



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

BACKGROUNDER TO MARCH 5/99 ACTION ALERT

Beyond Levels and Flows: Sustaining the Great Lakes in the Next Millennium

The IJC and Water Management

The International Joint Commission (IJC) was created by the 1909 *Boundary Waters Treaty* to manage shared boundary waters for their use as potable water, navigation and power generation. To accommodate these uses in the Great Lakes, diversions into and out of the basin were engineered early in this Century. Control Boards were created to regulate levels and flows, adjusting extreme highs and lows to address conflicts among users. Despite these measures, in the last two decades, the IJC held two separate references when high lake levels and proposals for diversions were causing conflicts. Many concerned residents attended hearings like the eight hearings that have been scheduled for March of 1999. Many very good recommendations came out of these references in 1985 and again in 1993 fairly reflecting the public's concerns and implying that most challenges for the Lakes were manageable. A summary of the 1985 recommendations is available at www.web.net/cela/sr-ijc.htm.

What Is Different Now ? New Threats To Great Lakes Waters

In recent years Great Lakes residents have seen dramatic changes in the basin. Issues identified as "emerging" have fast become pressing for the Great Lakes. Failure to follow through with past recommendations has deepened historical problems.

Big Business in Water

The Great Lakes can no longer be considered a regional or a Canada - US resource. Globalization is fast transforming the Great Lakes, holding over one fifth of the freshwater on the planet, into a resource ripe to feed the thirst of an increasingly water poor world. Organizations like the Worldwatch Institute and the United Nations Environment Program tell us that 54 countries are already facing severe water shortages that threaten food security for their people. Big business is banking on these growing crises and is looking to the Great Lakes region for profits. In the last few years private ventures have:

- * proposed to export water by ocean going tankers from Lake Superior and the north shore of the St. Lawrence. While not likely to drain the Great Lakes, these proposals can potentially set a precedent under the free trade agreements and entrench water as a commodity placing its control within the decision-making domains of trade tribunals away from the reach of government controls;
- * proposed to take over the management and control of water and wastewater treatment facilities in the basin;
- * made a number of proposals for pipelines to move water from surface waters of the Great Lakes to communities previously reliant on groundwater; and,

* intensified extraction of Basin groundwater for unregulated bottled water businesses for sale and export.

The capture and creation of water markets by private interests raises many concerns about citizens' ability to control and manage the fate of Great Lakes water in the next millennium.

Climate Change

In the last decade, experts began to identify climate change as an emerging issue for the Great Lakes basin. As knowledge has increased, scientists are now more certain that human-induced climate change is responsible for the extreme weather events witnessed around the world. Scientific consensus exists that climate change will mean lower Great Lakes levels via reduced tributary flows and increased evaporation. Effects were felt in the fall of 1998 when the Great Lakes experienced the lowest lake levels in 30 years. Power generation capacity, wetlands and navigational depths were impacted. Climate change is a wild card which challenges decisions about the future use, needs, and consumption of Great Lakes water. We simply don't know.

A Patchwork of Protections

Several Great Lakes States and the two Canadian Provinces do not have the legal or policy framework to prevent water export and diversions, to track current water withdrawals, use and consumption let alone make informed decisions about future needs. Cuts to governmental Great Lakes programs have meant that few jurisdictions are able to track cumulative withdrawals or even to piece together data on individual watersheds.

While The Great Lakes Charter, signed in 1985 was supposed to ensure cumulative data collection on withdrawals and consumptive uses, progress has been inadequate. No one agency has clear responsibility to cumulate this important information

Waste Not, Want Not

Without profound change, the Great Lakes region maybe the author of its own fate. The US, followed by Canada, continues to lead the world as the largest per capita waster of water. For every 20 years of this century water use in North America has doubled. This trend shows no sign of abating. In a water poor world, how will Great Lakes citizens have the right to deny others water?

Use These Hearings to Bring a Conservation Ethic to the Great Lakes

Each of the hearings will be hosted by a study board appointed by the IJC, along with one or two of the six IJC commissioners, appointed by each government. It is essential to remind them of past recommendations of IJC References. The current reference is one of political expedience and necessity required by the granting of a tanker export permit (later withdrawn) by the Ontario government last year. If past IJC recommendations had been followed, this kind of chronic crisis management in the Great Lakes could have been avoided.