

Great Lakes Annex Public Consultation Expected in mid-July 2004

Most of us would rather be out enjoying the Great Lakes this summer. Great Lakes' residents will also be called upon to review long awaited protections for the waters of the Great Lakes and St. Lawrence River ecosystem this summer. No single issue raises the passion of Canadians more than the spectre of the water they treasure being diverted and removed in large quantities. The response of Great Lakes States and Provinces to diversions and removals is likely to be released in July 2004.

In 1999 when the Ontario government issued a water-taking permit to the NOVA Group to remove water in bulk by tanker for export to the orient, there was international outcry. The Canadian Environmental Law Association (CELA) received standing to represent Great Lakes United (GLU) in an environmental appeal hearing on the permit. Before the hearing was underway NOVA agreed to withdraw the permit. The two federal governments requested the International Joint Commission (IJC) to undertake a special reference on protection of the Great Lakes from harmful water removals. The recommendations of that IJC reference called upon regional governments to take action to entrench environmental protections of the Lakes. These recommendations can be found on their web site <http://www.ijc.org/php/publications/html/finalreport.html#11>.

Acting on the recommendations of the IJC, the Council of Great Lakes Governors (CGLG) has been conducting a consultation for the past three years, between the eight Great Lakes States and two Canadian Provinces on how to implement the Great Lakes Charter Annex Agreement. This agreement, signed on June 18th 2001, proposes to implement a set of binding agreements to "protect, conserve, restore, improve and manage use of the Waters and Water-Dependent Natural Resources of the Great Lakes Basin". The full text of the agreement is appended to this notice. The negotiations carried out by the Water Management Working Group made up of representatives appointed by each jurisdiction have concluded. Their recommendations are now in the hands of the governors and premiers for a month long review by individual jurisdictions. During the three years these of these negotiations, elections have changed the makeup of most of the state and provincial governments. If there is still political will to support the Annex, the document will be released for public consultation in mid-to late July 2004. Individual jurisdictions have promised to carry out consultations with the public and the Council of Great Lakes Governors hopes to hold public meetings in Toronto and in Chicago. Background documents on the Annex mandate and process, including the minutes of some of the early meetings of the three Annex Issue committees can be found on the CGLG web site; <http://www.cglg.org/1projects/water/overview.asp>.

The Council of Great Lakes Governors invited individuals representing stakeholders in the Great Lakes to form an Advisory Committee to the negotiators. The advice of this Committee was sought periodically during the process but members were not party to the Working Group negotiations. CELA staff member, Sarah Miller was a member of this committee as was environmentalist Mark Hudon from Quebec. Both Canadians worked with US environmental members of the Advisory Committee in efforts to make detailed submissions throughout the process on many complex issues of process, jurisdictional parity across borders, public access and protection provisions. The principles that the groups used as a basis for their submissions have been appended to this notice. Reg Gilbert of Great Lakes United did the tough job of coordinating these efforts. People wishing to get a jump on the difficult issues the group responded to can find more information from the GLU web site; <http://www.glu.org/english/projects/sustainable->

waters/govs-and-premiers-plan/pdfs/annex-information-10-5-02.pdf. These groups have requested that the consultation period go until at least the end of September so that full public review of the document can occur. As well, these groups have been planning their own public meetings to share their understanding and insights with others.

During the three years that the Annex negotiations have been underway, Ontario's domestic water laws are also being strengthened to reflect Justice O'Connor's recommendations from the Walkerton Inquiry to improve water quality and quantity protections. CELA has tried to ensure that both efforts result in strengthening Ontario's water-taking permitting regime and give the public better tools to protect their water. Ontario requires that all applications over 50,000 litres (13,000 gpd) have a water permit. Most other Great Lake jurisdictions do not track withdrawals below 100,000 gpd. Others have no system in place.

At the same time, Ontario has just posted a draft of their new water-taking permit regulation (<http://www.ene.gov.on.ca/envregistry/023187er.htm>) and announced a sixty-day public comment period to August 17, 2004. It will be important to review this draft regulation along side the Annex proposal as complimentary pieces.

CELA and GLU have been involved in efforts to strengthen the Great Lakes Charter since its inception in 1985. In 1997 the two groups published *The Fate of the Great Lakes Sustaining or Draining the Sweetwater Seas*. This study can be downloaded from the GLU sustainable water taskforce section on their web site. It offers a critique of the shortcomings and weakness of the Charter to protect the ecosystem from diversions and future threats. The threats it identifies include water wastage in the basin, climate change, a lack of data and knowledge of current water use, an increasingly water-short continent, a lack of a conservation ethic in the region and the ambiguity of trade agreements. GLU staff was the first to survey and list the communities just outside the Basin's surface water boundaries that expected to turn to the Great Lakes for future water supplies. The Annex is intended to improve upon the failures of the Charter. Will the Great Lakes continue a crisis management approach to withdrawals or will the region rise to the challenge of creating an equitable conservation based system to evaluate use of the waters? It will be up to the caring public in the Great Lakes Basin to see that it meets this test. Both CELA and GLU will be notifying their contacts as soon as the Annex becomes public and will be providing educational materials and will schedule meetings for interested groups and individuals.

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