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

Improved Great Lakes "Annex" Increases Regional Water Security

The Canadian Environmental Law Association (CELA) welcomes the hard won improvements in the latest draft of the "Great Lakes Charter Annex" agreements. Objections voiced by the Canadian public to the first draft, and tough negotiating by the Ontario and Quebec teams, have moved these draft agreements from a weak set of protections to a prohibition on diversions from the Great Lakes, with some exceptions.

"These agreements have the potential to transform our region from the greatest waster of water in the world to a leader in ecosystem cooperation, by protecting and conserving one fifth of the world's freshwater," says Sarah Miller, CELA Water Policy Researcher.

The draft agreements now prohibit most water diversions from the Great Lakes, and place restrictions on diversions from one Great Lake to another. Even when exceptions are allowed, the unused water must be returned to the Great Lakes Basin. It sets, for the first time, eight tough environmental standards for large withdrawals and in-basin consumptive uses. It requires conservation initiatives from all applicants as well as conservation plans from each Great Lakes jurisdiction. It gives Quebec and Ontario a place at the table by requiring regional review with consensus required for all applications over the trigger levels. "These are significant improvements over the leaky status quo in the Basin that leaves us vulnerable to water diversions and potential trade challenges, and puts us at risk of harming the integrity of the Great Lakes ecosystem," says Theresa McClenaghan, CELA Counsel.

During the sixty-day consultation period that will go from June 30th to August 29th, the public will have to make some hard choices. Negotiations rarely result in conditions that are satisfactory to all, and this draft does not yet have full support of the parties. As well, it includes exceptions that have come forward late in the negotiations. Regrettably, a few States with weak water management systems have expressed last minute reluctance and have requested exceptions from the Annex.

These objections have come from areas where the surface water boundaries are very close to the shores of the Great Lakes. These straddling communities and counties are asking for new boundaries including them in the basin and making them eligible for provision of Great Lakes drinking water. Ontario and others have placed additional tough conditions that could act as deterrents on proposals coming from areas outside the surface watershed.

CELA will be asking for those conditions to be strengthened further by requiring another condition. Applicants should have to provide scientific proof that these areas are

connected by groundwater to the Great Lakes watershed. "Sound science and environmental protection, not political expediency, must become the basis for future water allocation decisions in the Great Lakes," says Sarah Miller.

The Canadian public should not be diverted from the political reality. Huge efforts have gone into forging these historic agreements which will be legally binding for the U.S. States. However, it is estimated that it could take five years or more for the U.S. Annex Compact Agreement to pass all eight State legislatures and the U.S. Congress, with further time to allow full implementation of the two Agreements. It is predicted that in the same timeframe the Great Lakes States will continue to lose political power and congressional seats to the thirsty U.S. southwest. This will create an explosive situation where water shortages will be in areas that can muster the most Congressional power. Already, other initiatives in the Great Lakes such as President Bush's Great Lakes Restoration Bill are draining energy from the Annex efforts.

"I believe this is the last opportunity we will have in the next decade to forge water quantity protections for the Great Lakes ecosystem," says Sarah Miller. "If we fail to get something in place by the fall of 2005, we and coming generations of Great Lakes residents will be facing climate change and drought in North America with an empty tool box. We will have enough tools in the box and a place at the table with these agreements to forge a new era in protection, and conservation and to persuade the reluctant States to fully participate. We certainly cannot afford now to reject a prohibition on most diversions."

The Canadian Environmental Law Association (CELA) has been involved over the last two decades working with environmental groups around the Great Lakes to strengthen protection of their waters. As well CELA served on an Annex Advisory Committee to the Council of Great Lakes Governors and Premiers and on an Advisory Panel to the Ontario Ministry of Natural Resources that has taken the Panel's advice back to the negotiating table.

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Early next week a detailed analysis of these agreements will be available on CELA's web site www.cela.ca