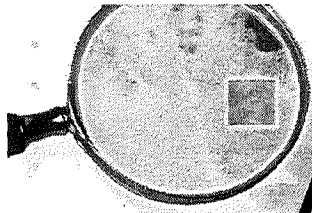


# Environmental Scanning



## Global Trends & Drivers:

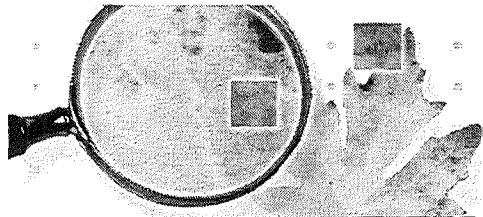
- Demographic
- Economic
- Environmental
- Socio-Cultural
- Technological
- Political



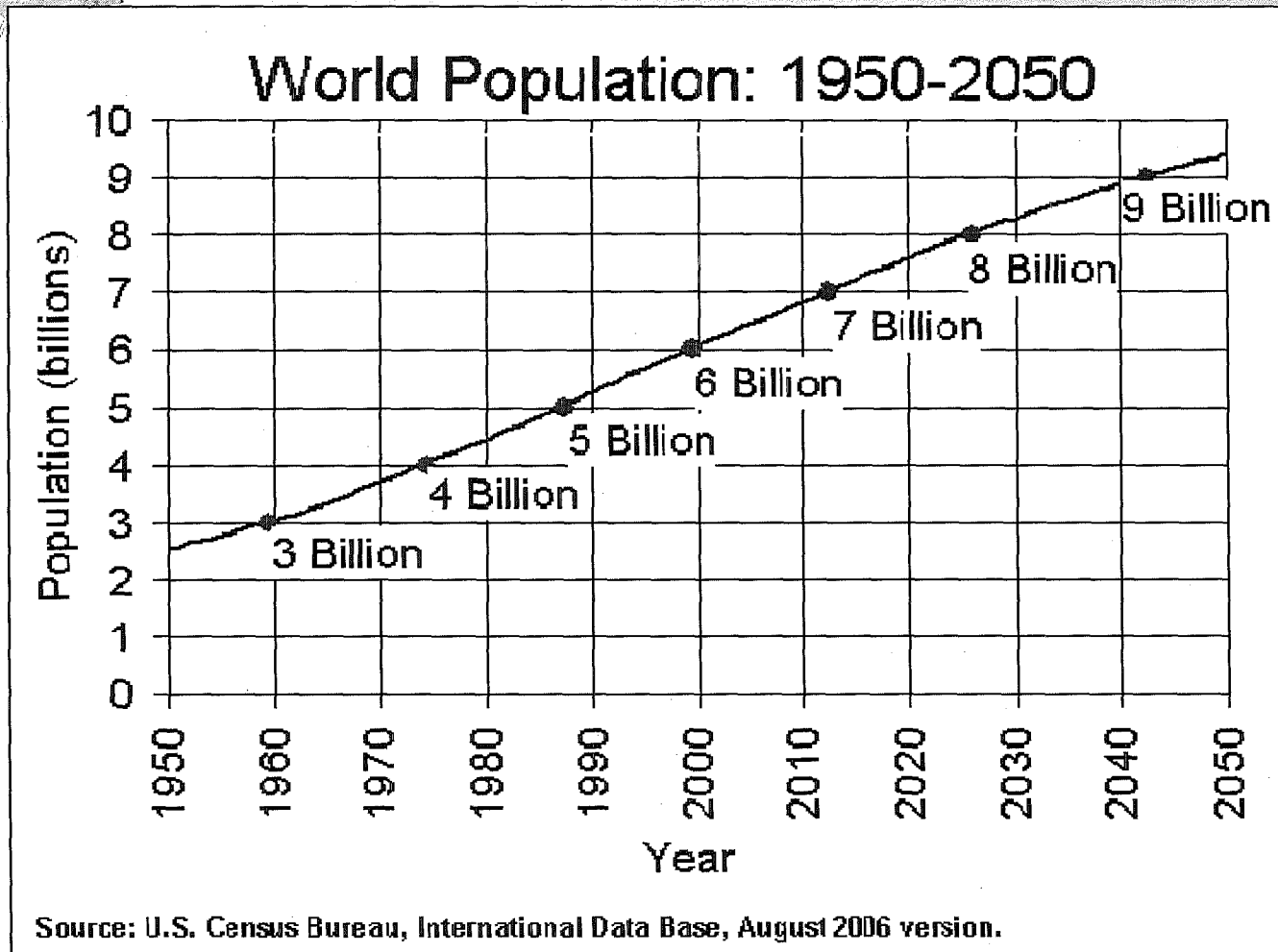
# And the Credit Goes To...

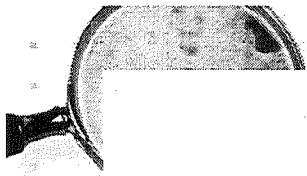


- Population Reference Bureau
- Statistics Canada
- U.S. Census
- Canadian Economic Observer
- Millennium Assessment Report
- Dr. Richard Loreto (Demographics)
- David Suzuki Foundation
- National Energy Board
- United Nations Environment Program
- Academic Research



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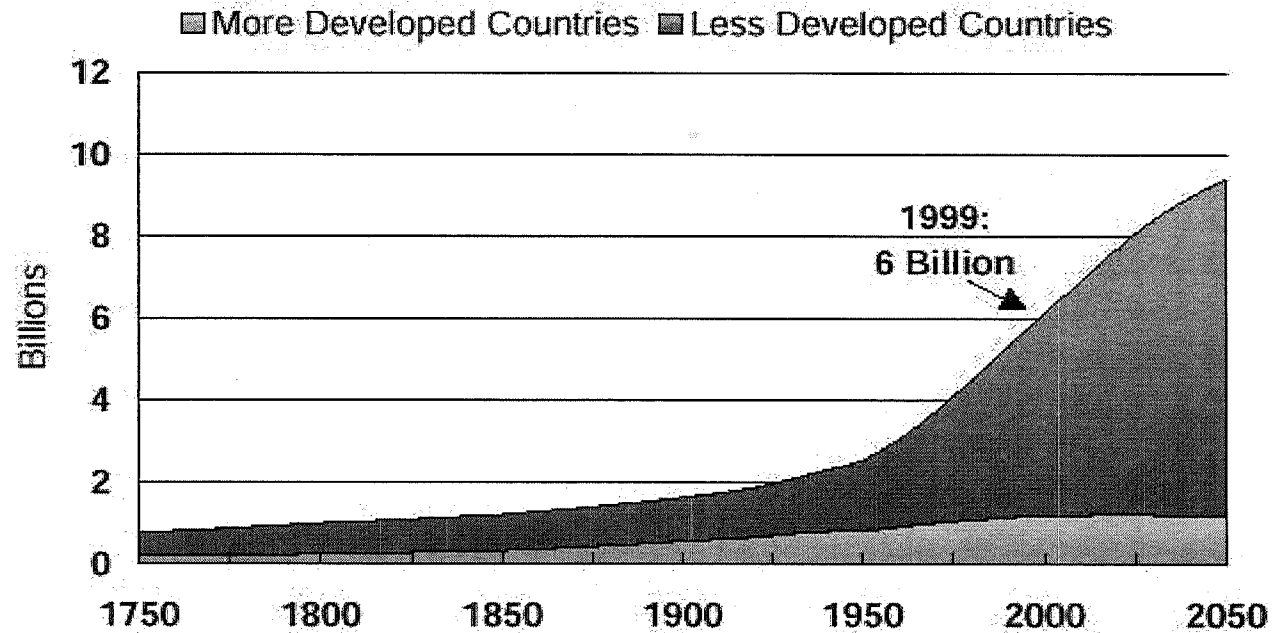




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# World Population Growth

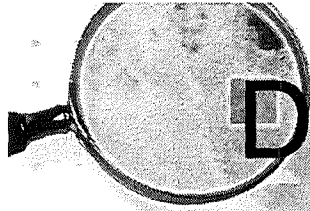
Population growth, 1750-2050



Sources: Before 1950: PRB estimates; 1950-2050: UN, *World Population Projections to 2150*, 1998 (medium scenario).





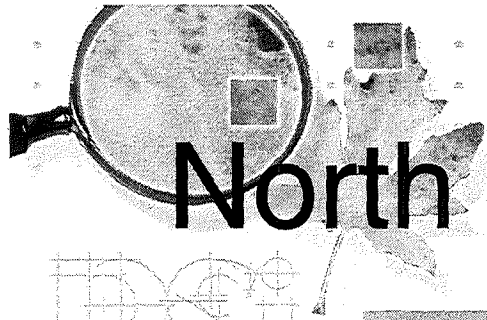


# Demographic Trends & Drivers

## The Global Picture



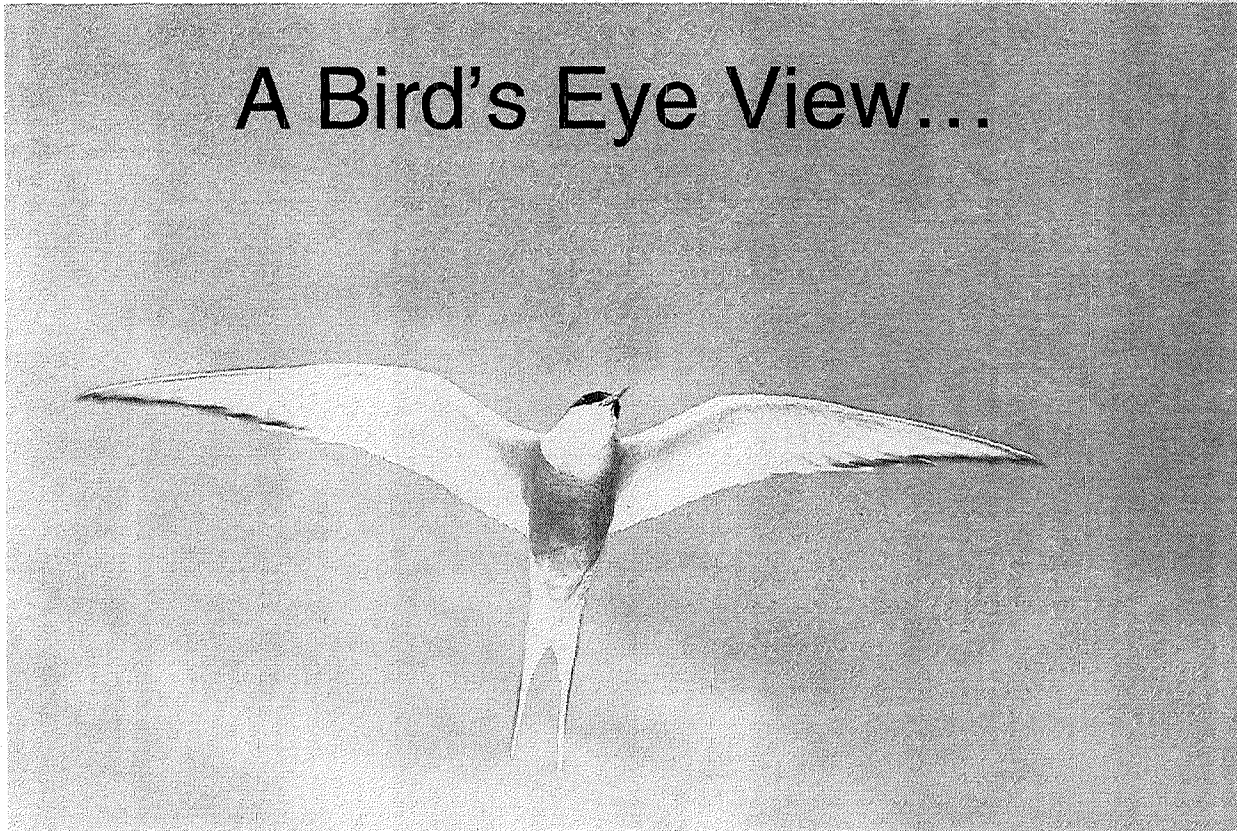
- Population of the western world is aging
- Implications from mass spread of disease (e.g. AIDS pandemic will affect population growth and will produce age-sex distributions that have never been seen before - we live in a global environment - global drivers
- China is becoming affluent; India is becoming electric - competition for other resources is going to increase



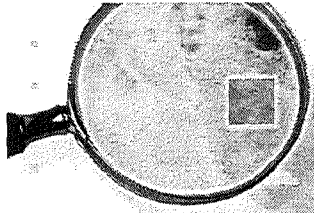
# North American Demographics



A Bird's Eye View...



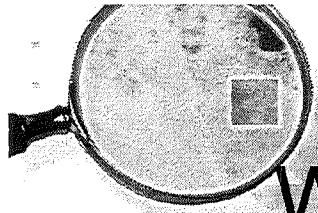




# Generally Speaking...



- U.S population will increase 43% from 293 million to 420 million by 2050
- Canada's population expected to increase 16% by 2050



# Our Southern Neighbour...

## What Do We Know About Population Distribution?

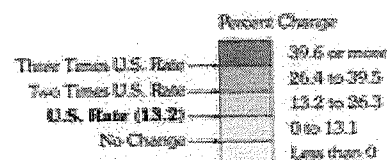
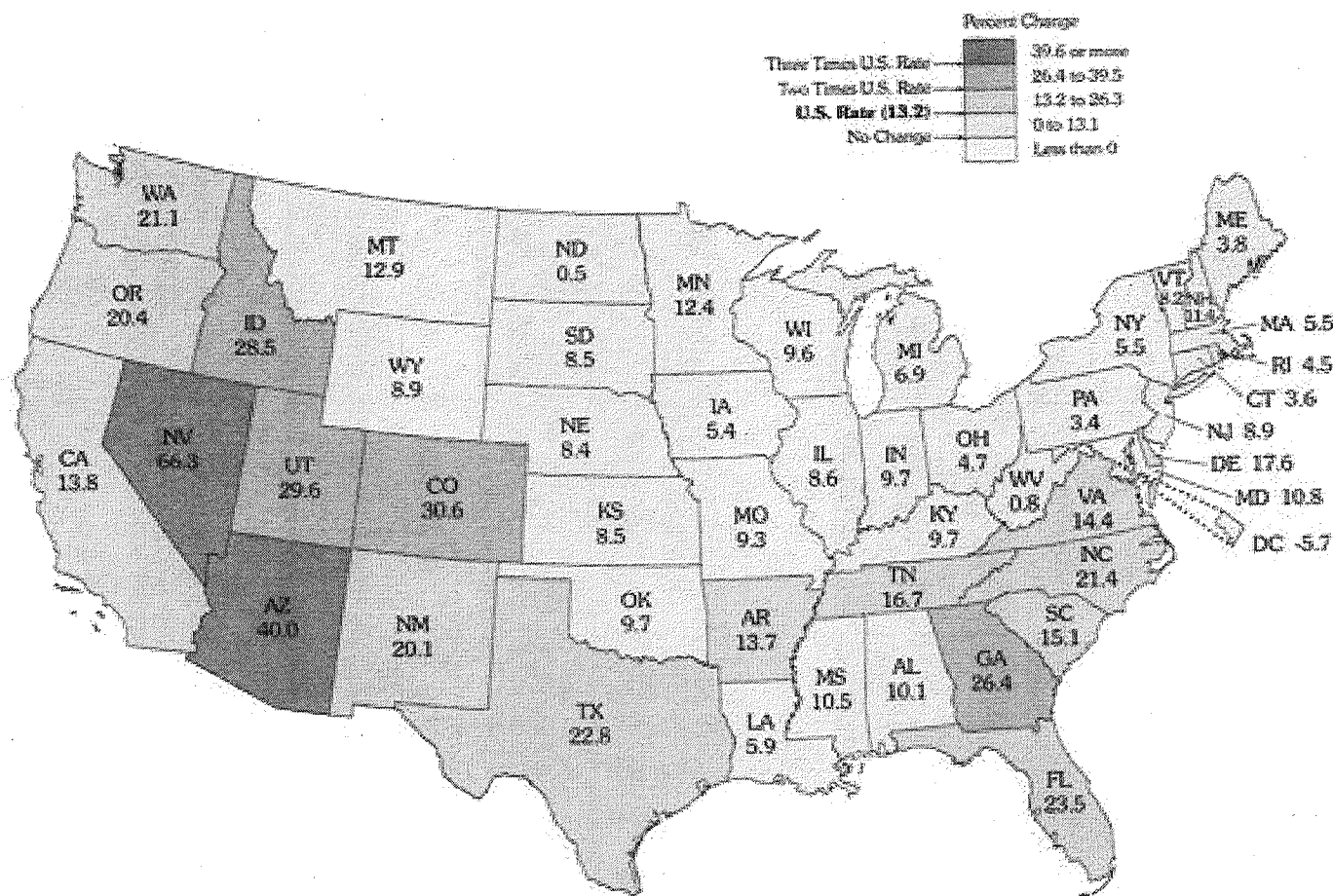


- U.S. is growing faster than Canada
- Real growth is occurring in the dry, arid southwestern states
  - 10 Fastest Growing States accounted for 57% of national growth between 2002-2003



# Demographic Changes: Population Has Grown Fastest in the West, Particularly in the "Public Land States"

Percent Change in Resident Population for the 48 States and the District of Columbia: 1990 to 2000

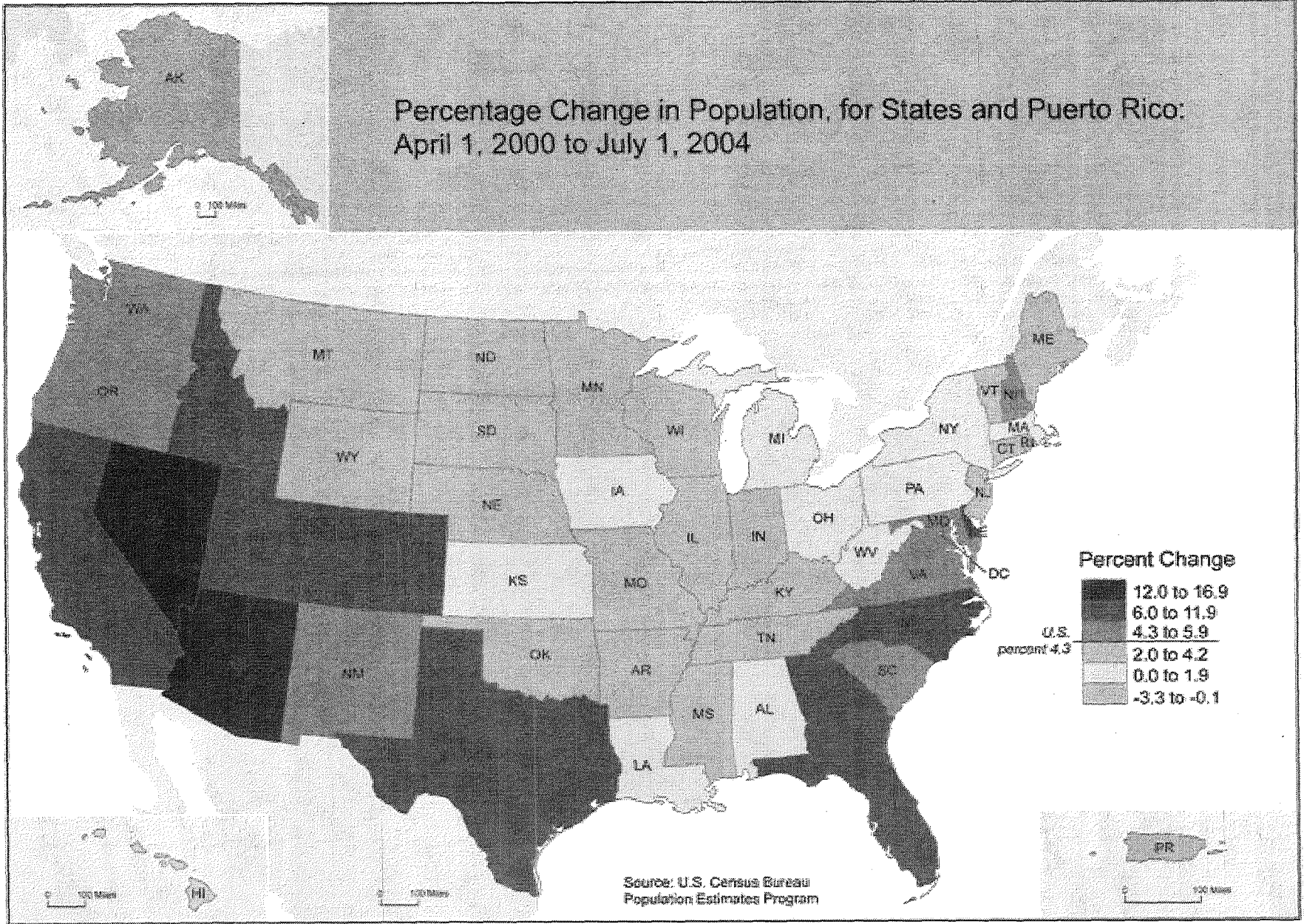


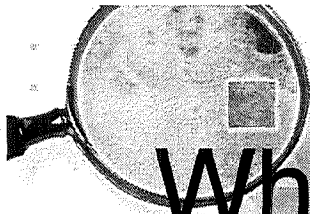
- Darker areas denote faster growth rates.

- Nevada (66%) and Arizona (40%) lead the nation.

- Intermountain states average about 30%.

# Percentage Change in Population, for States and Puerto Rico: April 1, 2000 to July 1, 2004





# What Do We Know About the U.S.



- 3.2 million/year are added to the U.S. population
- By 2050, there will be 420 million people in the U.S.
- Currently, 8 States have fertility rates over 2.0 – their populations will double in 35 years
- Average U.S. fertility rate = 2.1335 (births/woman) – Highest Fertility Rate since 1971.
  - U.K. = 1.7
  - Canada = 1.4
  - Germany = 1.3
- Immigration adds 1 million people annually
  - Total foreign-born population in the U.S. = 31.1 million (this is a 50% increase since 1990)



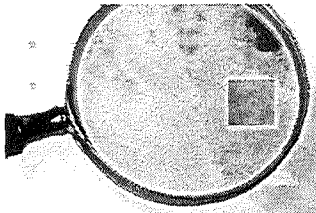


# What Else Do We Know About the U.S.?



- Most of the population lives along the ecologically fragile coastline
- U.S. is among the most densely populated countries in the world
  - N/E Seaboard – 767 people/square mile
  - Haiti – 580 people/square mile

By 2010, California will have a population of 50 million – more than 1,050 people/sq. mile

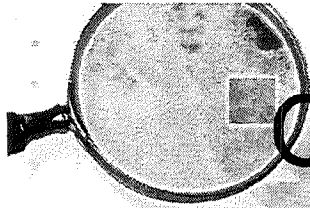


## U.S. Growing Bigger, Older, and More Diverse



### Cultural shift is occurring in the U.S.:

- Rates of natural increase are low; mortality rate is dropping; population is aging
- Hispanic and Asian populations will triple from 2000-2050:
  - Hispanic population will increase from 36 to 103 million. (the Hispanic proportion of the population will nearly double from 13% -24%.)
  - Asian population will also triple (11 million to 33 million). This will slightly more than double their population share from 4% to 8%.

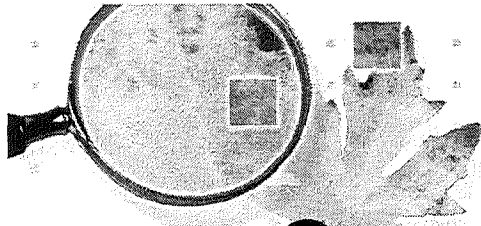


# Canadian Population Distribution



- More than 79.4% of Canadians live in an urban centres of 10 000 people or more (2001 data).
- In 2001, just over 64% of the nation's population, or about 19 297 000 people, lived in the 27 census metropolitan areas (CMAs), up slightly from 63% in 1996.
- Seven of these 27 CMAs saw their populations grow at a rate of at least double the national average of 4%. The strongest rise, by far, occurred in Calgary.





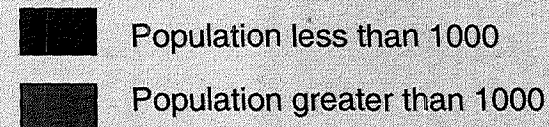
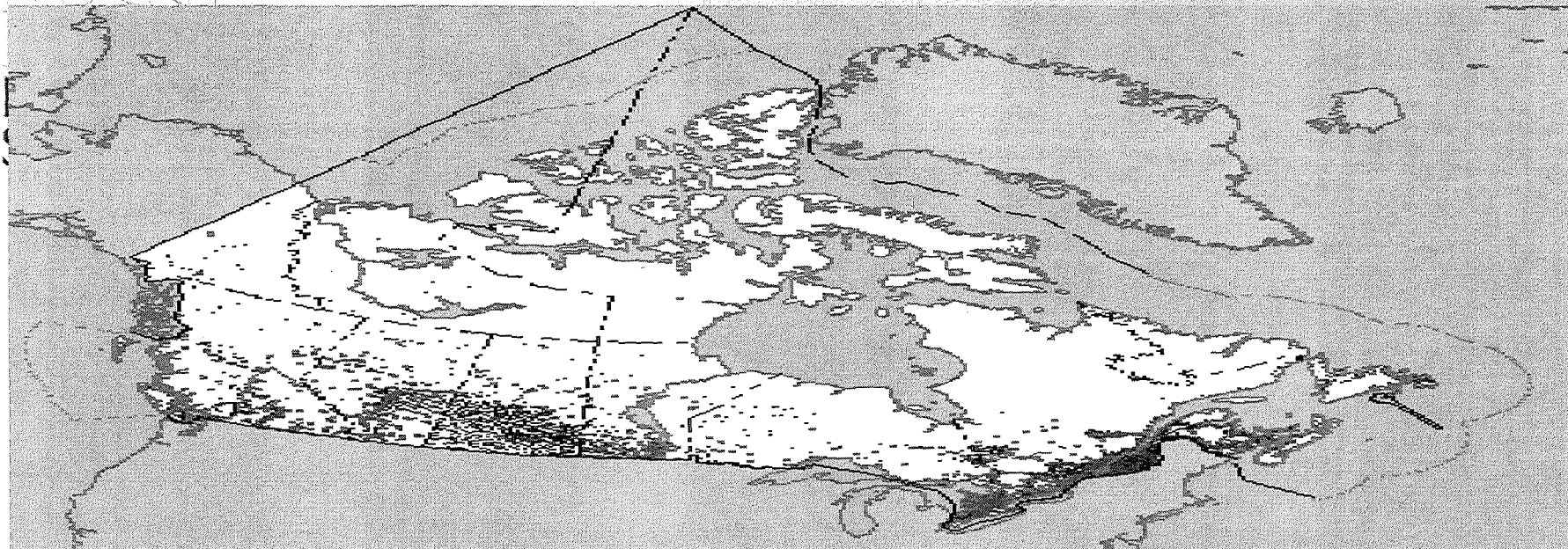
# Canadian Population Distribution

Planning  
Solutions

- Population tends to concentrate in four urban regions:
  - The extended Golden Horseshoe in southern Ontario;
  - Montreal & surrounding areas;
  - British Columbia's Lower Mainland;
  - Calgary-Edmonton corridor
- 51% of Canada's population lived in these regions, compared with 49% in 1996.
- Ontario and Quebec contain between them 62% of the total population.

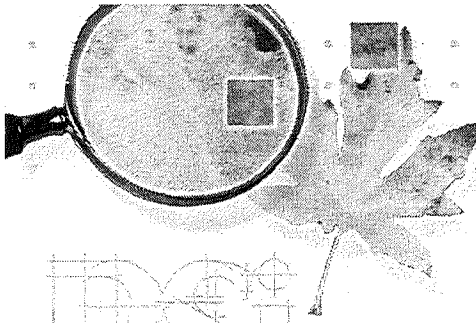
# Canadian Population Distribution

Canada is the second largest country in the world in terms of land area (9 012 112.20 square kilometres), yet it ranks only 33rd in terms of population.



Source: Adapted from Statistics Canada, Population and Dwelling Counts, for Census Divisions, Census Subdivisions (Municipalities) and Designated Places, 2001 and 1996 Censuses - 100% data, Catalogue number 93F0050XDB01003.

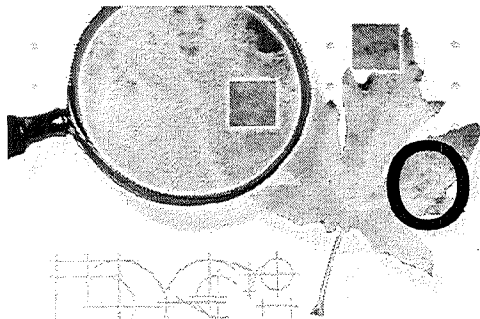




# Ontario Demographics



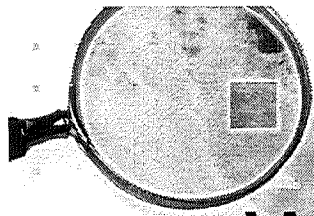
- From 1986-2004, Ontario's total population increased by just less than one-third.
  - Population growth was greatest in the 1980s and the early part of this decade.
  - Annual population growth averaged 1.5%.
  - In recent years, 4/5 of Ontario's international immigrants have come from either Asia & Pacific or Africa and Middle East.
- Regionally, the GTA accounted for 60% of Ontario's growth. Northeast and Northwest experienced population decline.
- MOFinance projections: Ontario's population will grow by less than one-quarter between 2006 and 2026. Migration will be the main driver of projected growth.



# Ontario Demographics



- By 2026, people 50 years+ in Ontario will constitute 40% of the total population.
- In the GTA, 36% of the total population will be 50 years or older by 2026.
- GTA will account for more than 60% of the projected population growth in Ontario. By 2026, some predict it will contain just less than one-half of the Province's residents.
- Northern Ontario population expected to continue to decline.



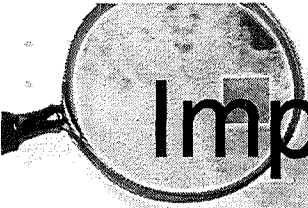
# North American Demographics

## What Conclusions Can We Draw?



- Across N.A., Baby Boomer values will drive the agenda
- Aging Population – Saskatchewan is the oldest province and the youngest
- The fastest growing segment of the population are the ‘oldest old’ – those over 85 (population in the U.S. in particular will resemble Florida currently – 1 in 5 will be elderly)
- Increasing urbanization but there are shifts in the areas of growth
- First Nations offer the exception to the aging population – very young population base
- In the U.S. net population change (births-deaths+net migration) will be greatest in Florida, California & Texas
- In Canada, the growth is occurring in the Golden Horseshoe and west of Manitoba



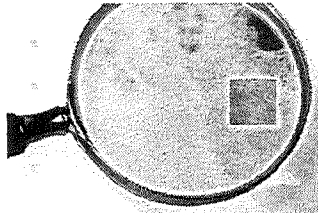


# Implications for Natural Resources & Natural Resource Managers



Planning  
Solutions

- Shrinking labour pool – mobile workforce
- More competition for highly trained and technically skilled workers
- Changing recreational demands (e.g. demand for parks, nature trails, hunting & fishing opportunities)
- Greater demands for social services will impact the budget of resource management agencies
- Continued population growth and urbanization will place pressure on the land base from competing uses and users



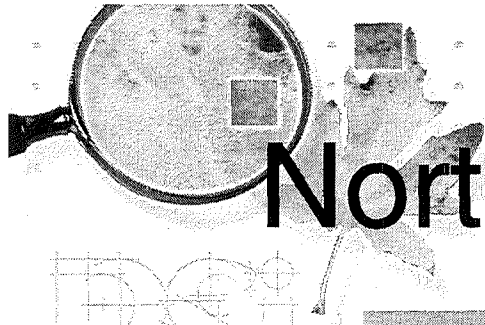
# Economic Trends & Drivers

## The Global Picture



- National scene is still dominated by the state of the economy
- Shifts in the global economy are emerging – globalization is a key driver
- Strong economy in N.A.
- Global giants are emerging in China and India
- Some movement within NA to relocate industry to cheaper shores
- Real economic growth is in: information, services and knowledge

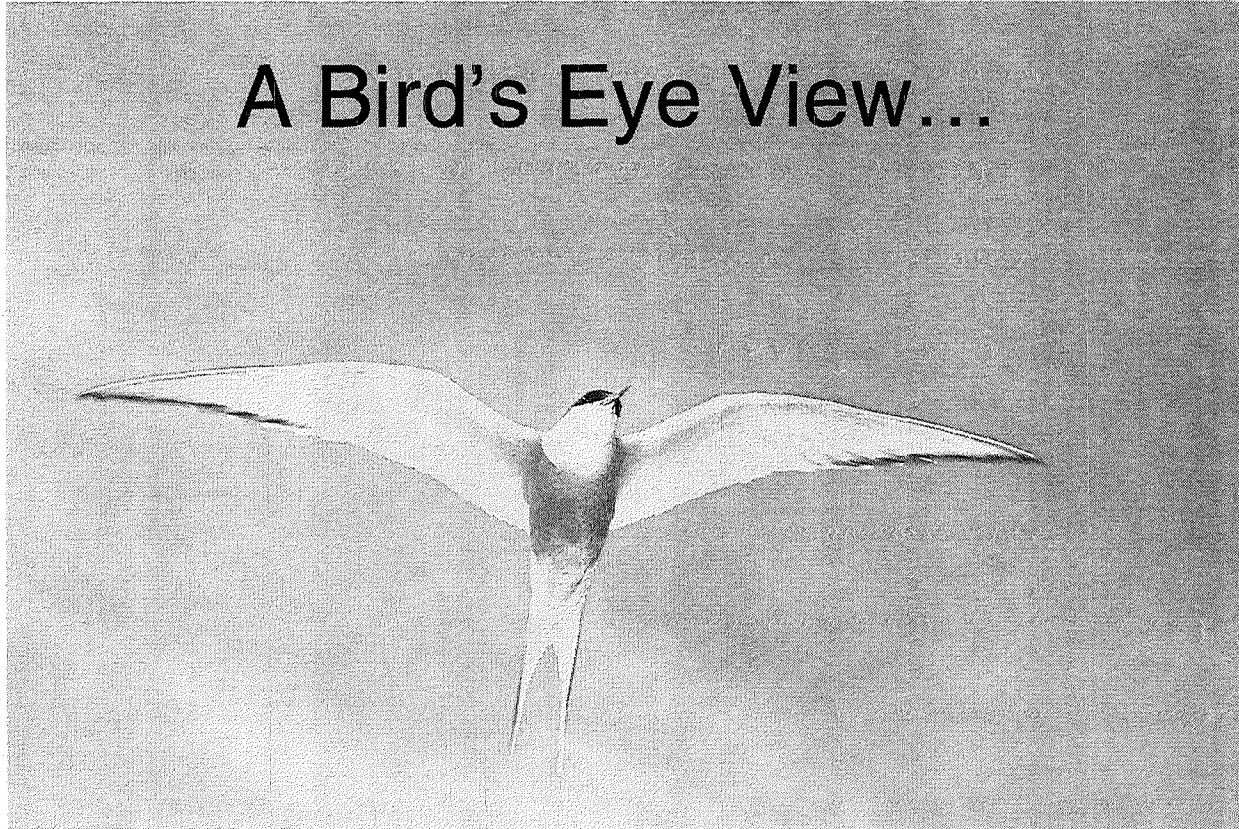


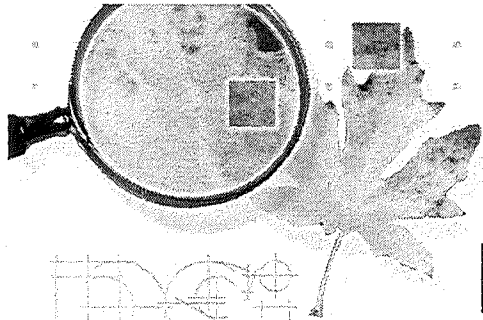


# North American Economics



A Bird's Eye View...

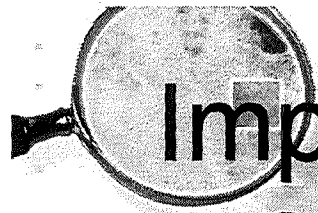




# North American Economy

- Productivity growth 2000-2004:
  - In Canada - 0.9%/year
  - In U.S. - 3.5%/year
- 1.8% growth/yr. Average in GDP (1974-2004)
- Some alarming statistics:
  - Since 2000, more than 100,000 manufacturing jobs have disappeared - moved to cheaper shores
  - Further announcements Jan. 24th - 30,000 Ford employees to be laid off (14 plants to be closed in the next 6 years)
  - Massive debt is accumulating state-side as a result of investments in rebuilding from catastrophic weather events (Hurricane Katrina), homeland security



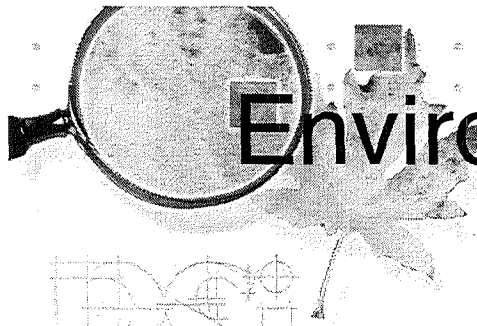


# Implications for Natural Resources & Natural Resource Managers



- Recognize that we influence and are in turn influenced by global factors
- Ontario's economy is highly dependent upon exports:
  - Vulnerable to exchange rates
  - Vulnerable to interest rate fluctuations
- Changes affecting the resource base are influenced by many factors beyond our control



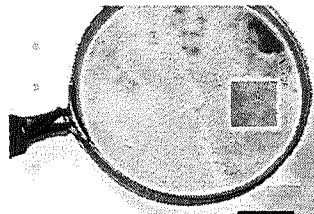


# Environmental Trends & Indicators

## The Global Picture



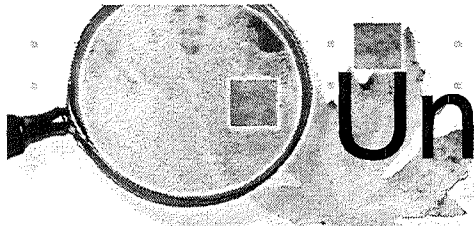
- Marked distinction between the developed and developing world re: environmental values
- Changing environmental and climatic conditions – ecosystems are still adapting to these changes
- Concerns with ecosystem degradation and loss
- Environmental ethics have become mainstream
- Emerging environmental consciousness among industry
- Growing concern that human health is connected to environmental health



# U.N. Report – Millennium Ecosystem Assessment Report

PSI  
Planning  
Solutions

- Released March 2005
- Assesses the consequences of ecosystem change related to human well-being
- Prepared by 2000 authors and reviewers; 1360 experts in 95 countries; 80-person independent Board of Review Editors
- Called for by UN Secretary General in 2000
- Authorized by Government through 4 Conventions
- Partnership between UN agencies, conventions, business, non-government organizations
- [www.millenniumassessment.org](http://www.millenniumassessment.org)



# Unprecedented Change: Ecosystems



- From 1960-2000:
  - World population doubled
  - Global economy increased six-fold
  - Food production increased 2.5 times
  - Water use doubled
  - Wood harvests for pulp and paper tripled
  - Hydropower capacity doubled
  - Timber production increased by more than one half
- Human impact in the last 50 years has produced more dramatic ecosystem change than at any other time in history
  - More land was converted to cropland in the 30 years after 1950 than in the 150 years between 1700 and 1850
  - 20% of the world's coral reefs were lost and 20% degraded in the last several decades
  - 35% of mangrove area has been lost in the last several decades
  - Amount of water in reservoirs quadrupled since 1960
  - Withdrawals from rivers and lakes doubled since 1960

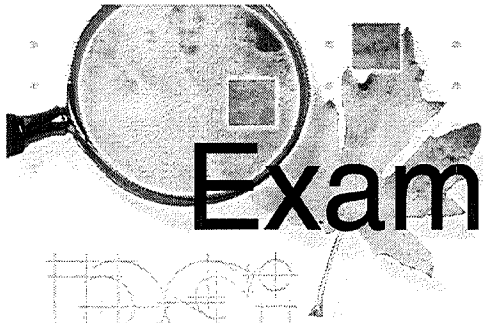




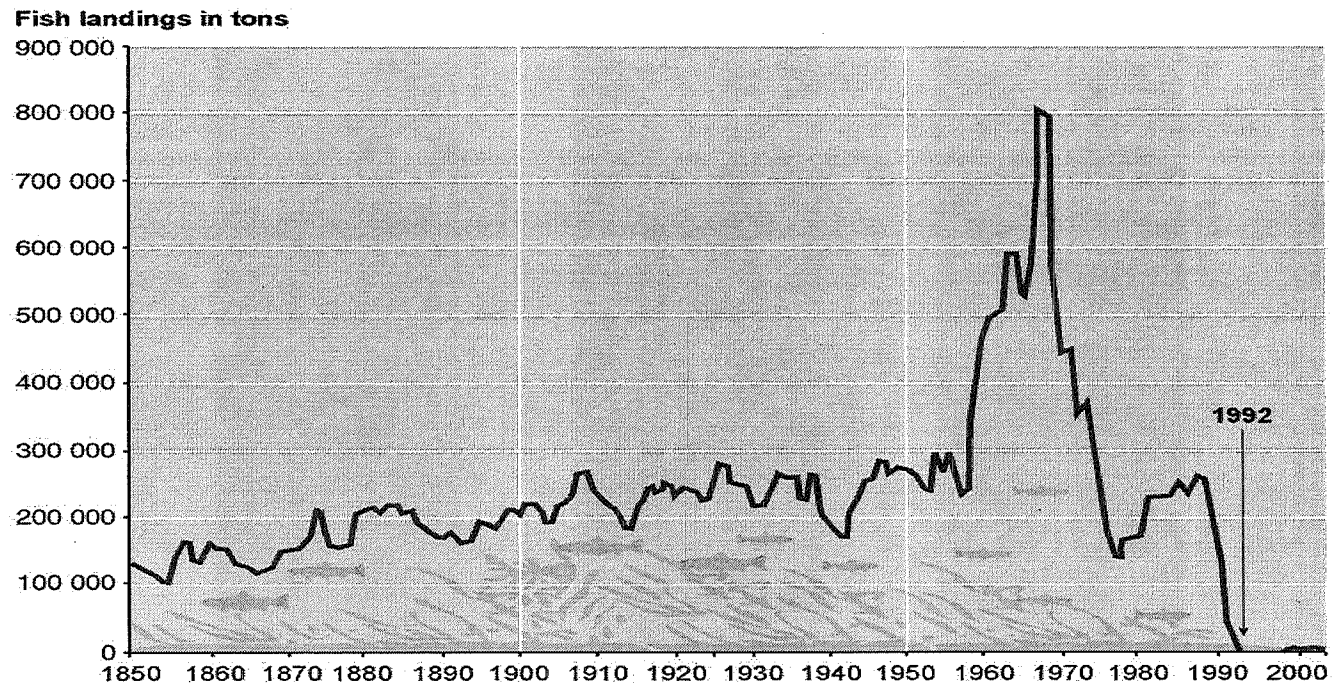
# Increased likelihood of nonlinear changes



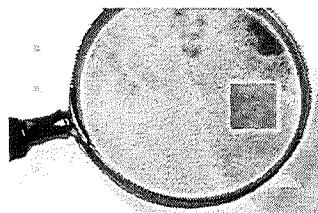
- Ecosystem changes are increasing the likelihood of nonlinear changes (accelerating, abrupt and potential irreversible)
  - emergence of disease
  - abrupt changes in water quality
  - creation of 'dead zones' in coastal waters
  - collapse of fisheries
  - shifts in regional climate



# Example of Nonlinear Change



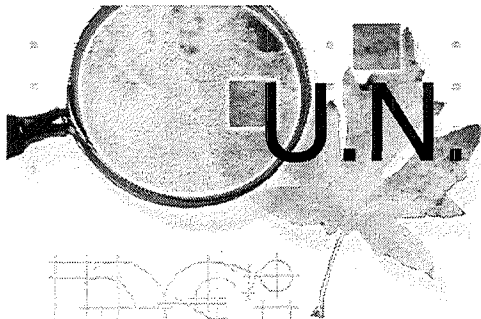
Source: Millennium Ecosystem Assessment



# U.N. Report - Predictions

- World Population – 8.1-9.6 billion (2050) & 6.8-10.5 billion (2100)
- Per capita income – increase 2-4X leading to increased consumption
- Land Use Change and expansion of agriculture – major driver of change
- High nutrient levels in water – increasing problem in developing countries particularly
- Climate change will increase (temperature, precipitation, vegetation, sea level, frequency of extreme weather events)

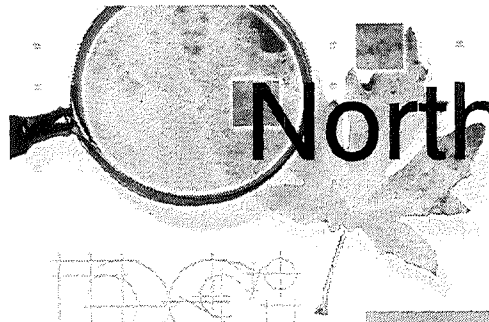




# U.N. Report – Links to Human Well-Being

Planning  
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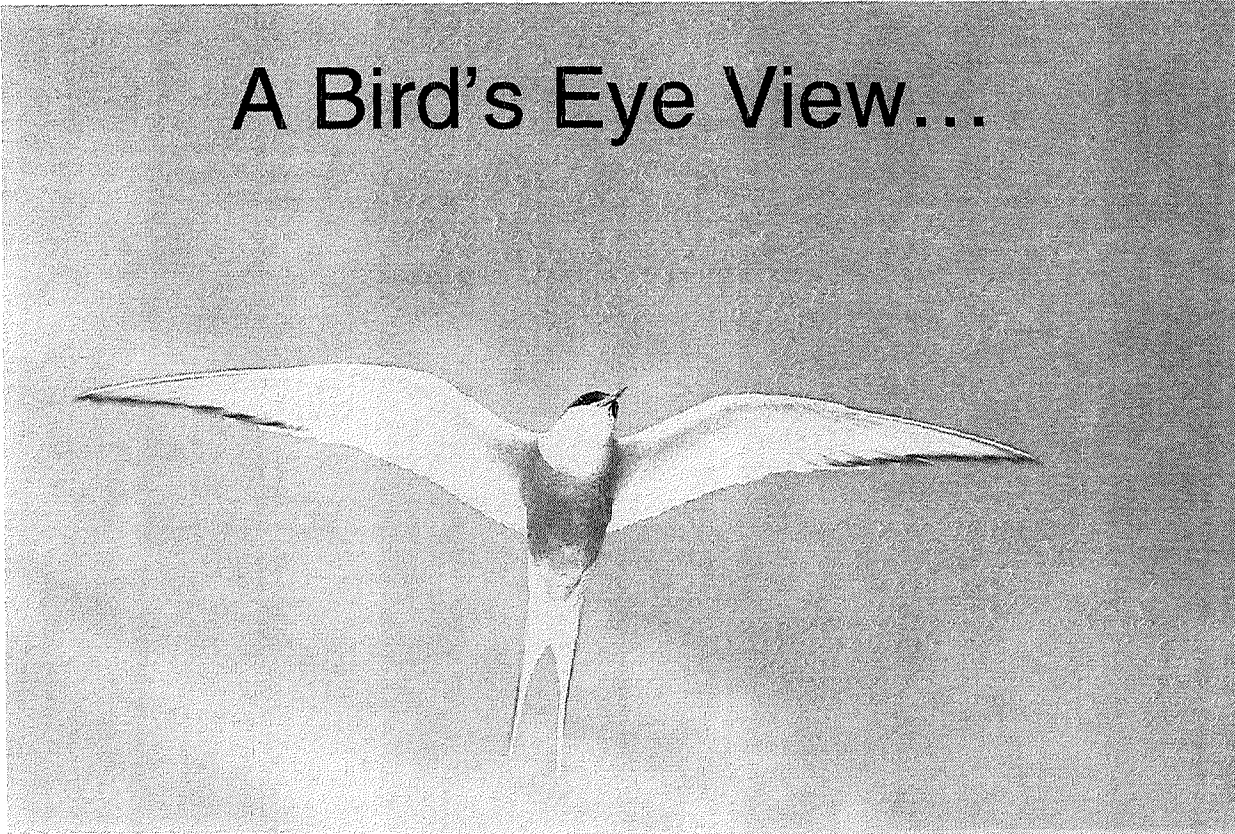
- Issue of water supply will not be related to 'water to drink' it will focus on 'water to grow food'
- Demand for food crops projected to grow 70-85% by 2050
- Water withdrawals projected to increase in developing countries but to decline in OECD countries
- Food security to remain out of reach for many
  - More diversified diets in poor countries
- Anticipate further impairment of ecosystem services in:
  - Fisheries
  - Food production in drylands
  - Quality of fresh waters



# North American Environmental Trends



A Bird's Eye View...





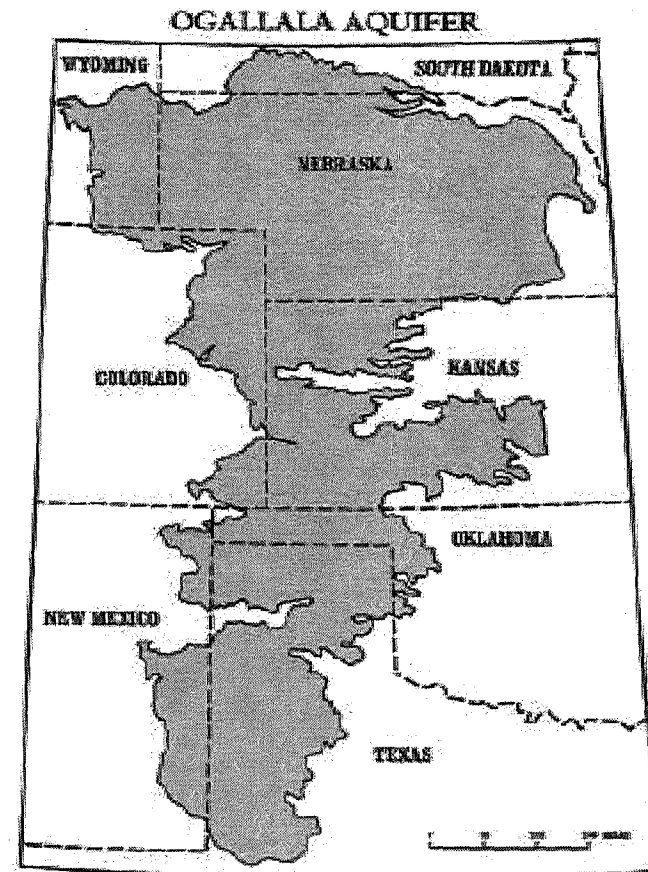
# North America – Water Issues

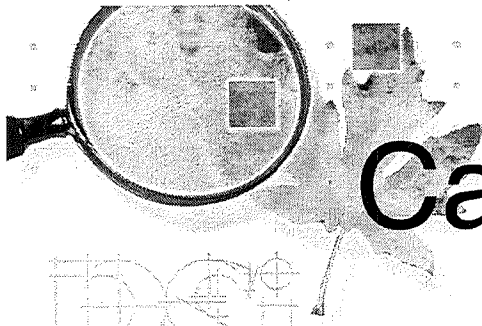


Planning Solutions

- In the U.S., groundwater that provides 31% of water used in agriculture is being depleted 160% faster than its recharge rate
- Ogallala aquifer (under Nebraska, Oklahoma and Texas) expected to be unproductive in 40 years

Source: Food, Land, Population and the U.S. Economy.  
David Pimental, Cornell University & Mario Giampietro. Instituto di Nutrizione, Rome.



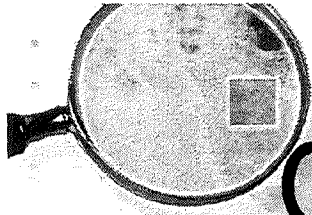


# Canada – Water Issues



## Water consumption

- Canada ranks 28th out of 29 nations of the OECD in terms of per capita water consumption. Only Americans use more water than Canadians
- Since 1980, overall water use in Canada has increased by 25.7%. This is five times higher than the overall OECD increase of 4.5%. In contrast, nine OECD nations were able to decrease their overall water use since 1980



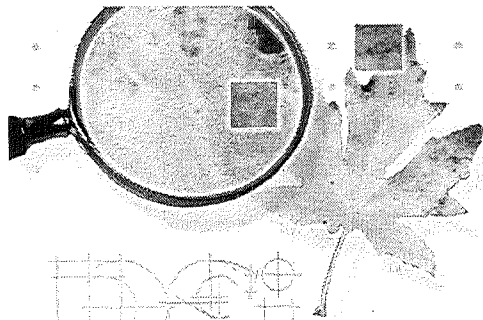
# Canada – Climate Change



- **Canada is 27th out of 29 OECD nations when greenhouse gas emissions are measured on a per capita basis**
  - Canadian greenhouse gas emissions continue to rise, up by more than 13.5% since 1990, despite a series of government initiatives that have relied largely on education and voluntary measures to stabilize emissions at 1990 levels by the year 2000

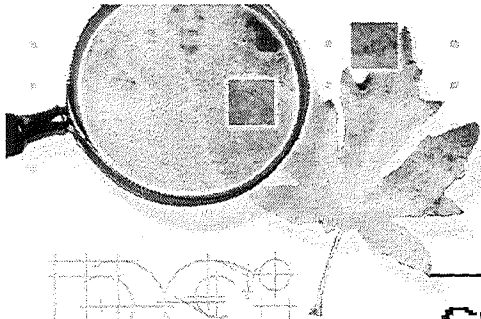
(Source: Canada vs. the OECD: An Environmental Comparison, Eco-Research Chair of Environmental Law & Policy, University of Victoria, 2001)





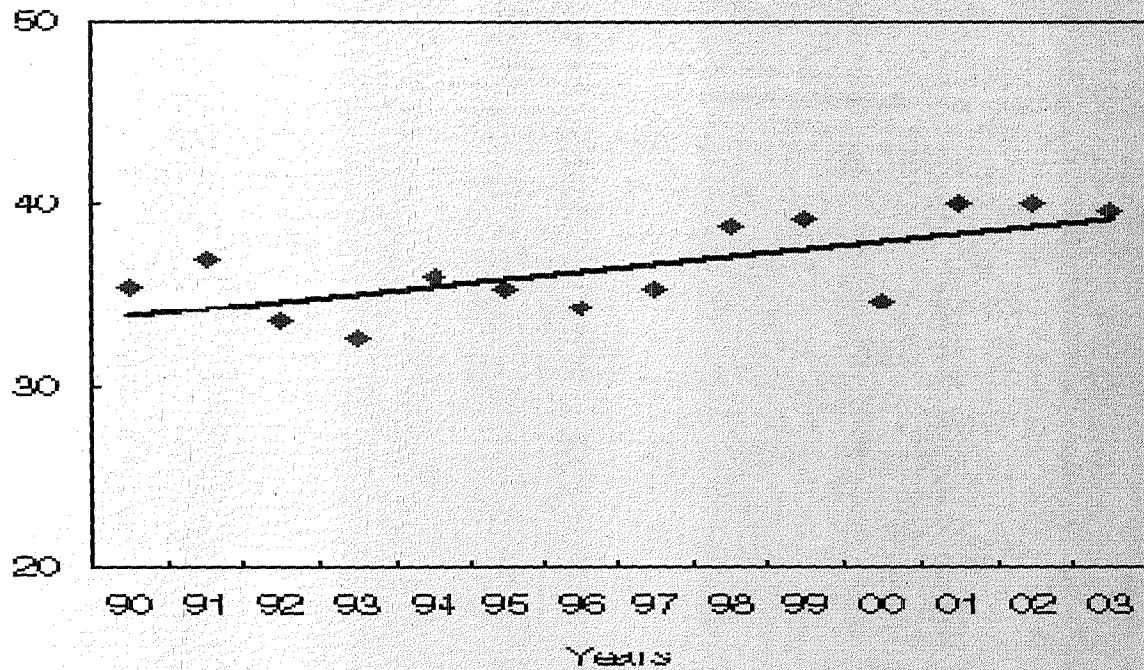
# Climate Change

- Climate change debate continues
- Reinsurance Sector are monitoring climate change for:
  - Changing patterns of precipitation
  - Atmospheric instability (extreme weather events)

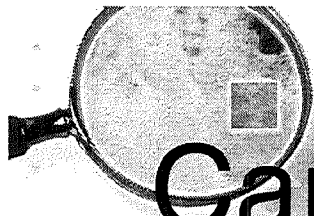


### Ground-level ozone rose between 1990 and 2003

Parts per billion



Statistics Canada. Canadian Environmental Sustainability Indicators. December 14, 2005. [www.statcan.ca](http://www.statcan.ca)

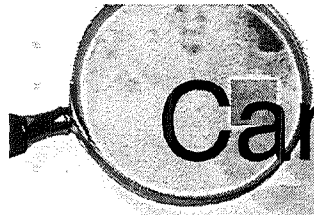


# Canada – Energy Consumption



- **Canada ranks 27th out of 29 OECD nations in terms of energy use per capita.**
  - Canadians annually consume 6.19 tonnes of oil equivalent per capita..
  - Between 1980 and 1997, total Canadian energy consumption grew by 20.3%, slightly higher than the average OECD increase of 18%.





# Canada – Biodiversity & Protected Areas



- **With 9.6% of Canada's land mass protected, Canada places 13th out of 29 OECD nations, below the OECD average of 12.6%.**
  - Canada has made significant strides in recent decades at both the federal and provincial levels. The percentage of Canada that is protected has risen from 5.5% in the early 1980s to 9.6% in the late 1990s.

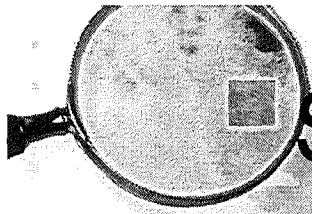


# Implications for Natural Resources & Natural Resource Managers



- Pressure to monitor environmental impacts
- Pressure on government to prevent adverse impacts
- Pressure for exemplary operating practices & reporting
- Move from stakeholder management to stakeholder engagement – actual involvement in the decision making process and in the decisions coming out of the process





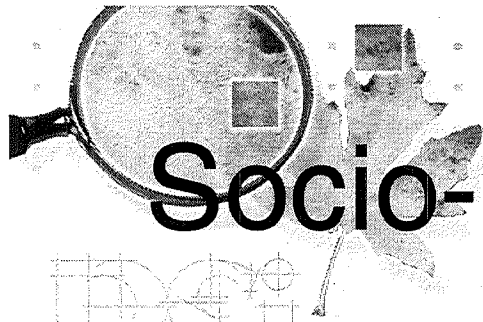
# Socio-Cultural Trends & Drivers

## The Global Picture



Heightened public awareness and concern with health, safety and security

- Concern with terrorism
- Rise in violent crime
- Spread of infectious disease
- Concern with healthy ecosystems and safe environments
- Major social change in the last 20 years has been the increased proportion of women in the workplace
- Move away from 'job security' to 'employment security'
- Dramatic increase in the number of cottage industries and small firms



# Socio-Cultural Trends & Drivers



- North America:
  - Related to emerging demographics
    - Concern with ‘scarcity’
      - Resources
      - Skilled trades & professionals (future labour pool)
      - Scarcity of health care professionals and facilities to treat us when we are ill
    - Concern ‘safety’
      - Crime
      - Social/moral problems
      - Healthy cities



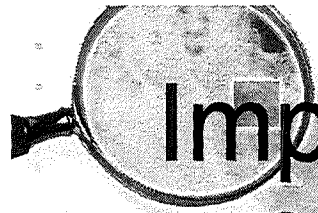
# Technological Trends & Drivers



Planning  
Solutions

- Technology is driving the pace
- Key Issues: Aging Infrastructure, Environmentally effective engineering designs
- Technology will drive political and consumer agenda
  - Costs will need to be controlled
  - Service will need to be enhanced
  - Risks will need to be managed
- Instantaneous transfer of 'real time' data will place resource management agencies and in turn, resource managers under greater scrutiny from a broader base of constituent interests

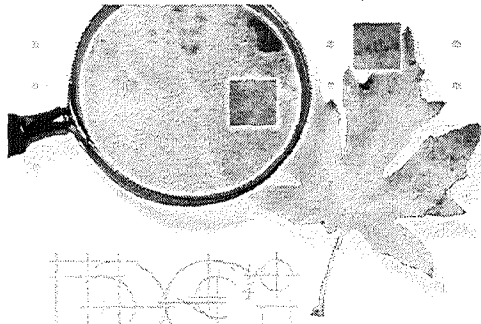




# Implications for Natural Resources & Natural Resource Managers



- Global information sharing may increase public private partnerships; increase awareness of government initiatives relating to resource management and result in a better decision making process
- Electronic information transfer has broad implications from a research and scientific perspective – new ways of solving problems – access to global experts
- For resource managers, managing issues locally will be increasingly difficult
- For resource management, judgments will no longer be evaluated against local standards
- Consistency will be required in approach and practice



# Global Political Trends



- Global volatility
- Uncertainty and instability
- Traditional forums appear less able to manage current political climate - more polarized positions; greater degrees of conflict and complexity
- U.S. demographic shifts are impacting the electoral results

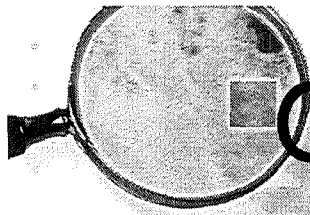
*...some interesting trends*



# Geo-Politics: The U.S.

- **Centre of political gravity is shifting south and west**
  - Reflected in every Presidential election
  - Since George Bush Sr. was elected, 27 Electoral College Votes have shifted to the s/w states, now accounting for 59% of national growth in eligible voters since the last election
  - By January 2009, all elected presidents for 44 consecutive years will have come from 3 States: Texas, Arkansas & Georgia - and southern California
  - Population shifts have altered the House of Representatives
    - After 2000 census, reapportioning the seats in the HoR saw the 435 seats fall in favour of Arizona, Florida, Texas and Georgia (2 seats), Nevada, N. Carolina & Carolina (1)
    - Every GL State lost at least one seat (with the exception of Minnesota)



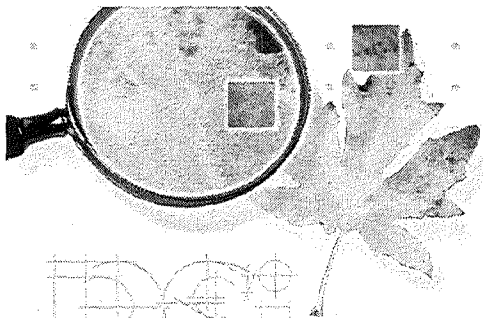


# Geo-Politics & the U.S. – The Recent Election Results

- **House of Representatives & Senate changed from Republican to Democrat**
  - Resulting from a shift in 28 House Districts (N.H., N.Y., Conn., Penn., Ohio (24%); Indiana, Minnesota; California, Iowa, Kansas, Texas, Colorado)
  - Majority are GL (rust belt) States – concern with loss of manufacturing jobs + political scandal

## ***Implications for Canada:***

- More protectionist sentiment likely to prevail in the U.S. (trade) – NAFTA; FTA
- Enhanced debate in the House
- Western Hemisphere Travel Initiatives – Chair of the Committee from Michigan – more amenable to Canadian interests

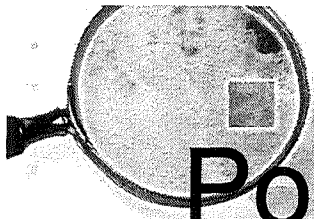


# Geo-Politics: Canada



- Voter preference more difficult to predict
- 2006 Federal election:
  - dramatic change in political lines of affiliation
  - Changeover in political party from 12-year Liberal stronghold at the Federal level
  - Voting patterns demonstrated urban-rural bias (Conservatives did not gain any seats in Toronto, Montreal or Vancouver) – support came from Manitoba, Saskatchewan & Alberta
- Winds of Political change continue to blow at gale force in Canada

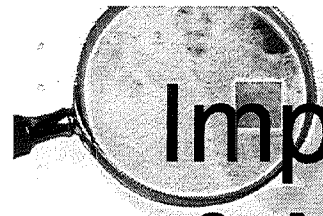




# Politics & Government in Canada



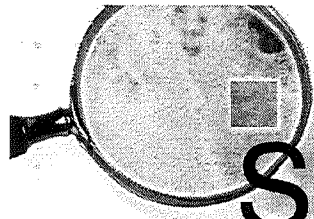
- Evolution of Government - role changing from social democratic model to non-interventionist role (downloading, offloading, partnerships)
- More demands for 'entrepreneurial styles of government' (electronic park reservations; banking by internet) – 24/7 services
- Issues of trust prevail – pressure for government accountability (recent Federal election; Ontario municipal election)
- In Ontario: In the next 2 years, we will have elections at all 3 levels of Government



# Implications for Natural Resources & Natural Resource Management



- Changing role of government will lead to changes in the way we do business
- Resource management – in particular water – likely to be of critical concern

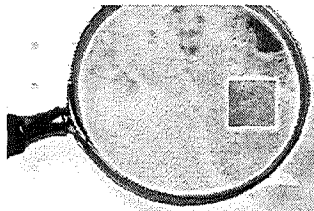


# Something to Think About...



- Nearly half the world will experience water shortages by 2025 (global water consumption is doubling every 20 years)
- Globally, the ten warmest years on record have all occurred after 1991
- Demographers predict world population levels to hit 10.7 billion by 2050 – 90% of projected increases will be in the developing world
- Global landscape is marked with unrest and volatility – concerns with scarcity and security
- Global trends toward rapid urbanization
- Aging society & mobile workforce

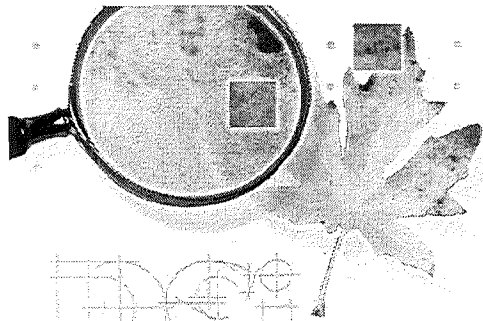




# Resource Managers...



- Will continue to face challenges
  - Greater pressures on the resource base from an array of uses and users
  - Aging population will create new demands for different kinds of recreation (angling, hunting, hiking, park use)
  - New skills will be needed to broker settlements (mediation, facilitation)
  - Focus on employee recruitment and retention
  - Greater emphasis on water management specifically
  - Greater emphasis on cross-border issues, cumulative impacts and ecosystem-based management



**Thank You...**

**Comments, Questions,  
Thoughts...**